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ENGROSSED SUBSTITUTE HOUSE BILL 1839

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State of Washington

66th Legislature

2019 Regular Session

By House Finance (originally sponsored by Representatives Sullivan, MacEwen, Pettigrew, Springer, Vick, and Valdez)

READ FIRST TIME 02/28/19.

1 AN ACT Relating to requiring eligible arena projects to fully pay  
2 the state and local sales tax within ten years of commencing  
3 construction; adding new sections to chapter 82.32 RCW; creating a  
4 new section; providing an expiration date; and declaring an  
5 emergency.

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

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

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

18 (3) It is the legislature's specific public policy objective to  
19 increase the fiscal stability of multipurpose sports and  
20 entertainment arenas in Washington state and thereby strengthen the

1 economic vitality of the communities in which the arenas and practice  
2 facilities are located.

3 (4) To measure the effectiveness of the tax preference in  
4 achieving the specific public policy objective described in this act,  
5 the joint legislative audit and review committee must evaluate this  
6 tax preference. In evaluating the tax preference, the joint  
7 legislative audit and review committee may refer to data provided to  
8 the department of revenue.

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

11 (1) Until October 1, 2019, a qualifying business may apply for a  
12 deferral of taxes on an eligible project. Application must be made to  
13 the department in a form and manner prescribed by the department. The  
14 application must contain information regarding the location of the  
15 project, estimated or actual costs of the project, time schedules for  
16 completion and operation of the project, and other information  
17 required by the department. The department must rule on the  
18 application within sixty days.

19 (2) If the department approves an application for a deferral of  
20 taxes under this section, the department must issue a sales and use  
21 tax deferral certificate for state and local sales and use taxes due  
22 under chapters 82.08, 82.12, 82.14, and 81.104 RCW. This certificate  
23 expires on the date the eligible project becomes operationally  
24 complete. The certificate may only be used for sales and use tax  
25 liability incurred after the date the department issued the  
26 certificate.

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

32 (4) The recipient of the certificate must begin paying the sales  
33 and use taxes in the first calendar year after the date certified by  
34 the department as the date on which the eligible project is  
35 operationally complete. The first payment is due on January 1st of  
36 the first calendar year after such certified date, with subsequent  
37 annual payments due on January 1st of the following seven years. Each  
38 payment must equal twelve and one-half percent of the tax due plus  
39 interest. The department must assess interest, but not penalties, on

1 the deferred taxes. The interest must be assessed at the rate  
2 provided for delinquent taxes under this chapter, retroactively to  
3 the date the project was certified to be operationally complete, and  
4 will accrue until the deferred taxes are repaid.

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

7 (6) The debt for taxes due is not extinguished by insolvency or  
8 other failure of the qualifying business. Transfer of ownership does  
9 not terminate the deferral if the transferee agrees in writing to be  
10 bound by the requirements of this section and receives approval from  
11 the department. If the department approves the transfer of the  
12 deferral to a transferee, such approval not to be unreasonably  
13 withheld, conditioned, or delayed, the transferee is solely liable  
14 for repayment of the deferred taxes.

15 (7) If the eligible project is not operationally complete within  
16 three calendar years from the date that the department issued the  
17 certificate for the project, or if at any time the department finds  
18 that the project is not eligible for a deferral under this section,  
19 the amount of taxes outstanding for the project is immediately due  
20 and payable. If taxes must be repaid under this subsection, the  
21 department must assess interest at the rate provided for delinquent  
22 taxes under this chapter retroactively to the date of issuance of the  
23 certificate, but not penalties, on amounts due under this subsection.

24 (8) Applications and any other information received by the  
25 department under this section are not confidential under RCW  
26 82.32.330. This chapter applies to the administration of this  
27 section.

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

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

34 (b) "Ice hockey practice facility" means one or more contiguous  
35 structures of up to two hundred thousand square feet located within  
36 ten miles of a qualifying arena that (i) contains at least three ice  
37 rinks, and (ii) is being developed to attract a professional ice  
38 hockey franchise. An "ice hockey practice facility" may include ice  
39 rinks, spectator viewing locations, locker rooms, strength and  
40 conditioning rooms, administrative offices, retail space, food

1 service facilities, and other amenities related to the operation of a  
2 state-of-the-art ice hockey center.

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

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

8 (e) "Project" means the construction of new improvements, the  
9 renovation of existing improvements, the acquisition and installation  
10 of fixtures that are permanently affixed to and become a physical  
11 part of those improvements, personal property, and site preparation.  
12 "Project" includes materials used and labor and services rendered in  
13 respect to the planning, site preparation, construction, renovation,  
14 and installation.

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

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

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

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

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

31 (1) The state treasurer must deposit each of the repayments of  
32 taxes due required in section 2(4) of this act as follows:

33 (a) One-third of the annual repayment of the taxes due must be  
34 deposited into the fair fund created in RCW 15.76.115;

35 (b) One-third of the annual repayment of the taxes due must be  
36 deposited into the home security fund account created in RCW  
37 43.185C.060; and

38 (c) One-third of the annual repayment of the taxes due must be  
39 deposited into the state general fund.

1           (2) The state treasurer must deposit any interest assessed and  
2 accrued on taxes due pursuant to section 2(4) of this act that is  
3 part of any annual repayment into the state general fund.

4           (3) In the event that an accelerated repayment schedule is  
5 authorized by the department pursuant to section 2(5) of this act,  
6 the state treasurer must deposit any amount in excess of taxes due  
7 pursuant to section 2(4) of this act into the state general fund.

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

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