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HOUSE BILL 2015

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State of Washington

65th Legislature

2017 Regular Session

By Representatives Pettigrew, Stokesbary, Nealey, Springer, Macri,  
and Pollet

Read first time 02/07/17. Referred to Committee on Finance.

1 AN ACT Relating to modifying the lodging excise tax to remove the  
2 exemption for premises with fewer than sixty lodging units and to tax  
3 certain vacation rentals, short-term home-sharing arrangements, and  
4 other compensated use or occupancy of dwellings; amending RCW  
5 36.100.040; creating a new section; providing an effective date; and  
6 declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that it is in  
9 the public interest that taxation of lodging not distort the market  
10 for different types of lodging and that all types of lodging  
11 participate in the funding of the public benefits supported with  
12 lodging tax revenue.

13 (2) The legislature further finds that, with respect to the  
14 lodging taxes levied under RCW 36.100.040 (4) and (5), the current  
15 significant disparity in the taxation of sales of lodging on premises  
16 having fewer than sixty lodging units compared to premises having  
17 sixty or more units is contrary to the public interest in both  
18 equitable taxation and adequately supporting the public benefits  
19 funded by lodging tax revenue.

20 (3) It is the intent of this act to equalize the taxation levied  
21 under RCW 36.100.040 (4) and (5) by applying it to all lodging,

1 regardless of the number of lodging units in premises subject to such  
2 taxation.

3 **Sec. 2.** RCW 36.100.040 and 2015 3rd sp.s. c 24 s 702 are each  
4 amended to read as follows:

5 (1) A public facilities district may impose an excise tax on the  
6 sale of or charge made for the furnishing of lodging that is subject  
7 to tax under chapter 82.08 RCW, except that no such tax may be levied  
8 on any premises having fewer than forty lodging units. Except for any  
9 tax imposed under subsection (4) or (5) of this section, if a public  
10 facilities district has not imposed such an excise tax prior to  
11 December 31, 1995, the public facilities district may only impose the  
12 excise tax if a ballot proposition authorizing the imposition of the  
13 tax has been approved by a simple majority vote of voters of the  
14 public facilities district voting on the proposition.

15 (2) The rate of the tax may not exceed two percent and the  
16 proceeds of the tax may only be used for the acquisition, design,  
17 construction, remodeling, maintenance, equipping, reequipping,  
18 repairing, and operation of its public facilities. This excise tax  
19 may not be imposed until the district has approved the proposal to  
20 acquire, design, and construct the public facilities.

21 (3) Except for a public facilities district created within a  
22 county with a population of one million five hundred thousand or more  
23 for the purpose of acquiring, owning, and operating a convention and  
24 trade center, a public facilities district may not impose the tax  
25 authorized in this section if, after the tax authorized in this  
26 section was imposed, the effective combined rate of state and local  
27 excise taxes, including sales and use taxes and excise taxes on  
28 lodging, imposed on the sale of or charge made for furnishing of  
29 lodging in any jurisdiction in the public facilities district exceeds  
30 eleven and one-half percent.

31 (4) To replace the tax authorized by RCW 67.40.090, a public  
32 facilities district created within a county with a population of one  
33 million five hundred thousand or more for the purpose of acquiring,  
34 owning, and operating a convention and trade center may impose an  
35 excise tax on the sale of or charge made for the furnishing of  
36 lodging (including but not limited to any vacation rental, home-  
37 sharing arrangement, or other compensated use or occupancy of all or  
38 any portion of a dwelling or dwelling unit, for a continuous period  
39 of less than one month, regardless of whether any such dwelling or

1 dwelling unit is also occupied by its owner) that is subject to tax  
2 under chapter 82.08 RCW, except that no such tax may be levied on any  
3 premises(~~(a) Having fewer than sixty lodging units; or (b))~~)  
4 classified as a hostel. The rate of the tax may not exceed seven  
5 percent within the portion of the district that corresponds to the  
6 boundaries of the largest city within the public facilities district  
7 and may not exceed 2.8 percent in the remainder of the district. The  
8 tax imposed under this subsection (4) may not be collected prior to  
9 the transfer date defined in RCW 36.100.230.

10 (5) To replace the tax authorized by RCW 67.40.130, a public  
11 facilities district created within a county with a population of one  
12 million five hundred thousand or more for the purpose of acquiring,  
13 owning, and operating a convention and trade center may impose an  
14 additional excise tax on the sale of or charge made for the  
15 furnishing of lodging (including but not limited to any vacation  
16 rental, home-sharing arrangement, or other compensated use or  
17 occupancy of all or any portion of a dwelling or dwelling unit, for a  
18 continuous period of less than one month, regardless of whether any  
19 such dwelling or dwelling unit is also occupied by its owner) that is  
20 subject to tax under chapter 82.08 RCW, except that no such tax may  
21 be levied on any premises(~~(a) Having fewer than sixty lodging~~  
22 ~~units; or (b))~~) classified as a hostel. The rate of the additional  
23 excise tax may not exceed two percent and may be imposed only within  
24 the portion of the district that corresponds to the boundaries of the  
25 largest city within the public facilities district and may not be  
26 imposed in the remainder of the district. The tax imposed under this  
27 subsection (5) may not be collected prior to the transfer date  
28 specified in RCW 36.100.230. The tax imposed under this subsection  
29 (5) must be credited against the amount of the tax otherwise due to  
30 the state from those same taxpayers under chapter 82.08 RCW. The tax  
31 under this subsection (5) may be imposed only for the purpose of  
32 paying or securing the payment of the principal of and interest on  
33 obligations issued or incurred by the public facilities district and  
34 paying annual payment amounts to the state under subsection (6)(a) of  
35 this section. The authority to impose the additional excise tax under  
36 this subsection (5) expires on the date that is the earlier of (a)  
37 (~~((i))~~) July 1, 2029, or (b)(~~((i))~~) the date on which all  
38 obligations issued or incurred by the public facilities district to  
39 implement any redemption, prepayment, or legal defeasance of

1 outstanding obligations under RCW 36.100.230(3)(a) are no longer  
2 outstanding.

3 (6)(a) Commencing with the first full fiscal year of the state  
4 after the transfer date defined in RCW 36.100.230 and for so long as  
5 a public facilities district imposes a tax under subsection (5) of  
6 this section, the public facilities district must transfer to the  
7 state of Washington on June 30th of each state fiscal year an annual  
8 payment amount.

9 (b) For the purposes of this subsection (6), "annual payment  
10 amount" means an amount equal to revenues received by the public  
11 facilities district in the fiscal year from the additional excise tax  
12 imposed under subsection (5) of this section plus an interest charge  
13 calculated on one-half the annual payment amount times an interest  
14 rate equal to the average annual rate of return for the prior  
15 calendar year in the Washington state local government investment  
16 pool created in chapter 43.250 RCW.

17 (c)(i) If the public facilities district in any fiscal year is  
18 required to apply additional lodging excise tax revenues to the  
19 payment of principal and interest on obligations it issues or incurs,  
20 and the public facilities district is unable to pay all or any  
21 portion of the annual payment amount to the state, the deficiency is  
22 deemed to be a loan from the state to the public facilities district  
23 for the purpose of assisting the district in paying such principal  
24 and interest and must be repaid by the public facilities district to  
25 the state after providing for the payment of the principal of and  
26 interest on obligations issued or incurred by the public facilities  
27 district, all on terms established by an agreement between the state  
28 treasurer and the public facilities district executed prior to the  
29 transfer date. Any agreement between the state treasurer and the  
30 public facilities district must specify the term for the repayment of  
31 the deficiency in the annual payment amount with an interest rate  
32 equal to the twenty bond general obligation bond buyer index plus one  
33 percentage point.

34 (ii) Outstanding obligations to repay any loans deemed to have  
35 been made to the public facilities district as provided in any such  
36 agreements between the state treasurer and the public facilities  
37 district survive the expiration of the additional excise tax under  
38 subsection (5) of this section.

1 (iii) For the purposes of this subsection (6)(c), "additional  
2 lodging excise tax revenues" mean the tax revenues received by the  
3 public facilities district under subsection (5) of this section.

4 (7) A public facilities district is authorized to pledge any of  
5 its revenues, including without limitation revenues from the taxes  
6 authorized in this section, to pay or secure the payment of  
7 obligations issued or incurred by the public facilities district,  
8 subject to the terms established by the board of directors of the  
9 public facilities district. So long as a pledge of the taxes  
10 authorized under this section is in effect, the legislature may not  
11 withdraw or modify the authority to levy and collect the taxes at the  
12 rates permitted under this section and may not increase the annual  
13 payment amount to be transferred to the state under subsection (6) of  
14 this section.

15 (8) The department of revenue must perform the collection of such  
16 taxes on behalf of the public facilities district at no cost to the  
17 district, and the state treasurer must distribute those taxes as  
18 available on a monthly basis to the district or, upon the direction  
19 of the district, to a fiscal agent, paying agent, or trustee for  
20 obligations issued or incurred by the district.

21 (9) Except as expressly provided in this chapter, all of the  
22 provisions contained in RCW 82.08.050 and 82.08.060 and chapter 82.32  
23 RCW have full force and application with respect to taxes imposed  
24 under the provisions of this section.

25 (10) In determining the effective combined rate of tax for  
26 purposes of the limit in subsection (3) of this section, the tax rate  
27 under RCW 82.14.530 is not included.

28 (11) The taxes imposed in this section do not apply to sales of  
29 temporary medical housing exempt under RCW 82.08.997.

30 (12)(a) For the purposes of this section, "hostel" means a  
31 structure or facility where a majority of the rooms for sleeping  
32 accommodations are hostel dormitories containing a minimum of four  
33 standard beds designed for single-person occupancy within the  
34 facility. Hostel accommodations are supervised and must include at  
35 least one common area and at least one common kitchen for guest use.

36 (b) For the purpose of this subsection, "hostel dormitory" means  
37 a single room, containing four or more standard beds designed for  
38 single-person occupancy, used exclusively as nonprivate communal  
39 sleeping quarters, generally for unrelated persons, where such  
40 persons independently acquire the right to occupy individual beds,

1 with the operator supervising and determining which bed each person  
2 will occupy.

3 (13) Section 2, chapter . . . , Laws of 2017 (this section),  
4 extending the tax imposed in subsections (4) and (5) of this section  
5 to premises having fewer than sixty lodging units, must be deemed to  
6 have been effective on December 1, 2000, for the purposes of RCW  
7 82.14.410, in order to be consistent with the treatment of premises  
8 with sixty or more units.

9 NEW SECTION. Sec. 3. This act is necessary for the immediate  
10 preservation of the public peace, health, or safety, or support of  
11 the state government and its existing public institutions, and takes  
12 effect July 1, 2017.

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