

ESHB 1839 - S COMM AMD
By Committee on Ways & Means

ADOPTED AND ENGROSSED 4/27/19

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) This section is the tax preference
4 performance statement for the tax preference contained in section 2,
5 chapter . . ., Laws of 2019 (section 2 of this act). This performance
6 statement is only intended to be used for subsequent evaluation of
7 the tax preference. It is not intended to create a private right of
8 action by any party or be used to determine eligibility for
9 preferential tax treatment.

10 (2) The legislature categorizes this tax preference as one
11 intended to provide tax relief for certain businesses or individuals
12 and to accomplish a general purpose as indicated in RCW 82.32.808(2)
13 (e) and (f).

14 (3) It is the legislature's specific public policy objective to
15 increase the fiscal stability of multipurpose sports and
16 entertainment arenas in Washington state and thereby strengthen the
17 economic vitality of the communities in which the arenas and practice
18 facilities are located.

19 (4) To measure the effectiveness of the tax preference in
20 achieving the specific public policy objective described in this act,
21 the joint legislative audit and review committee must evaluate this
22 tax preference. In evaluating the tax preference, the joint
23 legislative audit and review committee may refer to data provided to
24 the department of revenue.

25 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.32
26 RCW to read as follows:

27 (1) Until October 1, 2019, a qualifying business may apply for a
28 deferral of taxes on an eligible project. Application must be made to
29 the department in a form and manner prescribed by the department. The
30 application must contain information regarding the location of the
31 project, estimated or actual costs of the project, time schedules for

1 completion and operation of the project, and other information
2 required by the department. The department must rule on the
3 application within sixty days.

4 (2) If the department approves an application for a deferral of
5 taxes under this section, the department must issue a sales and use
6 tax deferral certificate for state and local sales and use taxes due
7 under chapters 82.08, 82.12, 82.14, and 81.104 RCW. This certificate
8 expires on the date the eligible project becomes operationally
9 complete. The certificate may only be used for sales and use tax
10 liability incurred after the date the department issued the
11 certificate.

12 (3) A recipient of a certificate must notify the department when
13 its eligible project is operationally complete. The department must
14 review the qualifying business's records after the eligible project
15 is operationally complete to ensure the correct amount of taxes has
16 been reported and will be repaid.

17 (4) (a) For local sales and use taxes, the recipient of the
18 certificate must begin paying deferred sales and use taxes in the
19 first calendar year after the date certified by the department as the
20 date on which the eligible project is operationally complete. The
21 first payment is due on January 1st of the first calendar year after
22 such certified date, with subsequent annual payments due on January
23 1st of the following seven years. Each payment must equal twelve and
24 one-half percent of the tax due plus interest.

25 (b) For state sales and use taxes, the recipient of the
26 certificate must repay all deferred state sales and use taxes by June
27 30, 2023.

28 (c) The department must assess interest, but not penalties, on
29 the deferred taxes. The interest must be assessed at the rate
30 provided for delinquent taxes under this chapter, retroactively to
31 the date the project was certified to be operationally complete, and
32 will accrue until the deferred taxes are repaid.

33 (5) The department may authorize an accelerated repayment
34 schedule upon request of the qualifying business.

35 (6) The debt for taxes due is not extinguished by insolvency or
36 other failure of the qualifying business. Transfer of ownership does
37 not terminate the deferral if the transferee agrees in writing to be
38 bound by the requirements of this section and receives approval from
39 the department. If the department approves the transfer of the
40 deferral to a transferee, such approval not to be unreasonably

1 withheld, conditioned, or delayed, the transferee is solely liable
2 for repayment of the deferred taxes.

3 (7) If the eligible project is not operationally complete within
4 three calendar years from the date that the department issued the
5 certificate for the project, or if at any time the department finds
6 that the project is not eligible for a deferral under this section,
7 the amount of taxes outstanding for the project is immediately due
8 and payable. If taxes must be repaid under this subsection, the
9 department must assess interest at the rate provided for delinquent
10 taxes under this chapter retroactively to the date of issuance of the
11 certificate, but not penalties, on amounts due under this subsection.

12 (8) Applications and any other information received by the
13 department under this section are not confidential under RCW
14 82.32.330. This chapter applies to the administration of this
15 section.

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

18 (a) "Eligible project" means a project consisting of either or
19 both (i) a qualifying arena, associated parking structures, plazas,
20 public spaces, and one or more tunnels connecting the arena and
21 parking structures, or (ii) an ice hockey practice facility.

22 (b) "Ice hockey practice facility" means one or more contiguous
23 structures of up to two hundred thousand square feet located within
24 ten miles of a qualifying arena that (i) contains at least three ice
25 rinks, and (ii) is being developed to attract a professional ice
26 hockey franchise. An "ice hockey practice facility" may include ice
27 rinks, spectator viewing locations, locker rooms, strength and
28 conditioning rooms, administrative offices, retail space, food
29 service facilities, and other amenities related to the operation of a
30 state-of-the-art ice hockey center.

31 (c) "Operationally complete" means the project is capable of
32 being used for its intended purpose as described in the application.

33 (d) "Personal property" means tangible personal property with a
34 useful life of one year or more that is used in the operation of the
35 eligible project.

36 (e) "Project" means the construction of new improvements, the
37 renovation of existing improvements, the acquisition and installation
38 of fixtures that are permanently affixed to and become a physical
39 part of those improvements, personal property, and site preparation.
40 "Project" includes materials used and labor and services rendered in

1 respect to the planning, site preparation, construction, renovation,
2 and installation.

3 (f) "Qualifying arena" means a multipurpose sports and
4 entertainment facility owned by the largest city in a county with a
5 population of at least one million five hundred thousand that is
6 being redeveloped to attract professional ice hockey and basketball
7 league franchises.

8 (g) "Qualifying business" means a business entity that exists for
9 the primary purpose of engaging in commercial activity for profit and
10 has entered into a lease or occupancy agreement with the fee owner of
11 a qualifying arena and/or ice hockey practice facility to engage in
12 the development of an eligible project.

13 (h) "Site preparation" includes soil testing, site clearing and
14 grading, demolition, or any other related activities that are
15 initiated before construction.

16 (10) This section expires January 1, 2030.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.32
18 RCW to read as follows:

19 (1) The state treasurer must deposit the repayment of deferred
20 state sales and use taxes due under section 2 of this act into the
21 general fund.

22 (2)(a) Except as provided in (b) of this subsection (2), the
23 state treasurer must deposit half of the repayment of deferred local
24 sales and use taxes due under section 2 of this act into the local
25 sales and use tax account created in RCW 82.14.050.

26 (b) The state treasurer must deposit the remaining half of the
27 repayment of deferred local sales and use taxes due under section 2
28 of this act into the state building construction account for the
29 exclusive purpose of funding the construction or rehabilitation of
30 capital facilities used for youth educational programming related to
31 discovery, experimentation, and critical thinking in the sciences.
32 The capital facility must be located on the same premises as a
33 qualifying arena.

34 (3) The state treasurer must deposit any interest assessed and
35 accrued on taxes due pursuant to section 2(4) of this act that is
36 part of any annual repayment as follows:

37 (a) Interest on state taxes must be deposited into the state
38 general fund.

1 (b) Interest on local taxes must be deposited into the local
2 sales and use tax account.

3 (4) In the event that an accelerated repayment schedule is
4 authorized by the department pursuant to section 2(5) of this act,
5 the state treasurer must deposit any amount in excess of taxes due
6 pursuant to section 2(4) of this act into the state general fund and
7 into the local sales and use account, with the respective amounts
8 deposited based on the proportionate shares of the state taxes and
9 local taxes due.

10 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of
12 the state government and its existing public institutions, and takes
13 effect immediately."

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14 On page 1, line 3 of the title, after "construction;" strike the
15 remainder of the title and insert "adding new sections to chapter
16 82.32 RCW; creating a new section; providing an expiration date; and
17 declaring an emergency."

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