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HOUSE BILL 1759

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State of Washington

64th Legislature

2015 Regular Session

By Representatives Manweller and Ormsby

Read first time 01/28/15. Referred to Committee on Technology & Economic Development.

1 AN ACT Relating to modifying the computer data center sales and  
2 use tax exemption; amending RCW 82.08.986, 82.12.986, 82.14.370,  
3 67.28.180, and 82.32.534; creating a new section; providing an  
4 effective date; providing expiration dates; and declaring an  
5 emergency.

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

7 NEW SECTION. **Sec. 1.** (1)(a) The legislature finds that the  
8 sales and use tax is a substantial factor in whether a business  
9 decides to site a computer data center in a particular location. The  
10 legislature further finds that the computer data center sales and use  
11 tax exemption has encouraged the siting of numerous data centers in  
12 rural areas of Washington by reducing a significant operational cost.  
13 The legislature further finds that businesses operating computer data  
14 centers provide family wage jobs and substantially increase tax  
15 revenues for local jurisdictions where the data centers are located.  
16 The legislature further finds that the computer data center sales and  
17 use tax exemption substantially reduces state revenues available for  
18 K-12 and higher education, human services, health care, and other  
19 important state programs.

20 (b) Therefore, the legislature intends to temporarily extend the  
21 data center sales and use tax exemption in a way that carefully

1 balances the positive local impacts with the need to closely and  
2 transparently scrutinize this redirection of critical state resources  
3 by doing the following:

4 (i) Extending the data center sales and use tax exemption  
5 construction window until 2020 and the refresh window for replacement  
6 server equipment until 2026;

7 (ii) Allowing a one hundred percent sales and use tax exemption  
8 for eligible server equipment and power infrastructure installed in  
9 new data centers and a more limited seventy-five percent exemption  
10 for replacement server equipment;

11 (iii) Reducing or disallowing local jurisdictions from claiming  
12 certain local sales and use taxes that directly reduce state general  
13 fund revenues; and

14 (iv) Converting the data center sales and use tax exemption into  
15 a remittance, thereby allowing the department of revenue to carefully  
16 track the exact fiscal impact of the exemption to the state.

17 (2)(a) This subsection is the tax preference performance  
18 statement for the sales and use tax exemption provided in sections 2  
19 and 3 of this act. The performance statement is only intended to be  
20 used for subsequent evaluation of the tax preference. It is not  
21 intended to create a private right of action by any party or be used  
22 to determine eligibility to preferential tax treatment.

23 (b) The legislature categorizes this tax preference as one  
24 intended to create or retain jobs, as indicated in RCW  
25 82.32.808(2)(c).

26 (c) It is the legislature's specific public policy objectives to:

27 (i) Encourage the siting of new data centers, with commensurate  
28 job growth, in rural counties by extending the computer data center  
29 sales and use tax exemption; and

30 (ii) Mitigate the fiscal impact of the exemption to the state by:

31 (A) Reducing the exemption for replacement servers; and (B)  
32 disallowing cities and counties from claiming certain local sales and  
33 use taxes that reduce state general fund revenues.

34 (d) To help determine whether the specific public policy  
35 objectives described in (c) of this subsection have been met, the  
36 joint legislative audit and review committee must evaluate the  
37 following:

38 (i) The number of computer data centers for which the sales and  
39 use tax exemptions under RCW 82.08.986 and 82.12.986 have been  
40 claimed;

1 (ii) The number of family wage employment positions described  
2 under RCW 82.08.986(3);

3 (iii) The cost and availability of electrical power in areas  
4 where computer data centers are located;

5 (iv) Property taxes assessed on computer data centers and server  
6 equipment and changes in the assessment rolls for cities and counties  
7 in which computer data centers are located; and

8 (v) The amount of sales and use taxes exempted under RCW  
9 82.08.986 and 82.12.986.

10 **Sec. 2.** RCW 82.08.986 and 2012 2nd sp.s. c 6 s 302 are each  
11 amended to read as follows:

12 ~~(1) ((An exemption from the tax imposed by RCW 82.08.020 is~~  
13 ~~provided for sales to qualifying businesses and to qualifying tenants~~  
14 ~~of)) (a) Purchasers who have paid the tax imposed by RCW 82.08.020 on~~  
15 ~~eligible server equipment to be installed, without intervening use,~~  
16 ~~in an eligible computer data center, and to charges made for labor~~  
17 ~~and services rendered in respect to installing eligible server~~  
18 ~~equipment are eligible for an exemption in the form of a remittance.~~  
19 ~~The exemption in the form of a remittance also applies to sales to~~  
20 ~~qualifying businesses and to qualifying tenants of eligible power~~  
21 ~~infrastructure, including labor and services rendered in respect to~~  
22 ~~constructing, installing, repairing, altering, or improving eligible~~  
23 ~~power infrastructure.~~

24 (b) Beginning July 1, 2015, the amount of exemption under this  
25 section is equal to: (i) Five percent of the state and local sales  
26 taxes paid for original server equipment and eligible power  
27 infrastructure; and (ii) ninety-five percent of the state and local  
28 sales taxes paid for replacement server equipment.

29 (2)(a) In order to claim the exemption under this section, a  
30 qualifying business or a qualifying tenant must submit an application  
31 to the department ~~((for an exemption certificate))~~. The application  
32 must include the information necessary, as required by the  
33 department, to determine that a business or tenant qualifies for the  
34 exemption under this section. ~~((The department must issue exemption~~  
35 ~~certificates to qualifying businesses and qualifying tenants. The~~  
36 ~~department may assign a unique identification number to each~~  
37 ~~exemption certificate issued under this section.~~

38 ~~(b) A qualifying business or a qualifying tenant claiming the~~  
39 ~~exemption under this section must present the seller with an~~

1 ~~exemption certificate in a form and manner prescribed by the~~  
2 ~~department. The seller must retain a copy of the certificate for the~~  
3 ~~seller's files)) The department may only approve twelve applications  
4 for the exemption provided in subsection (1)(b)(i) of this section.~~

5 (b) A qualifying business or qualifying tenant must apply to the  
6 department for a remittance of sales tax in a form and manner  
7 prescribed by the department. A purchaser may not apply for a  
8 remittance under this section more frequently than once per quarter.  
9 The purchaser must specify the amount of exempted tax claimed and the  
10 qualifying purchases for which the exemption is claimed. The  
11 purchaser must retain, in adequate detail, records to enable the  
12 department to determine whether the purchaser is entitled to an  
13 exemption under this section, including: Invoices; proof of tax paid;  
14 and documents describing the eligible equipment and labor and  
15 services rendered.

16 (c) The department must determine eligibility under this section  
17 based on the information provided by the purchaser, which is subject  
18 to audit verification by the department. The department must on a  
19 quarterly basis remit exempted amounts to qualifying purchasers who  
20 submitted a remittance request during the previous quarter.

21 (3)(a) Within six years of the date that (~~the department issued~~  
22 ~~an exemption certificate under this section to a qualifying business~~  
23 ~~or a qualifying tenant with respect to an eligible computer data~~  
24 ~~center)) commencement of construction of an eligible computer data  
25 center occurs, the qualifying business or qualifying tenant must  
26 establish that net employment at the eligible computer data center  
27 has increased by a minimum of:~~

28 (i) (~~Thirty-five~~) Forty-five family wage employment positions;  
29 or

30 (ii) (~~Three~~) Four family wage employment positions for each  
31 twenty thousand square feet of space or less that is newly dedicated  
32 to housing working servers at the eligible computer data center. For  
33 qualifying tenants, the number of family wage employment positions  
34 that must be increased under this subsection (3)(a)(ii) is based only  
35 on the space occupied by the qualifying tenant in the eligible  
36 computer data center.

37 (b) In calculating the net increase in family wage employment  
38 positions:

1 (i) The owner of an eligible computer data center, in addition to  
2 its own net increase in family wage employment positions, may  
3 include:

4 (A) The net increase in family wage employment positions employed  
5 by qualifying tenants; and

6 (B) The net increase in family wage employment positions  
7 described in (c)(ii)(B) of this subsection (3).

8 (ii)(A) Qualifying tenants, in addition to their own net increase  
9 in family wage employment positions, may include:

10 (I) A portion of the net increase in family wage employment  
11 positions employed by the owner; and

12 (II) A portion of the net increase in family wage employment  
13 positions described in (c)(ii)(B) of this subsection (3).

14 (B) The portion of the net increase in family wage employment  
15 positions to be counted under this subsection (3)(b)(ii) by each  
16 qualifying tenant must be in proportion to the amount of space in the  
17 eligible computer data center occupied by the qualifying tenant  
18 compared to the total amount of space in the eligible computer data  
19 center occupied by all qualifying tenants.

20 (c)(i) For purposes of this subsection, family wage employment  
21 positions are new permanent employment positions requiring forty  
22 hours of weekly work, or their equivalent, on a full-time basis at  
23 the eligible computer data center and receiving a wage equivalent to  
24 or greater than one hundred fifty percent of the per capita personal  
25 income of the county in which the qualified project is located. An  
26 employment position may not be counted as a family wage employment  
27 position unless the employment position is entitled to health  
28 insurance coverage provided by the employer of the employment  
29 position. For purposes of this subsection (3)(c), "new permanent  
30 employment position" means an employment position that did not exist  
31 or that had not previously been filled as of the date that ((the  
32 ~~department issued an exemption certificate to the owner or qualifying~~  
33 ~~tenant of an eligible computer data center, as the case may be))  
34 commencement of construction of an eligible computer data center  
35 occurs.~~

36 (ii)(A) Family wage employment positions include positions filled  
37 by employees of the owner of the eligible computer data center and by  
38 employees of qualifying tenants.

39 (B) Family wage employment positions also include individuals  
40 performing work at an eligible computer data center as an independent

1 contractor hired by the owner of the eligible computer data center or  
2 as an employee of an independent contractor hired by the owner of the  
3 eligible computer data center, if the work is necessary for the  
4 operation of the computer data center, such as security and building  
5 maintenance, and provided that all of the requirements in (c)(i) of  
6 this subsection (3) are met.

7 (d) All previously exempted sales and use taxes are immediately  
8 due and payable for a qualifying business or qualifying tenant that  
9 does not meet the requirements of this subsection.

10 (4) A qualifying business or a qualifying tenant claiming an  
11 exemption under this section or RCW 82.12.986 must complete an annual  
12 report with the department as required under RCW 82.32.534.

13 (5)(a) The exemption provided in this section does not apply to:

14 (i) Any person who has received the benefit of the deferral  
15 program under chapter 82.60 RCW on: (A) The construction, renovation,  
16 or expansion of a structure or structures used as a computer data  
17 center; or (B) machinery or equipment used in a computer data center;  
18 and

19 (ii) Any person affiliated with a person within the scope of  
20 (a)(i) of this subsection (5).

21 (b) If a person claims an exemption under this section and  
22 subsequently receives the benefit of the deferral program under  
23 chapter 82.60 RCW on either the construction, renovation, or  
24 expansion of a structure or structures used as a computer data center  
25 or machinery or equipment used in a computer data center, the person  
26 must repay the amount of taxes exempted under this section. Interest  
27 as provided in chapter 82.32 RCW applies to amounts due under this  
28 section until paid in full.

29 (6) For purposes of this section the following definitions apply  
30 unless the context clearly requires otherwise:

31 (a) "Affiliated" means that one person has a direct or indirect  
32 ownership interest of at least twenty percent in another person.

33 (b)(i) "Computer data center" means a facility comprised of one  
34 or more buildings, which may be comprised of multiple businesses,  
35 constructed or refurbished specifically, and used primarily, to house  
36 working servers, where the facility has the following  
37 characteristics: (A) Uninterruptible power supplies, generator backup  
38 power, or both; (B) sophisticated fire suppression and prevention  
39 systems; and (C) enhanced physical security, such as: Restricted  
40 access to the facility to selected personnel; permanent security

1 guards; video camera surveillance; an electronic system requiring  
2 passcodes, keycards, or biometric scans, such as hand scans and  
3 retinal or fingerprint recognition; or similar security features.

4 (ii) For a computer data center comprised of multiple buildings,  
5 each separate building constructed or refurbished specifically, and  
6 used primarily, to house working servers is considered a computer  
7 data center if it has all of the characteristics listed in (b)(i)(A)  
8 through (C) of this subsection (6).

9 (iii) A facility comprised of one building or more than one  
10 building must have a combined square footage of at least one hundred  
11 thousand square feet.

12 (c) "Electronic data storage and data management services"  
13 include, but are not limited to: Providing data storage and backup  
14 services, providing computer processing power, hosting enterprise  
15 software applications, and hosting web sites. The term also includes  
16 providing services such as e-mail, web browsing and searching, media  
17 applications, and other online services, regardless of whether a  
18 charge is made for such services.

19 (d)(i) "Eligible computer data center" means a computer data  
20 center:

21 (A) Located in a rural county as defined in RCW 82.14.370;

22 (B) Having at least twenty thousand square feet dedicated to  
23 housing working servers, where the server space has not previously  
24 been dedicated to housing working servers; and

25 (C) For which the commencement of construction occurs:

26 (I) After March 31, 2010, and before July 1, 2011; or

27 (II) After March 31, 2012, and before July 1, (~~2015~~) 2020.

28 (ii) For purposes of this section, "commencement of construction"  
29 means the date that a building permit is issued under the building  
30 code adopted under RCW 19.27.031 for construction of the computer  
31 data center. The construction of a computer data center includes the  
32 expansion, renovation, or other improvements made to existing  
33 facilities, including leased or rented space. "Commencement of  
34 construction" does not include soil testing, site clearing and  
35 grading, site preparation, or any other related activities that are  
36 initiated before the issuance of a building permit for the  
37 construction of the foundation of a computer data center.

38 (iii) With respect to facilities in existence on April 1, 2010,  
39 that are expanded, renovated, or otherwise improved after March 31,  
40 2010, or facilities in existence on April 1, 2012, that are expanded,

1 renovated, or otherwise improved after March 31, 2012, an eligible  
2 computer data center includes only the portion of the computer data  
3 center meeting the requirements in (d)(i)(B) of this subsection (6).

4 (e) "Eligible power infrastructure" means all fixtures and  
5 equipment owned by a qualifying business or qualifying tenant and  
6 necessary for the transformation, distribution, or management of  
7 electricity that is required to operate eligible server equipment  
8 within an eligible computer data center. The term includes  
9 generators; wiring; cogeneration equipment; and associated fixtures  
10 and equipment, such as electrical switches, batteries, and  
11 distribution, testing, and monitoring equipment.

12 (f) "Eligible server equipment" means:

13 (i) ~~((For a qualifying business whose computer data center  
14 qualifies as an eligible computer data center under (d)(i)(C)(I) of  
15 this subsection (6),))~~ The original server equipment installed in an  
16 eligible computer data center on or after April 1, 2010, and  
17 replacement server equipment. ~~((For purposes of this subsection  
18 (6)(f)(i), "replacement server equipment" means server equipment  
19 that:~~

20 ~~(A) Replaces existing server equipment, if the sale or use of the  
21 server equipment to be replaced qualified for an exemption under this  
22 section or RCW 82.12.986; and~~

23 ~~(B) Is installed and put into regular use before April 1, 2018.~~

24 (ii) ~~For a qualifying business whose computer data center  
25 qualifies as an eligible computer data center under (d)(i)(C)(II) of  
26 this subsection (6), "eligible server equipment" means the original  
27 server equipment installed in an eligible computer data center on or  
28 after April 1, 2012, and replacement server equipment. For purposes  
29 of this subsection (6)(f)(ii), "replacement server equipment" means  
30 server equipment that:~~

31 ~~(A) Replaces existing server equipment, if the sale or use of the  
32 server equipment to be replaced qualified for an exemption under this  
33 section or RCW 82.12.986; and~~

34 ~~(B) Is installed and put into regular use before April 1, 2020.~~

35 ~~((iii))~~ (ii) For a qualifying tenant who leases space within an  
36 eligible computer data center, "eligible server equipment" means the  
37 original server equipment installed within the space it leases from  
38 an eligible computer data center on or after April 1, 2010, and  
39 replacement server equipment. ~~((For purposes of this subsection~~



1 ~~(6)(f)(iii), "replacement server equipment" means server equipment~~  
2 ~~that:~~

3 ~~(A) Replaces existing server equipment, if the sale or use of the~~  
4 ~~server equipment to be replaced qualified for an exemption under this~~  
5 ~~section or RCW 82.12.986; and~~

6 ~~(B) Is installed and put into regular use before April 1, 2020.)~~

7 (g) "Qualifying business" means a business entity that exists for  
8 the primary purpose of engaging in commercial activity for profit and  
9 that is the owner of an eligible computer data center. The term does  
10 not include the state or federal government or any of their  
11 departments, agencies, and institutions; tribal governments;  
12 political subdivisions of this state; or any municipal, quasi-  
13 municipal, public, or other corporation created by the state or  
14 federal government, tribal government, municipality, or political  
15 subdivision of the state.

16 (h) "Qualifying tenant" means a business entity that exists for  
17 the primary purpose of engaging in commercial activity for profit and  
18 that leases space from a qualifying business within an eligible  
19 computer data center. The term does not include the state or federal  
20 government or any of their departments, agencies, and institutions;  
21 tribal governments; political subdivisions of this state; or any  
22 municipal, quasi-municipal, public, or other corporation created by  
23 the state or federal government, tribal government, municipality, or  
24 political subdivision of the state. The term also does not include a  
25 lessee of space in an eligible computer data center under  
26 (d)(i)(C)(I) of this subsection (6), if the lessee and lessor are  
27 affiliated and:

28 (i) That space will be used by the lessee to house server  
29 equipment that replaces server equipment previously installed and  
30 operated in that eligible computer data center by the lessor or  
31 another person affiliated with the lessee; or

32 (ii) Prior to May 2, 2012, the primary use of the server  
33 equipment installed in that eligible computer data center was to  
34 provide electronic data storage and data management services for the  
35 business purposes of either the lessor, persons affiliated with the  
36 lessor, or both.

37 (i) "Replacement server equipment" means server equipment that:

38 (A) Replaces existing server equipment, if the sale or use of the  
39 server equipment to be replaced qualified for an exemption under this  
40 section or RCW 82.12.986; and

1 (B) Is installed and put into regular use before April 1, 2026.

2 (j) "Server equipment" means the computer hardware located in an  
3 eligible computer data center and used exclusively to provide  
4 electronic data storage and data management services for internal use  
5 by the owner or lessee of the computer data center, for clients of  
6 the owner or lessee of the computer data center, or both. "Server  
7 equipment" also includes computer software necessary to operate the  
8 computer hardware. "Server equipment" does not include personal  
9 computers, the racks upon which the server equipment is installed,  
10 and computer peripherals such as keyboards, monitors, printers, and  
11 mice.

12 (7) This section expires April 1, ~~((2020))~~ 2026.

13 **Sec. 3.** RCW 82.12.986 and 2012 2nd sp.s. c 6 s 304 are each  
14 amended to read as follows:

15 (1) ~~((An exemption from))~~ The tax imposed by RCW 82.12.020 ~~((is~~  
16 ~~provided for))~~ does not apply to the use by qualifying businesses or  
17 qualifying tenants of eligible server equipment to be installed,  
18 without intervening use, in an eligible computer data center, and to  
19 the use of labor and services rendered in respect to installing such  
20 server equipment. The exemption also applies to the use by a  
21 qualifying business or qualifying tenant of eligible power  
22 infrastructure, including labor and services rendered in respect to  
23 installing, repairing, altering, or improving such infrastructure.

24 (2) A qualifying business or a qualifying tenant is not eligible  
25 for the exemption under this section unless the department ~~((issued~~  
26 ~~an exemption certificate to the qualifying business or a qualifying~~  
27 ~~tenant for the exemption provided in RCW 82.08.986.~~

28 ~~(3)(a) The exemption provided in this section does not apply to:~~

29 ~~(i) Any person who has received the benefit of the deferral~~  
30 ~~program under chapter 82.60 RCW on: (A) The construction, renovation,~~  
31 ~~or expansion of a structure or structures used as a computer data~~  
32 ~~center; or (B) machinery or equipment used in a computer data center;~~  
33 ~~and~~

34 ~~(ii) Any person affiliated with a person within the scope of~~  
35 ~~(a)(i) of this subsection (3).~~

36 ~~(b) If a person has received the benefit of the exemption under~~  
37 ~~this section and subsequently receives the benefit of the deferral~~  
38 ~~program under chapter 82.60 RCW on either the construction,~~  
39 ~~renovation, or expansion of a structure or structures used as a~~

1 ~~computer data center or machinery or equipment used in a computer~~  
2 ~~data center, the person must repay the amount of taxes exempted under~~  
3 ~~this section. Interest as provided in chapter 82.32 RCW applies to~~  
4 ~~amounts due under this subsection (3)(b) until paid in full. A person~~  
5 ~~is not required to repay taxes under this subsection with respect to~~  
6 ~~property and services for which the person is required to repay taxes~~  
7 ~~under RCW 82.08.986(5))~~ approved an application required in RCW  
8 82.08.986.

9 (3) The exemption under this section is provided in the form of a  
10 remittance. A person claiming an exemption under this section must  
11 pay the tax imposed by RCW 82.12.020 to the department. The person  
12 may then apply to the department for remittance of the tax paid under  
13 RCW 82.12.020 in accordance with RCW 82.08.986.

14 (4) The definitions, conditions, and requirements in RCW  
15 82.08.986 apply to this section.

16 (5) This section expires April 1, ~~((2020))~~ 2026.

17 **Sec. 4.** RCW 82.14.370 and 2012 c 225 s 4 are each amended to  
18 read as follows:

19 (1)(a) The legislative authority of a rural county may impose a  
20 sales and use tax in accordance with the terms of this chapter. The  
21 tax is in addition to other taxes authorized by law and must be  
22 collected from those persons who are taxable by the state under  
23 chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event  
24 within the county. Except as provided in (b) of this subsection (1),  
25 the rate of tax may not exceed 0.09 percent of the selling price in  
26 the case of a sales tax or value of the article used in the case of a  
27 use tax, except that for rural counties with population densities  
28 between sixty and one hundred persons per square mile, the rate  
29 ~~((shall))~~ may not exceed 0.04 percent before January 1, 2000.

30 (b)(i) A county imposing the tax authorized under this section  
31 must modify its tax rate as provided in this subsection (1)(b). A  
32 county must adjust the tax rate to reflect increases or decreases in  
33 county property tax revenues from a computer data center, and  
34 personal property used within a computer data center, if: (A) The  
35 commencement of construction of the computer data center occurs on or  
36 after July 1, 2015; and (B) the computer data center qualifies for  
37 the exemption under RCW 82.08.986 or 82.12.986. The state treasurer  
38 must modify the distribution of the taxes authorized under this

1 section to reflect any tax rate decrease required by this subsection  
2 (1)(b) separate of any action by the county or lack thereof.

3 (ii) A county must decrease its tax rate under this subsection  
4 (1)(b) beginning with the first calendar year in which additional  
5 property tax revenues will be generated from a computer data center  
6 described under (b)(i) of this subsection (1) but not before January  
7 1, 2016.

8 (iii) If the county has decreased its tax rate under (b)(ii), it  
9 may subsequently increase its tax rate to the maximum amount  
10 otherwise allowable under this section, if the assessed value of a  
11 computer data center described under (b)(i) of this subsection, or  
12 the assessed value of personal property used in the computer data  
13 center, decreases by more than fifty percent from the highest  
14 assessed value of such properties in the three prior years.

15 (iv) The department must make a determination as to whether, and  
16 to what degree, a tax rate adjustment is required under this  
17 subsection (1)(b) and notify an impacted county by October 1 of each  
18 year. If a tax rate adjustment is required under this subsection  
19 (1)(b), the tax rate must be adjusted to the nearest one-tenth of one  
20 percent necessary to reflect the property tax revenue change  
21 described in (ii) or (iii) of this subsection (1)(b). Beginning in  
22 calendar year 2021, the department is not required to make a  
23 determination under this subsection (1)(b)(iv) unless a county  
24 contacts the department regarding a possible tax rate increase under  
25 (iii) of this subsection (1)(b).

26 (2) The tax imposed under subsection (1) of this section must be  
27 deducted from the amount of tax otherwise required to be collected or  
28 paid over to the department of revenue under chapter 82.08 or 82.12  
29 RCW. The department of revenue must perform the collection of such  
30 taxes on behalf of the county at no cost to the county.

31 (3)(a) Moneys collected under this section may only be used to  
32 finance public facilities serving economic development purposes in  
33 rural counties and finance personnel in economic development offices.  
34 The public facility must be listed as an item in the officially  
35 adopted county overall economic development plan, or the economic  
36 development section of the county's comprehensive plan, or the  
37 comprehensive plan of a city or town located within the county for  
38 those counties planning under RCW 36.70A.040. For those counties that  
39 do not have an adopted overall economic development plan and do not  
40 plan under the growth management act, the public facility must be

1 listed in the county's capital facilities plan or the capital  
2 facilities plan of a city or town located within the county.

3 (b) In implementing this section, the county must consult with  
4 cities, towns, and port districts located within the county and the  
5 associate development organization serving the county to ensure that  
6 the expenditure meets the goals of chapter 130, Laws of 2004 and the  
7 requirements of (a) of this subsection. Each county collecting money  
8 under this section must report, as follows, to the office of the  
9 state auditor, within one hundred fifty days after the close of each  
10 fiscal year: (i) A list of new projects begun during the fiscal year,  
11 showing that the county has used the funds for those projects  
12 consistent with the goals of chapter 130, Laws of 2004 and the  
13 requirements of (a) of this subsection; and (ii) expenditures during  
14 the fiscal year on projects begun in a previous year. Any projects  
15 financed prior to June 10, 2004, from the proceeds of obligations to  
16 which the tax imposed under subsection (1) of this section has been  
17 pledged may not be deemed to be new projects under this subsection.  
18 No new projects funded with money collected under this section may be  
19 for justice system facilities.

20 (c) The definitions in this section apply throughout this  
21 section.

22 (i) "Public facilities" means bridges, roads, domestic and  
23 industrial water facilities, sanitary sewer facilities, earth  
24 stabilization, storm sewer facilities, railroads, electrical  
25 facilities, natural gas facilities, research, testing, training, and  
26 incubation facilities in innovation partnership zones designated  
27 under RCW 43.330.270, buildings, structures, telecommunications  
28 infrastructure, transportation infrastructure, or commercial  
29 infrastructure, and port facilities in the state of Washington.

30 (ii) "Economic development purposes" means those purposes which  
31 facilitate the creation or retention of businesses and jobs in a  
32 county.

33 (iii) "Economic development office" means an office of a county,  
34 port districts, or an associate development organization as defined  
35 in RCW 43.330.010, which promotes economic development purposes  
36 within the county.

37 (iv) "Computer data center" and "commencement of construction"  
38 have the same meanings as provided in RCW 82.08.986.

39 (4) No tax may be collected under this section before July 1,  
40 1998.

1 (a) Except as provided in (b) of this subsection, no tax may be  
2 collected under this section by a county more than twenty-five years  
3 after the date that a tax is first imposed under this section.

4 (b) For counties imposing the tax at the rate of 0.09 percent  
5 before August 1, 2009, the tax expires on the date that is twenty-  
6 five years after the date that the 0.09 percent tax rate was first  
7 imposed by that county.

8 (5) For purposes of this section, "rural county" means a county  
9 with a population density of less than one hundred persons per square  
10 mile or a county smaller than two hundred twenty-five square miles as  
11 determined by the office of financial management and published each  
12 year by the department for the period July 1st to June 30th.

13 **Sec. 5.** RCW 67.28.180 and 2011 1st sp.s. c 38 s 1 are each  
14 amended to read as follows:

15 (1) Subject to the conditions set forth in subsections (2) and  
16 (3) of this section, the legislative body of any county or any city,  
17 is authorized to levy and collect a special excise tax of not to  
18 exceed two percent on the sale of or charge made for the furnishing  
19 of lodging that is subject to tax under chapter 82.08 RCW.

20 (2) Any levy authorized by this section is subject to the  
21 following:

22 (a) Any county ordinance or resolution adopted pursuant to this  
23 section must contain, in addition to all other provisions required to  
24 conform to this chapter, a provision allowing a credit against the  
25 county tax for the full amount of any city tax imposed pursuant to  
26 this section upon the same taxable event.

27 (b)(i) In the event that any county has levied the tax authorized  
28 by this section and has, prior to June 26, 1975, either pledged the  
29 tax revenues for payment of principal and interest on city revenue or  
30 general obligation bonds authorized and issued pursuant to RCW  
31 67.28.150 through 67.28.160 or has authorized and issued revenue or  
32 general obligation bonds pursuant to the provisions of RCW 67.28.150  
33 through 67.28.160, such county is exempt from the provisions of (a)  
34 of this subsection, to the extent that the tax revenues are pledged  
35 for payment of principal and interest on bonds issued at any time  
36 pursuant to the provisions of RCW 67.28.150 through 67.28.160.  
37 However, so much of such pledged tax revenues, together with any  
38 investment earnings thereon, not immediately necessary for actual  
39 payment of principal and interest on such bonds may be used: (A) In

1 any county with a population of one million five hundred thousand or  
2 more, for repayment either of limited tax levy general obligation  
3 bonds or of any county fund or account from which a loan was made,  
4 the proceeds from the bonds or loan being used to pay for  
5 constructing, installing, improving, and equipping stadium capital  
6 improvement projects, and to pay for any engineering, planning,  
7 financial, legal and professional services incident to the  
8 development of such stadium capital improvement projects, regardless  
9 of the date the debt for such capital improvement projects was or may  
10 be incurred; (B) in any county with a population of one million five  
11 hundred thousand or more, for repayment or refinancing of bonded  
12 indebtedness incurred prior to January 1, 1997, for any purpose  
13 authorized by this section or relating to stadium repairs or  
14 rehabilitation, including but not limited to the cost of settling  
15 legal claims, reimbursing operating funds, interest payments on  
16 short-term loans, and any other purpose for which such debt has been  
17 incurred if the county has created a public stadium authority to  
18 develop a stadium and exhibition center under RCW 36.102.030; or (C)  
19 in other counties, for county-owned facilities for agricultural  
20 promotion until January 1, 2009, and thereafter for any purpose  
21 authorized in this chapter.

22 (ii) A county is exempt under this subsection with respect to  
23 city revenue or general obligation bonds issued after April 1, 1991,  
24 only if such bonds mature before January 1, 2013. If any county  
25 located east of the crest of the Cascade mountains has levied the tax  
26 authorized by this section and has, prior to June 26, 1975, pledged  
27 the tax revenue for payment of principal and interest on city revenue  
28 or general obligation bonds, the county is exempt under this  
29 subsection with respect to revenue or general obligation bonds issued  
30 after January 1, 2007, only if the bonds mature before January 1,  
31 2035. Such a county may only use funds under this subsection (2)(b)  
32 for constructing or improving facilities authorized under this  
33 chapter, including county-owned facilities for agricultural  
34 promotion.

35 (iii) As used in this subsection (2)(b), "capital improvement  
36 projects" may include, but not be limited to a stadium restaurant  
37 facility, restroom facilities, artificial turf system, seating  
38 facilities, parking facilities and scoreboard and information system  
39 adjacent to or within a county owned stadium, together with  
40 equipment, utilities, accessories and appurtenances necessary

1 thereto. The stadium restaurant authorized by this subsection (2)(b)  
2 must be operated by a private concessionaire under a contract with  
3 the county.

4 (c)(i) No city within a county exempt under (b) of this  
5 subsection may levy the tax authorized by this section so long as  
6 said county is so exempt.

7 (ii) No city within a county with a population of one million  
8 five hundred thousand or more may levy the tax authorized by this  
9 section.

10 (iii) However, in the event that any city in a county described  
11 in (c)(i) or (ii) of this subsection (2) has levied the tax  
12 authorized by this section and has, prior to June 26, 1975,  
13 authorized and issued revenue or general obligation bonds pursuant to  
14 the provisions of RCW 67.28.150 through 67.28.160, such city may levy  
15 the tax so long as the tax revenues are pledged for payment of  
16 principal and interest on bonds issued at any time pursuant to the  
17 provisions of RCW 67.28.150 through 67.28.160.

18 (3) Any levy authorized by this section by a county that has a  
19 population of one million five hundred thousand or more is subject to  
20 the following:

21 (a) Taxes collected under this section in any calendar year  
22 before 2013 in excess of five million three hundred thousand dollars  
23 may only be used as follows:

24 (i) Seventy percent from January 1, 2001, through December 31,  
25 2012, for art museums, cultural museums, heritage museums, the arts,  
26 and the performing arts. Moneys spent under this subsection (3)(a)(i)  
27 must be used for the purposes of this subsection (3)(a)(i) in all  
28 parts of the county.

29 (ii) Thirty percent from January 1, 2001, through December 31,  
30 2012, for the following purposes and in a manner reflecting the  
31 following order of priority: Stadium purposes as authorized under  
32 subsection (2)(b) of this section; acquisition of open space lands;  
33 youth sports activities; and tourism promotion. If all or part of the  
34 debt on the stadium is refinanced, all revenues under this subsection  
35 (3)(a)(ii) must be used to retire the debt.

36 (b) From January 1, 2013, through December 31, 2015, all revenues  
37 under this section (~~shall~~) must be used to retire the debt on the  
38 stadium, until the debt on the stadium is retired. On and after the  
39 date the debt on the stadium is retired, and through December 31,  
40 2015, all revenues under this section in a county of one million five



1 hundred thousand or more must be deposited in the special account  
2 under (e) of this subsection.

3 (c) From January 1, 2016, through December 31, 2020, all revenues  
4 under this section must be deposited in the stadium and exhibition  
5 center account under RCW 43.99N.060.

6 (d) On and after January 1, 2021, the revenues under this section  
7 must be used as follows:

8 (i) At least thirty-seven and one-half percent of the revenues  
9 under this section must be deposited in the special account under (e)  
10 of this subsection.

11 (ii) At least thirty-seven and one-half percent of the revenues  
12 under this section must be used for nonprofit organizations or public  
13 housing authorities for affordable workforce housing within one-half  
14 of a mile of a transit station, as described under RCW 9.91.025 or  
15 for services for homeless youth.

16 (iii) The remainder must be used for capital or operating  
17 programs that promote tourism and attract tourists to the county.

18 (e) At least forty percent of the revenues distributed pursuant  
19 to (a)(i) of this subsection must be deposited in a special account.  
20 The account may only be used for the purposes of (a)(i) of this  
21 subsection.

22 (f) School districts and schools may not receive revenues  
23 distributed pursuant to (a)(i) of this subsection.

24 (g) Moneys distributed to art museums, cultural museums, heritage  
25 museums, the arts, and the performing arts, and moneys distributed  
26 for tourism promotion must be in addition to and may not be used to  
27 replace or supplant any other funding by the legislative body of the  
28 county.

29 (h) For the purposes of this section:

30 (i) "Affordable workforce housing" means housing for a single  
31 person, family, or unrelated persons living together whose income is  
32 between thirty percent and eighty percent of the median income,  
33 adjusted for household size, for the county where the housing is  
34 located; and

35 (ii) "Tourism promotion" includes activities intended to attract  
36 visitors for overnight stays, arts, heritage, and cultural events,  
37 and recreational, professional, and amateur sports events. Moneys  
38 allocated to tourism promotion in a county with a population of one  
39 million or more must be allocated to local public organizations and  
40 nonprofit organizations formed for the express purpose of tourism

1 promotion in the county. Such organizations must use moneys from the  
2 taxes to promote events in all parts of the county.

3 (i) No taxes collected under this section may be used for the  
4 operation or maintenance of a public stadium that is financed  
5 directly or indirectly by bonds to which the tax is pledged.  
6 Expenditures for operation or maintenance include all expenditures  
7 other than expenditures that directly result in new fixed assets or  
8 that directly increase the capacity, life span, or operating economy  
9 of existing fixed assets.

10 (j) No ad valorem property taxes may be used for debt service on  
11 bonds issued for a public stadium that is financed by bonds to which  
12 the tax is pledged, unless the taxes collected under this section are  
13 or are projected to be insufficient to meet debt service requirements  
14 on such bonds.

15 (k) If a substantial part of the operation and management of a  
16 public stadium that is financed directly or indirectly by bonds to  
17 which the tax is pledged is performed by a nonpublic entity or if a  
18 public stadium is sold that is financed directly or indirectly by  
19 bonds to which the tax is pledged, any bonds to which the tax is  
20 pledged (~~shall~~) must be retired. This subsection (3)(k) does not  
21 apply in respect to a public stadium under chapter 36.102 RCW  
22 transferred to, owned by, or constructed by a public facilities  
23 district under chapter 36.100 RCW or a stadium and exhibition center.

24 (l) The county may not lease a public stadium that is financed  
25 directly or indirectly by bonds to which the tax is pledged to, or  
26 authorize the use of the public stadium by, a professional major  
27 league sports franchise unless the sports franchise gives the right  
28 of first refusal to purchase the sports franchise, upon its sale, to  
29 local government. This subsection (3)(l) does not apply to contracts  
30 in existence on April 1, 1986.

31 (4) If a court of competent jurisdiction declares any provision  
32 of subsection (3) of this section invalid, then that invalid  
33 provision is null and void and the remainder of this section is not  
34 affected.

35 (5) Beginning January 1, 2016, any city or county that has a  
36 computer data center located within its boundaries may not impose the  
37 tax under this section if the computer data center qualifies for the  
38 sales and use tax exemption under RCW 82.08.986 or 82.12.986.

1       **Sec. 6.** RCW 82.32.534 and 2014 c 97 s 102 are each amended to  
2 read as follows:

3       (1)(a) Every person claiming a tax preference that requires a  
4 report under this section must file a complete annual report with the  
5 department. The report is due by April 30th of the year following any  
6 calendar year in which a person becomes eligible to claim the tax  
7 preference that requires a report under this section. The department  
8 may extend the due date for timely filing of annual reports under  
9 this section as provided in RCW 82.32.590.

10       (b) The report must include information detailing employment,  
11 wages, and employer-provided health and retirement benefits for  
12 employment positions in Washington for the year that the tax  
13 preference was claimed. However, persons engaged in manufacturing  
14 commercial airplanes or components of such airplanes may report  
15 employment, wage, and benefit information per job at the  
16 manufacturing site for the year that the tax preference was claimed.  
17 The report must not include names of employees. The report must also  
18 detail employment by the total number of full-time, part-time, and  
19 temporary positions for the year that the tax preference was claimed.

20       (c) Persons receiving the benefit of the tax preference provided  
21 by RCW 82.16.0421 or claiming any of the tax preferences provided by  
22 RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, or 82.12.022(5)  
23 must indicate on the annual report the quantity of product produced  
24 in this state during the time period covered by the report.

25       (d) If a person filing a report under this section did not file a  
26 report with the department in the previous calendar year, the report  
27 filed under this section must also include employment, wage, and  
28 benefit information for the calendar year immediately preceding the  
29 calendar year for which a tax preference was claimed.

30       (e) Persons claiming the exemption under RCW 82.08.986 or  
31 82.12.986 must include the following additional information on the  
32 report filed under this section:

33       (i) The parcel number for the eligible computer data center and  
34 any related personal property parcel numbers;

35       (ii) The unemployment insurance account number associated with  
36 the computer data center; and

37       (iii) The total amount expended for electrical power for the  
38 calendar year. The cost per kilowatt hour must also be provided.

1 (2) As part of the annual report, the department may request  
2 additional information necessary to measure the results of, or  
3 determine eligibility for, the tax preference.

4 (3) Other than information requested under subsection (2) of this  
5 section, the information contained in an annual report filed under  
6 this section is not subject to the confidentiality provisions of RCW  
7 82.32.330 and may be disclosed to the public upon request.

8 (4) Except as otherwise provided by law, if a person claims a tax  
9 preference that requires an annual report under this section but  
10 fails to submit a complete report by the due date or any extension  
11 under RCW 82.32.590, the department must declare the amount of the  
12 tax preference claimed for the previous calendar year to be  
13 immediately due and payable. The department must assess interest, but  
14 not penalties, on the amounts due under this subsection. The interest  
15 must be assessed at the rate provided for delinquent taxes under this  
16 chapter, retroactively to the date the tax preference was claimed,  
17 and accrues until the taxes for which the tax preference was claimed  
18 are repaid. Amounts due under this subsection are not subject to the  
19 confidentiality provisions of RCW 82.32.330 and may be disclosed to  
20 the public upon request.

21 (5) The department must use the information from this section to  
22 prepare summary descriptive statistics by category. No fewer than  
23 three taxpayers may be included in any category. The department must  
24 report these statistics to the legislature each year by December 1st.

25 (6) For the purposes of this section:

26 (a) "Person" has the meaning provided in RCW 82.04.030 and also  
27 includes the state and its departments and institutions.

28 (b) "Tax preference" has the meaning provided in RCW 43.136.021  
29 and includes only the tax preferences requiring a survey under this  
30 section.

31 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
32 preservation of the public peace, health, or safety, or support of  
33 the state government and its existing public institutions, and takes  
34 effect July 1, 2015.

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