
SUBSTITUTE HOUSE BILL 2907

State of Washington

66th Legislature

2020 Regular Session

By House Finance (originally sponsored by Representatives Macri, Springer, Fitzgibbon, Frame, Pollet, Cody, Chopp, Tarleton, Slatter, Doglio, Hudgins, Senn, Gregerson, Bergquist, Duerr, J. Johnson, and Santos)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to providing progressive tax reform by
2 authorizing counties with populations exceeding two million to impose
3 an excise tax on businesses in order to reduce homelessness, save
4 lives, and improve public safety; amending RCW 48.14.080; adding a
5 new chapter to Title 83 RCW; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that more than
8 twenty-two thousand five hundred households experienced homelessness
9 in 2018 in King county alone. In addition, over the past ten years,
10 King county has lost more than one hundred twelve thousand units,
11 over forty percent, of the housing affordable to those living below
12 eighty percent of area median income. Only one-third of medicaid
13 enrollees in King county and statewide with an identified need for
14 substance use disorder treatment receive treatment, and only one-half
15 of those needing mental health treatment receive treatment. The
16 legislature further finds that the crisis of homelessness and lack of
17 affordable housing is growing in our communities. To combat this
18 crisis, the legislature finds there is need for a comprehensive
19 approach that provides shelter and services for those experiencing
20 homelessness, increases the supply of affordable housing, addresses

1 public safety challenges, and increases access to behavioral health
2 services.

3 NEW SECTION. **Sec. 2.** The definitions in this section apply
4 throughout this chapter, unless the context clearly requires
5 otherwise.

6 (1) "Business" has the meaning provided in RCW 82.04.140.
7 Depending on the context, "business" may also mean an employer
8 engaging in business in the county.

9 (2) (a) "Compensation" means remuneration as that term is defined
10 in RCW 50A.05.010, net distributions, incentive payments, including
11 guaranteed payments, whether based on profit or otherwise, earned for
12 services rendered or work performed, whether paid directly or through
13 an agent, and whether in cash or in property or the right to receive
14 property.

15 (b) "Compensation" does not include payments to an owner of a
16 pass-through entity that is not earned for services rendered or work
17 performed, such as return of capital, investment income, or other
18 income from passive activities.

19 (3) "County" means a county with a population of at least two
20 million organized under the laws of the state of Washington and
21 includes the entire county, including the incorporated and
22 unincorporated areas.

23 (4) (a) "Employee" has the meaning provided in RCW 50A.05.010.

24 (b) "Employee" also includes individuals who are:

25 (i) Members of limited liability companies;

26 (ii) Members of professional limited liability companies;

27 (iii) Partners;

28 (iv) Other owners of pass-through entities; and

29 (v) Sole proprietors.

30 (5) "Employer" has the meaning provided in RCW 50A.05.010.

31 (6) (a) "Employment" has the meaning provided in RCW 50A.05.010.

32 (b) "Employment" also includes self-employed individuals.

33 (7) "Engaging in business" has the meaning provided in RCW
34 82.04.150.

35 (8) "Grocery business" means:

36 (a) A business whose primary business is making retail sales of
37 food and food ingredients to consumers that are exempt from the
38 retail sales tax under RCW 82.08.0293; or

1 (b) A business whose primary business is making wholesale sales
2 of food and food ingredients that will be exempt from the retail
3 sales tax under RCW 82.08.0293 when resold by the purchaser. For
4 purposes of this subsection, "primary business" means that seventy-
5 five percent of the gross income of the business for purposes of
6 calculating the state business and occupation tax under chapter 82.04
7 RCW is attributable to that business activity.

8 (9) "Grocery worker" means an individual employed at a grocery
9 business whose primary duties:

10 (a) Include: (i) The selling, stocking, or handling of food and
11 food ingredients that, when sold at retail, are exempt from the
12 retail sales tax under RCW 82.08.0293; or (ii) providing janitorial
13 services to the grocery business; or

14 (b) Consist of directly supervising the individuals described in
15 (a) of this subsection.

16 (10) "Local government entity" has the meaning provided in RCW
17 4.96.010.

18 (11) "Net distribution" means the draws from net income by any
19 owner of a pass-through entity. Taxable distributions are limited by
20 the amount of draws or net income for that owner, whichever is less.
21 If the owner's draw exceeds that individual's net profit, the excess
22 draw is a return of capital. A return of capital is not taxable
23 because it is a liquidation of an owner's assets.

24 (12) "Pass-through entity" includes a trust, partnership,
25 corporation described in subchapter S of the internal revenue code of
26 1986, as amended, limited liability company, limited liability
27 partnership, professional corporation, and any other person or entity
28 which is not subject to the income tax imposed by subtitle A, chapter
29 1 of the internal revenue code of 1986, as amended, or which is
30 allowed a deduction in computing such tax for distributions to the
31 owners or beneficiaries of such person or entity.

32 (13) "Payroll expense" means the compensation paid to employees
33 who, during any tax year, perform work or render any services in the
34 county.

35 (14) "Person" has the meaning provided in RCW 82.04.030.

36 (15) "Small business" means any business: (a) With fifty
37 employees or less; and (b) that pays an annual compensation and
38 remuneration of at most one hundred fifty thousand dollars, as
39 adjusted under section 4 of this act, for at least fifty percent of
40 its employees.

1 (16) "Tax year" means a twelve-month period from January 1st to
2 December 31st.

3 (17) "Taxpayer" means any employer who engages in any business in
4 the county or who performs any act for which a tax is imposed under
5 this chapter.

6 NEW SECTION. **Sec. 3.** (1) Subject to this chapter, a county may,
7 by ordinance enacted by its county legislative authority, impose an
8 annual payroll expense tax on employers engaging in business in the
9 county. The tax imposed by this chapter is levied on employers. The
10 employer is responsible for paying the tax required under this
11 chapter, and the employer may not make any deductions from the
12 employees' compensation to pay for this tax.

13 (2) (a) The tax is measured by the employer's payroll expense for
14 the tax year attributable to work performed or services rendered by
15 the employer's employees in the county, subject to deductions
16 authorized under subsection (3) of this section, multiplied by a rate
17 of not more than two-tenths of one percent, but not less than one-
18 tenth of one percent.

19 (b) The tax rates must be the same for all businesses subject to
20 the tax, except the county may impose graduated tax rates that
21 increase based on employee compensation.

22 (3) Taxpayers may deduct the following from the measure of the
23 tax, as adjusted under section 4 of this act:

24 (a) The payroll expense attributable to any employee with annual
25 compensation that is less than one hundred fifty thousand dollars;
26 and

27 (b) The payroll expense attributable to any employee who is
28 employed as a grocery worker.

29 (4) (a) The following are exempt from the payroll expense tax
30 authorized by this chapter:

31 (i) Businesses that only sell, manufacture, or distribute motor
32 vehicle fuel as defined in RCW 82.38.020 and exempted under RCW
33 82.38.080;

34 (ii) Businesses that only sell, manufacture, or distribute liquor
35 as defined in RCW 66.04.010 and exempted in RCW 66.08.120;

36 (iii) Federal and state government agencies and subdivisions, and
37 any local governmental entity;

38 (iv) Other businesses that a county may not tax based on federal
39 or state law;

1 (v) A small business; and

2 (vi) A comprehensive cancer center as defined in RCW 82.04.4265.

3 (b) The county may also grant an employer a one-year exemption
4 from the tax due to extreme financial hardship.

5 (5) A county imposing the tax under this section may not enact
6 any exemptions, deductions, or credits not authorized by this
7 chapter.

8 (6) Nothing in this chapter shall be construed as requiring the
9 payment of any tax for engaging in business when such payment would
10 be in violation of any federal or state law. If imposition of the
11 county's tax would place an undue burden upon interstate commerce or
12 violate other constitutional requirements, a taxpayer shall be
13 allowed a credit to the extent necessary to preserve the validity of
14 the county's tax, and still apply the county's tax to as much of the
15 taxpayer's activities as may be subject to the county's taxing
16 authority.

17 (7) Temporary employment agencies that supply temporary employees
18 to businesses engaging in business within the county, and pay the
19 temporary employee's compensation, shall report and pay the tax on
20 all such temporary employees. Businesses engaging temporary employees
21 who are on the business' payroll shall report and pay the tax on the
22 payroll expense of such temporary employees, whether or not they are
23 from an employment agency.

24 (8) The county may impose the tax authorized by this chapter on
25 insurers and their appointed insurance producers and all other
26 persons engaged in the business of making contracts of insurance.

27 NEW SECTION. **Sec. 4.** Beginning on January 1, 2021, and on
28 January 1st of every year thereafter, the county must adjust the
29 amounts in section 3(3) of this act and the dollar threshold used to
30 define small business in section 2(15) of this act as follows:

31 (1) The amounts shall increase commensurate with the rate of
32 growth of the prior year's June-to-June consumer price index (CPI-U)
33 for the Seattle-Tacoma-Bellevue area as published by the United
34 States department of labor;

35 (2) If the annual change in the CPI-U is negative, no adjustment
36 to the amounts must be made; and

37 (3) The amounts calculated must be rounded to the nearest whole
38 dollar.

1 NEW SECTION. **Sec. 5.** (1) A county may enact ordinances, or rely
2 on existing laws, to implement any measures it deems necessary to
3 facilitate:

4 (a) The imposition, collection, and administration of the tax
5 authorized by this chapter, including measures to govern the timing,
6 form, content, and filing of returns;

7 (b) The allocation and apportionment of payroll expense;

8 (c) Recordkeeping;

9 (d) Audits;

10 (e) Assessments;

11 (f) Appeals;

12 (g) Refunds;

13 (h) The adoption of administrative rules;

14 (i) Enforcement and remedies; and

15 (j) The imposition of interest and penalties.

16 (2) A county may enter into an interlocal agreement with a city
17 or state agency for the administration and collection of the tax
18 authorized by this chapter. The agreement shall allow for full cost
19 recovery and require the same confidentiality protections as
20 established in section 6 of this act.

21 NEW SECTION. **Sec. 6.** A county imposing the tax shall, by
22 ordinance, provide that return and tax information are confidential,
23 privileged, and only subject to disclosure in the manner provided by
24 RCW 82.32.330.

25 NEW SECTION. **Sec. 7.** (1) A county imposing the tax authorized
26 under this chapter may use the money collected to cover the necessary
27 costs of tax administration, including recovery of amounts used to
28 initially set up the administration system. Remaining money or bonds
29 issued under this chapter may only be used for the following
30 purposes:

31 (a)(i) Acquire, rehabilitate, or construct affordable housing,
32 which may include units of affordable housing within an existing
33 structure or facilities providing supportive housing services under
34 RCW 71.24.385;

35 (ii) Fund the operations and maintenance costs of units of
36 affordable or supportive housing including services in supportive
37 housing; and

1 (iii) Provide rental assistance to low-income individuals and
2 families;

3 (b) Provide for housing, shelter, and evidence-based
4 interventions that address and prevent homelessness, which uses shall
5 prioritize serving youth and young adults while also serving families
6 and adults, including but not limited to: Grants to operate, repair,
7 and staff shelters; grants to operate transitional housing; partial
8 payments for rental assistance; consolidated emergency assistance;
9 grants and vouchers designated for victims of human trafficking and
10 their families; and emergency shelter assistance;

11 (c) Acquire, construct, start up, or operate community-based
12 behavioral health-related facilities including, but not limited to,
13 facilities serving people who meet or are at risk of meeting
14 involuntary behavioral health commitment criteria under chapter 71.05
15 or 71.34 RCW; and

16 (d) Support operations or services that improve public safety by
17 providing supportive services to persons with behavioral health
18 conditions with frequent criminal justice system involvement.

19 (2) To carry out this section including financing loans or grants
20 to nonprofit organizations or public housing authorities, the
21 legislative authority of the county imposing the tax and the
22 legislative authority of the city receiving a share of the tax
23 proceeds may issue general obligation or revenue bonds within the
24 limitations prescribed by state law, and may use and pledge the money
25 collected under this section for repayment of the bonds.

26 (3) (a) The housing, services, and rental assistance provided
27 under subsection (1) (a) of this section may only be provided to
28 persons whose income is at or below eighty percent of the median
29 income of the county providing the assistance. At least fifty percent
30 of these funds must be provided to persons whose income is at or
31 below thirty percent of the median income of the county providing the
32 assistance.

33 (b) Over a five-year period, the distributions made under
34 subsection (1) of this section must provide at least fifty percent of
35 the total funds to purposes authorized under subsection (1) (a) of
36 this section and no more than ten percent of the total funds to
37 purposes authorized under subsection (1) (d) of this section.

38 (4) (a) The county and city receiving revenue from the tax imposed
39 under this chapter must each designate a committee to act as an
40 advisory and accountability commission. The commission must include

1 representatives from cities and state elected officials from each
2 subregion of the county. For the county and city respectively, the
3 commissions must:

4 (i) Advise on spending plans developed by the city and county
5 proposing the allocation of money provided by the tax;

6 (ii) Advise on measures to evaluate the effectiveness of
7 allocations, including providing recommendations for corrective
8 actions that may be needed if established measures are not being met;

9 (iii) Monitor the use of the funds to ensure it remains
10 consistent with the uses of this section; and

11 (iv) Receive biannual reports on the programs, services,
12 projects, measures, and outcomes funded by the tax.

13 (b) The membership of each advisory and accountability commission
14 must consist of one-half members who represent employers paying the
15 tax of which one-half must include members who represent the highest
16 ten percent of taxpayers. The membership must also include members
17 who represent persons or communities served by the tax.

18 (5) Beginning December 1, 2025, and every five years thereafter,
19 the county and city shall provide an implementation report to the
20 appropriate committees of the legislature.

21 (6) The county and city shall ensure a performance audit is
22 conducted no later than five years after the date the tax is imposed
23 and periodically thereafter.

24 NEW SECTION. **Sec. 8.** The county shall disburse the revenue
25 collected from the tax authorized by this section as follows:

26 (1) The funds allocated in section 7(1) (a), (c), and (d) of this
27 act must be split such that forty-three percent of the revenue is
28 provided to the city with the highest population of people
29 experiencing homelessness. The county shall work with the other
30 cities and regional housing partnerships created under an interlocal
31 agreement to distribute the remaining fifty-seven percent of the
32 funds equitably throughout the rest of the county.

33 (2) The funds allocated in section 7(1)(b) of this act must be
34 allocated directly to the regional homelessness authority or such
35 successor entity to be distributed equitably throughout the county.

36 NEW SECTION. **Sec. 9.** A tax authorized under this chapter
37 expires twenty-five years after the date of imposition. A county

1 legislative authority may by ordinance reauthorize the imposition of
2 the tax subject to the conditions and restrictions of this chapter.

3 **Sec. 10.** RCW 48.14.080 and 2010 1st sp.s. c 23 s 520 are each
4 amended to read as follows:

5 (1) As to insurers, other than title insurers and taxpayers under
6 RCW 48.14.0201, the taxes imposed by this title are in lieu of all
7 other taxes, except as otherwise provided in this section.

8 (2) Subsection (1) of this section does not apply with respect
9 to:

10 (a) Taxes on real and tangible personal property;

11 (b) Excise taxes on the sale, purchase, use, or possession of (i)
12 real property; (ii) tangible personal property; (iii) extended
13 warranties; (iv) services, including digital automated services as
14 defined in RCW 82.04.192; and (v) digital goods and digital codes as
15 those terms are defined in RCW 82.04.192; (~~and~~)

16 (c) The tax imposed in RCW 82.04.260(~~(+9)~~) (10), regarding
17 public and nonprofit hospitals; and

18 (d) The tax imposed by section 3 of this act.

19 (3) For the purposes of this section, the term "taxes" includes
20 taxes imposed by the state or any county, city, town, municipal
21 corporation, quasi-municipal corporation, or other political
22 subdivision.

23 NEW SECTION. **Sec. 11.** Sections 1 through 9 of this act
24 constitute a new chapter in Title 83 RCW.

25 NEW SECTION. **Sec. 12.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of
31 the state government and its existing public institutions, and takes
32 effect immediately.

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