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**HOUSE BILL 2362**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Ramos, Callan, Ryu, Chapman, Doglio, Senn, Kloba, Gregerson, and Pollet

AN ACT Relating to local transportation revenue options; amending RCW 35.21.870, 36.73.065, 82.14.0455, 82.80.010, and 82.80.080; and providing an effective date.

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

**Sec.**  RCW 35.21.870 and 2014 c 216 s 306 are each amended to read as follows:

(1) No city or town may impose a tax on the privilege of conducting an electrical energy, natural gas, steam energy, or telephone business at a rate which exceeds six percent unless the rate is first approved by a majority of the voters of the city or town voting on such a proposition, except as allowed under subsection (5) of this section.

(2)(a) If a city or town is imposing a rate of tax under subsection (1) of this section in excess of six percent on April 20, 1982, the city or town must decrease the rate to a rate of six percent or less by reducing the rate each year on or before November 1st by ordinances to be effective on January 1st of the succeeding year, by an amount equal to one-tenth the difference between the tax rate on April 20, 1982, and six percent.

(b) Nothing in this subsection prohibits a city or town from reducing its rates by amounts greater than the amounts required in this subsection.

(3) Voter approved rate increases under subsection (1) of this section may not be included in the computations under this subsection.

(4) No city or town may impose a tax on the privilege of conducting a natural gas business with respect to sales that are exempt from the tax imposed under chapter 82.16 RCW as provided in RCW 82.16.310 at a rate higher than its business and occupation tax rate on the sale of tangible personal property or, if the city or town does not impose a business and occupation tax on the sale of tangible personal property, at a rate greater than .002.

(5)(a) A city or town may impose a tax of up to two percent, in addition to the amount imposed pursuant to subsection (1) of this section, on the privilege of conducting an electrical energy, natural gas, steam energy, or telephone business.

(b) The proceeds of any tax imposed pursuant to this subsection (5) must be used exclusively for transportation improvements, which must be contained in the transportation plan of the state, a regional transportation planning organization, city, or county. A project may include investment in new or existing highways of statewide significance, principal arterials of regional significance, high capacity transportation, public transportation, and other transportation projects and programs of regional or statewide significance including transportation demand management. Projects may also include the operation, preservation, and maintenance of these facilities or programs.

**Sec.**  RCW 36.73.065 and 2015 3rd sp.s. c 44 s 309 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, taxes, fees, charges, and tolls may not be imposed by a district without approval of a majority of the voters in the district voting on a proposition at a general or special election. The proposition must include a specific description of: (a) The transportation improvement or improvements proposed by the district; (b) any rebate program proposed to be established under RCW 36.73.067; and (c) the proposed taxes, fees, charges, and the range of tolls imposed by the district to raise revenue to fund the improvement or improvements or rebate program, as applicable.

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

(3) A district may not increase any taxes, fees, charges, or range of tolls imposed or change a rebate program under this chapter once the taxes, fees, charges, tolls, or rebate program takes effect, except:

(a) If authorized by the district voters pursuant to RCW 36.73.160;

(b) With respect to a change in a rebate program, a material change policy adopted pursuant to RCW 36.73.160 is followed and the change does not reduce the percentage level or rebate amount;

(c) For up to forty dollars of the vehicle fee authorized in RCW 82.80.140 by the governing board of the district if a vehicle fee of twenty dollars has been imposed for at least twenty-four months; ((~~or~~))

(d) For up to fifty dollars of the vehicle fee authorized in RCW 82.80.140 by the governing board of the district if a vehicle fee of forty dollars has been imposed for at least twenty-four months and a district has met the requirements of subsection (6) of this section; or

(e) For up to four-tenths of one percent of the selling price, in the case of a sales tax, or value of the article used, in the case of a use tax, pursuant to the sales and use tax authorized in RCW 82.14.0455.

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

(i) Up to twenty dollars of the vehicle fee authorized in RCW 82.80.140;

(ii) Up to forty dollars of the vehicle fee authorized in RCW 82.80.140 if a vehicle fee of twenty dollars has been imposed for at least twenty-four months;

(iii) Up to fifty dollars of the vehicle fee authorized in RCW 82.80.140 if a vehicle fee of forty dollars has been imposed for at least twenty-four months and a district has met the requirements of subsection (6) of this section; ((~~or~~))

(iv) A fee or charge in accordance with RCW 36.73.120; or

(v) A sales and use tax in accordance with RCW 82.14.0455.

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

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

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

(5) If the interlocal agreement in RCW 82.80.140(2)(a) cannot be reached, a district that includes only the unincorporated territory of a county may impose by a majority vote of the governing body of the district up to: (a) Twenty dollars of the vehicle fee authorized in RCW 82.80.140, (b) forty dollars of the vehicle fee authorized in RCW 82.80.140 if a fee of twenty dollars has been imposed for at least twenty-four months, or (c) fifty dollars of the vehicle fee authorized in RCW 82.80.140 if a vehicle fee of forty dollars has been imposed for at least twenty-four months and a district has met the requirements of subsection (6) of this section.

(6) If a district intends to impose a vehicle fee of more than forty dollars by a majority vote of the governing body of the district, the governing body must publish notice of this intention, in one or more newspapers of general circulation within the district, by April 1st of the year in which the vehicle fee is to be imposed. If within ninety days of the date of publication a petition is filed with the county auditor containing the signatures of eight percent of the number of voters registered and voting in the district for the office of the governor at the last preceding gubernatorial election, the county auditor must canvass the signatures in the same manner as prescribed in RCW 29A.72.230 and certify their sufficiency to the governing body within two weeks. The proposition to impose the vehicle fee must then be submitted to the voters of the district at a special election, called for this purpose, no later than the date on which a primary election would be held under RCW 29A.04.311. The vehicle fee may then be imposed only if approved by a majority of the voters of the district voting on the proposition.

**Sec.**  RCW 82.14.0455 and 2010 c 105 s 3 are each amended to read as follows:

(1) Subject to the provisions in RCW 36.73.065, a transportation benefit district under chapter 36.73 RCW may fix and impose a sales and use tax in accordance with the terms of this chapter. The tax authorized in this section is in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the boundaries of the district. The rate of tax shall not exceed ((~~two-tenths~~)) four-tenths of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax. Except as provided in subsection (2) of this section, the tax may not be imposed for a period exceeding ((~~ten~~)) twenty years. This tax, if not imposed under the conditions of subsection (2) of this section, may be extended for a period not exceeding ten years with an affirmative vote of the voters voting at the election or a majority vote of the governing board of the district.

(2) The voter-approved sales tax initially imposed under this section after July 1, 2010, may be imposed for a period exceeding ((~~ten~~)) twenty years if the moneys received under this section are dedicated for the repayment of indebtedness incurred in accordance with the requirements of chapter 36.73 RCW.

(3) Money received from the tax imposed under this section must be spent in accordance with the requirements of chapter 36.73 RCW.

**Sec.**  RCW 82.80.010 and 2014 c 216 s 203 are each amended to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Distributor" means every person who imports, refines, manufactures, produces, or compounds motor vehicle fuel and special fuel as defined in RCW 82.38.020 and sells or distributes the fuel into a city or county.

(b) "Person" has the same meaning as in RCW 82.04.030.

(2) Subject to the conditions of this section, any city or county may levy, by approval of its legislative body and a majority of the registered voters of the city or county voting on the proposition at a general or special election, additional excise taxes equal to no more than ten percent of the statewide fuel tax rates under RCW 82.38.030 on motor vehicle fuel and special fuel as defined in RCW 82.38.020 sold within the boundaries of the city or county. A city or county may levy, by approval of its legislative body, no more than fifty percent of the additional excise taxes described in this subsection. Vehicles paying an annual license fee under RCW 82.38.075 are exempt from the city or county fuel excise tax. An election held under this section must be held not more than twelve months before the date on which the proposed tax is to be levied. The ballot setting forth the proposition must state the tax rate that is proposed and may indicate this tax rate in cents per gallon. ((~~The~~)) A county's authority to levy additional excise taxes under this section includes the incorporated and unincorporated areas of the county. The additional excise taxes are subject to the same exceptions and rights of refund as applicable to other motor vehicle fuel and special fuel excise taxes levied under chapter 82.38 RCW. The proposed tax may not be levied less than one month from the date the election results are certified by the county election officer. The commencement date for the levy of any tax under this section must be the first day of January, April, July, or October.

(3) The local option motor vehicle fuel tax on motor vehicle fuel and on special fuel is imposed upon the distributor of the fuel.

(4) A taxable event for the purposes of this section occurs upon the first distribution of the fuel within the boundaries of a city or county to a retail outlet, bulk fuel user, or ultimate user of the fuel.

(5) All administrative provisions in chapters 82.01, 82.03, and 82.32 RCW, insofar as they are applicable, apply to local option fuel taxes imposed under this section.

(6) Before the effective date of the imposition of the fuel taxes under this section, a city or county must contract with the department of revenue for the administration and collection of the taxes. The contract must provide that a percentage amount, not to exceed one percent of the taxes imposed under this section, will be deposited into the local tax administration account created in the custody of the state treasurer. The department of revenue may spend money from this account, upon appropriation, for the administration of the local taxes imposed under this section.

(7) The state treasurer must distribute monthly to the levying city or county and cities contained therein the proceeds of the additional excise taxes collected under this section, after the deductions for payments and expenditures as provided in RCW 46.68.090(1) (a) and (b) and under the conditions and limitations provided in RCW 82.80.080.

(8) The proceeds of the additional excise taxes levied under this section must be used strictly for transportation purposes in accordance with RCW 82.80.070.

(9) A county may not levy the tax under this section if they are levying the tax in RCW 82.80.110 or if they are a member of a regional transportation investment district levying the tax in RCW 82.80.120.

**Sec.**  RCW 82.80.080 and 2002 c 56 s 414 are each amended to read as follows:

(1) The state treasurer shall distribute revenues, less authorized deductions, generated by the local option taxes authorized in RCW 82.80.010 ((~~and 82.80.020,~~)) levied by counties to the levying counties((~~, and cities contained in those counties, based on the relative per capita population. County population for purposes of this section is equal to one and one-half of the unincorporated population of the county. In calculating the distributions, the state treasurer shall use the population estimates prepared by the state office of financial management and shall further calculate the distribution based on information supplied by the departments of licensing and revenue, as appropriate~~)).

(2) The state treasurer shall distribute revenues, less authorized deductions, generated by the local option taxes authorized in RCW 82.80.010 ((~~and 82.80.020~~)) levied by qualifying cities and towns to the levying cities and towns.

(3) The state treasurer shall distribute to the district revenues, less authorized deductions, generated by the local option taxes under RCW 82.80.010 or fees under RCW 82.80.100 levied by a district.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  This act takes effect July 1, 2020.

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