
HOUSE BILL 2728

State of Washington

62nd Legislature

2012 Regular Session

By Representative Hunt

Read first time 01/27/12. Referred to Committee on Ways & Means.

1 AN ACT Relating to increasing flexibility and diversity of local
2 government revenue; amending RCW 36.73.065, 82.80.140, 82.14.450,
3 84.55.005, and 82.02.020; adding a new section to chapter 35.21 RCW;
4 adding a new section to chapter 35A.21 RCW; adding a new chapter to
5 Title 82 RCW; creating new sections; and repealing RCW 84.55.0101.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 36.73.065 and 2007 c 329 s 1 are each amended to read
8 as follows:

9 (1) Except as provided in subsection (4) of this section, taxes,
10 fees, charges, and tolls may not be imposed by a district without
11 approval of a majority of the voters in the district voting on a
12 proposition at a general or special election. The proposition must
13 include a specific description of the transportation improvement or
14 improvements proposed by the district and the proposed taxes, fees,
15 charges, and the range of tolls imposed by the district to raise
16 revenue to fund the improvement or improvements.

17 (2) Voter approval under this section (~~shall~~) must be accorded
18 substantial weight regarding the validity of a transportation
19 improvement as defined in RCW 36.73.015.

1 (3) A district may not increase any taxes, fees, charges, or range
2 of tolls imposed under this chapter once the taxes, fees, charges, or
3 tolls take effect, unless authorized by the district voters pursuant to
4 RCW 36.73.160.

5 (4)(a) A district that includes all the territory within the
6 boundaries of the jurisdiction, or jurisdictions, establishing the
7 district may impose by a majority vote of the governing board of the
8 district the following fees and charges:

9 (i) Up to (~~twenty~~) forty dollars of the vehicle fee authorized in
10 RCW 82.80.140; or

11 (ii) A fee or charge in accordance with RCW 36.73.120.

12 (b) The vehicle fee authorized in (a) of this subsection may only
13 be imposed for a passenger-only ferry transportation improvement if the
14 vehicle fee is first approved by a majority of the voters within the
15 jurisdiction of the district.

16 (c)(i) A district solely comprised of a city or cities (~~shall~~)
17 may not impose the fees or charges identified in (a) of this subsection
18 within one hundred eighty days after July 22, 2007, unless the county
19 in which the city or cities reside, by resolution, declares that it
20 will not impose the fees or charges identified in (a) of this
21 subsection within the one hundred eighty-day period; or

22 (ii) A district solely comprised of a city or cities identified in
23 RCW 36.73.020(6)(b) (~~shall~~) may not impose the fees or charges until
24 after May 22, 2008, unless the county in which the city or cities
25 reside, by resolution, declares that it will not impose the fees or
26 charges identified in (a) of this subsection through May 22, 2008.

27 (5) If the interlocal agreement in RCW 82.80.140(2)(a) cannot be
28 reached, a district that includes only the unincorporated territory of
29 a county may impose by a majority vote of the governing body of the
30 district up to (~~twenty~~) forty dollars of the vehicle fee authorized
31 in RCW 82.80.140.

32 **Sec. 2.** RCW 82.80.140 and 2010 c 161 s 917 are each amended to
33 read as follows:

34 (1) Subject to the provisions of RCW 36.73.065, a transportation
35 benefit district under chapter 36.73 RCW may fix and impose an annual
36 vehicle fee, not to exceed one hundred dollars per vehicle registered
37 in the district, for each vehicle subject to vehicle license fees under

1 RCW 46.17.350(1) (a), (c), (d), (e), (g), (h), (j), or (n) through (q)
2 and for each vehicle subject to gross weight license fees under RCW
3 46.17.355 with a scale weight of six thousand pounds or less.

4 (2)(a) A district that includes all the territory within the
5 boundaries of the jurisdiction, or jurisdictions, establishing the
6 district may impose by a majority vote of the governing board of the
7 district up to (~~twenty~~) forty dollars of the vehicle fee authorized
8 in subsection (1) of this section. If the district is countywide, the
9 revenues of the fee (~~shall~~) must be distributed to each city within
10 the county by interlocal agreement. The interlocal agreement is
11 effective when approved by the county and sixty percent of the cities
12 representing seventy-five percent of the population of the cities
13 within the county in which the countywide fee is collected.

14 (b) A district may not impose a fee under this subsection (2):

15 (i) For a passenger-only ferry transportation improvement unless
16 the vehicle fee is first approved by a majority of the voters within
17 the jurisdiction of the district; or

18 (ii) That, if combined with the fees previously imposed by another
19 district within its boundaries under RCW 36.73.065(4)(a)(i), exceeds
20 (~~twenty~~) forty dollars.

21 (c) If a district imposes or increases a fee under this subsection
22 (2) that, if combined with the fees previously imposed by another
23 district within its boundaries, exceeds (~~twenty~~) forty dollars, the
24 district (~~shall~~) must provide a credit for the previously imposed
25 fees so that the combined vehicle fee does not exceed (~~twenty~~) forty
26 dollars.

27 (3) The department of licensing (~~shall~~) must administer and
28 collect the fee. The department shall deduct a percentage amount, as
29 provided by contract, not to exceed one percent of the fees collected,
30 for administration and collection expenses incurred by it. The
31 department (~~shall~~) must remit remaining proceeds to the custody of
32 the state treasurer. The state treasurer (~~shall~~) must distribute the
33 proceeds to the district on a monthly basis.

34 (4) No fee under this section may be collected until six months
35 after approval under RCW 36.73.065.

36 (5) The vehicle fee under this section applies only when renewing
37 a vehicle registration, and is effective upon the registration renewal
38 date as provided by the department of licensing.

1 (6) The following vehicles are exempt from the fee under this
2 section:
3 (a) Campers, as defined in RCW 46.04.085;
4 (b) Farm tractors or farm vehicles, as defined in RCW 46.04.180 and
5 46.04.181;
6 (c) Mopeds, as defined in RCW 46.04.304;
7 (d) Off-road and nonhighway vehicles, as defined in RCW 46.04.365;
8 (e) Private use single-axle trailer, as defined in RCW 46.04.422;
9 (f) Snowmobiles, as defined in RCW 46.04.546; and
10 (g) Vehicles registered under chapter 46.87 RCW and the
11 international registration plan.

12 **Sec. 3.** RCW 82.14.450 and 2010 c 127 s 1 are each amended to read
13 as follows:

14 (1) A county legislative authority may (~~submit an authorizing~~
15 ~~proposition to the county voters at a primary or general election and,~~
16 ~~if the proposition is approved by a majority of persons voting, impose~~
17 ~~a sales and use tax in accordance with the terms of this chapter. The~~
18 ~~title of each ballot measure must clearly state the purposes for which~~
19 ~~the proposed sales and use tax will be used)) impose a sales and use
20 tax in accordance with this chapter. The rate of tax under this
21 section may not exceed three-tenths of one percent of the selling price
22 in the case of a sales tax, or value of the article used, in the case
23 of a use tax.~~

24 (2)(a) A city legislative authority may (~~submit an authorizing~~
25 ~~proposition to the city voters at a primary or general election and, if~~
26 ~~the proposition is approved by a majority of persons voting,~~) impose
27 a sales and use tax in accordance with the terms of this chapter.
28 (~~The title of each ballot measure must clearly state the purposes for~~
29 ~~which the proposed sales and use tax will be used.)) The rate of tax
30 under this subsection may not exceed one-tenth of one percent of the
31 selling price in the case of a sales tax, or value of the article used,
32 in the case of a use tax. (~~A city may not begin imposing a tax~~
33 ~~approved by the voters under this subsection prior to January 1,~~
34 ~~2011.))~~~~

35 (b) If a county (~~adopts an ordinance or resolution to submit a~~
36 ~~ballot proposition to the voters to)) imposes the sales and use tax
37 under subsection (1) of this section prior to a city within the county~~

1 (~~adopting an ordinance or resolution to submit a ballot proposition to~~
2 ~~the voters to impose~~) imposing the tax under this subsection, the rate
3 of tax by the city under this subsection may not exceed an amount that
4 would cause the total county and city tax rate under this section to
5 exceed three-tenths of one percent. This subsection (2)(b) also
6 applies if the county and city adopt an ordinance or resolution to
7 impose sales and use taxes under this section on the same date.

8 (c) If the city (~~adopts an ordinance or resolution to submit a~~
9 ~~ballot proposition to the voters to~~) imposes the sales and use tax
10 under this subsection prior to the county in which the city is located,
11 the county must provide a credit against its tax under subsection (1)
12 of this section for the city tax under this subsection to the extent
13 the total county and city tax rate under this section would exceed
14 three-tenths of one percent.

15 (3) The tax authorized in this section is in addition to any other
16 taxes authorized by law and must be collected from those persons who
17 are taxable by the state under chapters 82.08 and 82.12 RCW upon the
18 occurrence of any taxable event within the county.

19 (4) The retail sale or use of motor vehicles, and the lease of
20 motor vehicles for up to the first thirty-six months of the lease, are
21 exempt from tax imposed under this section.

22 (5) One-third of all money received under this section must be used
23 solely for criminal justice purposes, fire protection purposes, or
24 both. For the purposes of this subsection, "criminal justice purposes"
25 has the same meaning as provided in RCW 82.14.340.

26 (6) Money received by a county under subsection (1) of this section
27 must be shared between the county and the cities as follows: Sixty
28 percent must be retained by the county and forty percent must be
29 distributed on a per capita basis to cities in the county.

30 (7) Tax proceeds received by a city imposing a tax under this
31 section must be shared between the county and city as follows: Fifteen
32 percent must be distributed to the county and eighty-five percent is
33 retained by the city.

34 NEW SECTION. **Sec. 4.** The legislature recognizes counties have
35 limited revenue options and their capacity has been further limited
36 over the past decade. The legislature also recognizes the counties'
37 reliance on the limited revenue authorities makes it difficult for

1 counties to provide the necessary and required services to their
2 residents. The legislature also recognizes that cities have diverse
3 revenue options and the differences between cities and counties can be
4 confusing for both residents and businesses within a county. The
5 legislature also finds that a majority of citizens and businesses are
6 already paying a utility tax. The legislature intends to provide
7 counties with a utility tax option in order to help diversify revenue
8 options in order to provide necessary and required services.

9 NEW SECTION. **Sec. 5.** (1) Subject to the conditions and
10 requirements of this section, a county may impose an excise tax on the
11 privilege of engaging in business as a utility. The tax is equal to
12 the gross income of the utility derived from providing service to
13 consumers within the county multiplied by the rate provided in
14 subsection (3) of this section. A county may submit a ballot
15 proposition to the voters to seek voter approval to impose the tax
16 authorized under this section, but is not required to do so.

17 (2) A county with a population of one million five hundred thousand
18 persons or less may not impose an excise tax on the privilege of
19 engaging in business as a gas utility.

20 (3) A county may not impose a rate of tax that exceeds six percent.

21 (4) A county must use taxes collected under the authority of this
22 section only for public safety, infrastructure, capital projects, and
23 other services.

24 (5) A utility subject to tax under this section must add the tax to
25 the rates or charges it makes for utility services and separately state
26 the amount of tax on billings.

27 (6) A county may initially impose the tax authorized under this
28 section only on the first day of a calendar quarter and no sooner than
29 seventy-five days from the date the county adopts the ordinance or
30 resolution imposing the tax.

31 (7) A county may provide exemptions for sales by utilities to
32 business customers, such as manufacturing facilities, aircraft repair
33 facilities, industrial parks, industrial facilities, farm businesses,
34 and computer data centers. A county may not provide a general
35 exemption for sales by utilities to residential customers unless
36 business customers are also exempt.

1 (8) A county must allow a credit against the cable service utility
2 tax for any franchise fee paid by the cable service utility to the
3 county.

4 (9) A county must allow a credit against the tax imposed under the
5 authority of this section for the amount of any similar utility tax
6 imposed by a city or town on the same taxable event. The credit
7 required by this subsection may not exceed the amount of tax otherwise
8 due.

9 (10) The definitions in this subsection apply throughout this
10 section.

11 (a) "Cable service utility" means a person providing cable service
12 as defined in the federal telecommunications act of 1996.

13 (b) "Electrical power utility" has the same meaning as light and
14 power business as defined in RCW 82.16.010.

15 (c) "Gas utility" has the same meaning as gas distribution business
16 as defined in RCW 82.16.010.

17 (d) "Gross income" is defined as provided in RCW 82.16.010.

18 (e) "Sewer utility" means a sewerage collection business as that
19 term is used in chapter 82.16 RCW.

20 (f) "Solid waste utility" means a solid waste collection business
21 as defined in RCW 82.18.010.

22 (g) "Telephone utility" means a person providing telecommunications
23 service as defined in RCW 82.04.065.

24 (h) "Utility" means an electrical power utility, gas utility,
25 telephone utility, water utility, sewer utility, solid waste utility,
26 or cable service utility.

27 (i) "Water utility" means a water distribution business as defined
28 in RCW 82.16.010.

29 **Sec. 6.** RCW 84.55.005 and 2007 sp.s. c 1 s 1 are each amended to
30 read as follows:

31 As used in this chapter:

32 (1) "Inflation" means the percentage change in the implicit price
33 deflator for personal consumption expenditures for the United States as
34 published for the most recent twelve-month period by the bureau of
35 economic analysis of the federal department of commerce in September of
36 the year before the taxes are payable;

37 (2) "Limit factor" means:

1 (a) For taxing districts (~~with a population of less than ten~~
2 ~~thousand in the calendar year prior to the assessment year, one hundred~~
3 ~~one percent;~~

4 ~~(b) For taxing districts for which a limit factor is authorized~~
5 ~~under RCW 84.55.0101, the lesser of the limit factor authorized under~~
6 ~~that section or one hundred one percent;~~

7 ~~(c) For all other districts,))~~ other than the state, the greater of
8 one hundred one percent or one hundred percent plus inflation;

9 (b) For the state, the lesser of one hundred one percent or one
10 hundred percent plus inflation; and

11 (3) "Regular property taxes" has the meaning given it in RCW
12 84.04.140.

13 NEW SECTION. Sec. 7. RCW 84.55.0101 (Limit factor--Authorization
14 for taxing district to use one hundred one percent or less--Ordinance
15 or resolution) and 2007 sp.s. c 1 s 2 & 1997 c 3 s 204 are each
16 repealed.

17 **Sec. 8.** RCW 82.02.020 and 2010 c 153 s 3 are each amended to read
18 as follows:

19 (1) Except only as expressly provided in chapters 67.28, 81.104,
20 and 82.14 RCW, the state preempts the field of imposing retail sales
21 and use taxes and taxes upon parimutuel wagering authorized pursuant to
22 RCW 67.16.060, conveyances, and cigarettes, and no county, town, or
23 other municipal subdivision (~~shall have~~) has the right to impose
24 taxes of that nature. Except as provided in RCW 64.34.440 and
25 82.02.050 through 82.02.090, no county, city, town, or other municipal
26 corporation (~~shall~~) may impose any tax, fee, or charge, either direct
27 or indirect, on the construction or reconstruction of residential
28 buildings, commercial buildings, industrial buildings, or on any other
29 building or building space or appurtenance thereto, or on the
30 development, subdivision, classification, or reclassification of land.
31 However, this section does not preclude dedications of land or
32 easements within the proposed development or plat which the county,
33 city, town, or other municipal corporation can demonstrate are
34 reasonably necessary as a direct result of the proposed development or
35 plat to which the dedication of land or easement is to apply.

1 (2) This section does not prohibit voluntary agreements with
2 counties, cities, towns, or other municipal corporations that allow a
3 payment in lieu of a dedication of land or to mitigate a direct impact
4 that has been identified as a consequence of a proposed development,
5 subdivision, or plat. A local government (~~shall~~) may not use such
6 voluntary agreements for local off-site transportation improvements
7 within the geographic boundaries of the area or areas covered by an
8 adopted transportation program authorized by chapter 39.92 RCW. Any
9 such voluntary agreement is subject to the following provisions:

10 (~~(1)~~) (a) The payment (~~shall~~) must be held in a reserve account
11 and may only be expended to fund a capital improvement agreed upon by
12 the parties to mitigate the identified, direct impact;

13 (~~(2)~~) (b) The payment (~~shall~~) must be expended in all cases
14 within five years of collection; and

15 (~~(3)~~) (c) Any payment not so expended (~~shall~~) must be refunded
16 with interest to be calculated from the original date the deposit was
17 received by the county and at the same rate applied to tax refunds
18 pursuant to RCW 84.69.100; however, if the payment is not expended
19 within five years due to delay attributable to the developer, the
20 payment (~~shall~~) must be refunded without interest.

21 (3) No county, city, town, or other municipal corporation (~~shall~~)
22 may require any payment as part of such a voluntary agreement which the
23 county, city, town, or other municipal corporation cannot establish is
24 reasonably necessary as a direct result of the proposed development or
25 plat.

26 (4) Nothing in this section prohibits cities, towns, counties, or
27 other municipal corporations from collecting reasonable fees from an
28 applicant for a permit or other governmental approval to cover the cost
29 to the city, town, county, or other municipal corporation of processing
30 applications, including proportionate staffing, administrative, and
31 facility costs associated with the processing of applications,
32 inspecting and reviewing plans, or preparing detailed statements
33 required by chapter 43.21C RCW, including reasonable fees that are
34 consistent with RCW 43.21C.420(6).

35 (5) This section does not limit the existing authority of any
36 county, city, town, or other municipal corporation to impose special
37 assessments on property specifically benefited thereby in the manner
38 prescribed by law.

1 (6) Nothing in this section prohibits counties, cities, or towns
2 from imposing or permits counties, cities, or towns to impose water,
3 sewer, natural gas, drainage utility, and drainage system charges.
4 However, no such charge shall exceed the proportionate share of such
5 utility or system's capital costs which the county, city, or town can
6 demonstrate are attributable to the property being charged.
7 Furthermore, these provisions may not be interpreted to expand or
8 contract any existing authority of counties, cities, or towns to impose
9 such charges.

10 (7) Nothing in this section prohibits a transportation benefit
11 district from imposing fees or charges authorized in RCW 36.73.120 nor
12 prohibits the legislative authority of a county, city, or town from
13 approving the imposition of such fees within a transportation benefit
14 district.

15 (8) Nothing in this section prohibits counties, cities, or towns
16 from imposing transportation impact fees authorized pursuant to chapter
17 39.92 RCW.

18 (9) Nothing in this section prohibits counties, cities, or towns
19 from requiring property owners to provide relocation assistance to
20 tenants under RCW 59.18.440 and 59.18.450.

21 (10) Nothing in this section limits the authority of counties,
22 cities, or towns to implement programs consistent with RCW 36.70A.540,
23 nor to enforce agreements made pursuant to such programs.

24 (11) This section does not apply to special purpose districts
25 formed and acting pursuant to Title 54, 57, or 87 RCW, nor is the
26 authority conferred by these titles affected.

27 NEW SECTION. **Sec. 9.** A new section is added to chapter 35.21 RCW
28 to read as follows:

29 Cities are authorized to accept credit cards, charge cards, debit
30 cards, smart cards, stored value cards, federal wire, and automatic
31 clearinghouse system transactions, or other electronic communication,
32 for any payment of any kind including, but not limited to, taxes,
33 fines, interest, penalties, special assessments, fees, rates, charges,
34 or moneys due cities. A payer desiring to pay by a credit card, charge
35 card, debit card, smart card, stored value card, federal wire,
36 automatic clearinghouse system, or other electronic communication must
37 bear the cost of processing the transaction in an amount determined by

1 the city, unless the city legislative authority finds that it is in the
2 best interests of the city to not charge transaction processing costs
3 for all payment transactions made for a specific category of payments.
4 The city's cost determination must be based upon costs incurred by the
5 city and may not, in any event, exceed the additional direct costs
6 incurred by the city to accept the specific form of payment utilized by
7 the payer.

8 NEW SECTION. **Sec. 10.** A new section is added to chapter 35A.21
9 RCW to read as follows:

10 Code cities are authorized to accept credit cards, charge cards,
11 debit cards, smart cards, stored value cards, federal wire, and
12 automatic clearinghouse system transactions, or other electronic
13 communication, for any payment of any kind including, but not limited
14 to, taxes, fines, interest, penalties, special assessments, fees,
15 rates, charges, or moneys due cities. A payer desiring to pay by a
16 credit card, charge card, debit card, smart card, stored value card,
17 federal wire, automatic clearinghouse system, or other electronic
18 communication shall bear the cost of processing the transaction in an
19 amount determined by the city, unless the city legislative authority
20 finds that it is in the best interests of the city to not charge
21 transaction processing costs for all payment transactions made for a
22 specific category of payments. The city's cost determination must be
23 based upon costs incurred by the city and may not, in any event, exceed
24 the additional direct costs incurred by the city to accept the specific
25 form of payment utilized by the payer.

26 NEW SECTION. **Sec. 11.** This act does not affect any existing right
27 acquired or liability or obligation incurred under the sections amended
28 or repealed in this act or under any rule or order adopted under those
29 sections, nor does it affect any proceeding instituted under those
30 sections.

31 NEW SECTION. **Sec. 12.** Sections 4 and 5 of this act constitute a
32 new chapter in Title 82 RCW.

1 NEW SECTION. **Sec. 13.** Sections 5 and 6 of this act apply to taxes
2 levied for collection in 2013 and thereafter.

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