
HOUSE BILL 2146

State of Washington 62nd Legislature 2011 2nd Special Session

By Representative Hunter; by request of Office of Financial Management

Read first time 12/05/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to reducing certain local sales and use tax
2 provisions; amending RCW 82.14.415 and 82.14.500; and declaring an
3 emergency.

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

5 **Sec. 1.** RCW 82.14.415 and 2011 c 353 s 10 are each amended to read
6 as follows:

7 (1) The legislative authority of any city that is located in a
8 county with a population greater than six hundred thousand that annexes
9 an area consistent with its comprehensive plan required by chapter
10 36.70A RCW may impose a sales and use tax in accordance with the terms
11 of this chapter. The tax is in addition to other taxes authorized by
12 law and is collected from those persons who are taxable by the state
13 under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable
14 event within the city. The tax may only be imposed by a city if:

15 (a) The city has commenced annexation of an area having a
16 population of at least ten thousand people, or four thousand in the
17 case of a city described under subsection (3)(a)(i) of this section,
18 prior to January 1, 2015; and

1 (b) The city legislative authority determines by resolution or
2 ordinance that the projected cost to provide municipal services to the
3 annexation area exceeds the projected general revenue that the city
4 would otherwise receive from the annexation area on an annual basis.

5 (2) The tax authorized under this section is a credit against the
6 state tax under chapter 82.08 or 82.12 RCW. The department of revenue
7 must perform the collection of such taxes on behalf of the city at no
8 cost to the city and must remit the tax to the city as provided in RCW
9 82.14.060.

10 (3)(a) Except as provided in (b) of this subsection, the maximum
11 rate of tax any city may impose under this section is:

12 (i) 0.1 percent for each annexed area in which the population is
13 greater than ten thousand and less than twenty thousand. The ten
14 thousand population threshold in this subsection (3)(a)(i) is four
15 thousand for a city with a population between one hundred fifteen
16 thousand and one hundred forty thousand and located within a county
17 with a population over one million five hundred thousand; and

18 (ii) 0.2 percent for an annexed area in which the population is
19 greater than twenty thousand.

20 (b) Beginning July 1, 2011, the maximum rate of tax imposed under
21 this section is 0.85 percent for an annexed area in which the
22 population is greater than sixteen thousand if the annexed area was,
23 prior to November 1, 2008, officially designated as a potential
24 annexation area by more than one city, one of which has a population
25 greater than four hundred thousand.

26 (4)(a) Except as provided in (b) of this subsection, the maximum
27 cumulative rate of tax a city may impose under subsection (3)(a) of
28 this section is 0.2 percent for the total number of annexed areas the
29 city may annex.

30 (b) The maximum cumulative rate of tax a city may impose under
31 subsection (3)(a) of this section is 0.3 percent, beginning July 1,
32 2011, if the city commenced annexation of an area, prior to January 1,
33 2010, that would have otherwise allowed the city to increase the rate
34 of tax imposed under this section absent the rate limit imposed in (a)
35 of this subsection.

36 (c) The maximum cumulative rate of tax a city may impose under
37 subsection (3)(b) of this section is 0.85 percent for the single

1 annexed area the city may annex and the amount of tax distributed to a
2 city under subsection (3)(b) of this section may not exceed five
3 million dollars per fiscal year.

4 (5) The tax imposed by this section may only be imposed at the
5 beginning of a fiscal year and may continue for no more than ten years
6 from the date that each increment of the tax is first imposed. Tax
7 rate increases due to additional annexed areas are effective on July
8 1st of the fiscal year following the fiscal year in which the
9 annexation occurred, provided that notice is given to the department as
10 set forth in subsection (9) of this section.

11 (6) All revenue collected under this section may be used solely to
12 provide, maintain, and operate municipal services for the annexation
13 area.

14 (7) The revenues from the tax authorized in this section may not
15 exceed that which the city deems necessary to generate revenue equal to
16 the difference between the city's cost to provide, maintain, and
17 operate municipal services for the annexation area and the general
18 revenues that the cities would otherwise expect to receive from the
19 annexation during a year. If the revenues from the tax authorized in
20 this section and the revenues from the annexation area exceed the costs
21 to the city to provide, maintain, and operate municipal services for
22 the annexation area during a given year, the city must notify the
23 department and the tax distributions authorized in this section must be
24 suspended for the remainder of the year.

25 (8) No tax may be imposed under this section before July 1, 2007.
26 No tax may be first imposed under this section after the effective date
27 of this section. Before imposing a tax under this section, the
28 legislative authority of a city must adopt an ordinance that includes
29 the following:

30 (a) A certification that the amount needed to provide municipal
31 services to the annexed area reflects the city's true and actual costs;

32 (b) The rate of tax under this section that is imposed within the
33 city; and

34 (c) The threshold amount for the first fiscal year following the
35 annexation and passage of the ordinance.

36 (9) The tax must cease to be distributed to the city for the
37 remainder of the fiscal year once the threshold amount has been
38 reached. No later than March 1st of each year, the city must provide

1 the department with a certification of the city's true and actual costs
2 to provide municipal services to the annexed area, a new threshold
3 amount for the next fiscal year, and notice of any applicable tax rate
4 changes. Distributions of tax under this section must begin again on
5 July 1st of the next fiscal year and continue until the new threshold
6 amount has been reached or June 30th, whichever is sooner. Any revenue
7 generated by the tax in excess of the threshold amount belongs to the
8 state of Washington. Any amount resulting from the threshold amount
9 less the total fiscal year distributions, as of June 30th, may not be
10 carried forward to the next fiscal year.

11 (10)(a) The tax must cease to be distributed to a city imposing the
12 tax under subsection (3)(b) of this section for the remainder of the
13 fiscal year, if the total distributions to the city imposing the tax
14 exceed five million dollars for the fiscal year.

15 (b) Beginning with fiscal year 2013, the tax must cease to be
16 distributed to a city imposing the tax under subsection (3) of this
17 section for the remainder of the fiscal year, if the total
18 distributions to the city imposing the tax exceed ninety percent of the
19 cumulative amount of tax authorized by this section and distributed to
20 the city for the fiscal year ending June 30, 2012.

21 (11) The resident population of the annexation area must be
22 determined in accordance with chapter 35.13 or 35A.14 RCW.

23 (12) The following definitions apply throughout this section unless
24 the context clearly requires otherwise:

25 (a) "Annexation area" means an area that has been annexed to a city
26 under chapter 35.13 or 35A.14 RCW. "Annexation area" includes all
27 territory described in the city resolution.

28 (b) "Commenced annexation" means the initiation of annexation
29 proceedings has taken place under the direct petition method or the
30 election method under chapter 35.13 or 35A.14 RCW.

31 (c) "Department" means the department of revenue.

32 (d) "Municipal services" means those services customarily provided
33 to the public by city government.

34 (e) "Fiscal year" means the year beginning July 1st and ending the
35 following June 30th.

36 (f) "Potential annexation area" means one or more geographic areas
37 that a city has officially designated for potential future annexation,

1 as part of its comprehensive plan adoption process under the state
2 growth management act, chapter 36.70A RCW.

3 (g) "Threshold amount" means the maximum amount of tax
4 distributions as determined by the city in accordance with subsection
5 (7) of this section that the department must distribute to the city
6 generated from the tax imposed under this section in a fiscal year.

7 **Sec. 2.** RCW 82.14.500 and 2011 1st sp.s. c 50 s 974 are each
8 amended to read as follows:

9 (1)(a) In order to mitigate local sales tax revenue net losses as
10 a result of the sourcing provisions of the streamlined sales and use
11 tax agreement under this title, the state treasurer, on July 1, 2011,
12 and each July 1st thereafter, must transfer into the streamlined sales
13 and use tax mitigation account from the general fund the sum (~~required~~
14 ~~to mitigate actual net~~) anticipated to be required to make the
15 distributions required in this section to partially mitigate annual
16 losses as determined under this section.

17 (b) During (~~the 2011-2013 fiscal biennium~~) fiscal year 2012, the
18 amount that would otherwise be transferred under (a) of this subsection
19 must be reduced by 3.4 percent.

20 (c) During fiscal year 2013, the amount that would otherwise be
21 transferred under (a) of this subsection must be reduced by 13.4
22 percent.

23 (d) Beginning July 1, 2013, and each July 1st thereafter, the
24 amount that would otherwise be transferred under (a) of this subsection
25 must be reduced by ten percent.

26 (2) (~~Beginning July 1, 2008, and continuing until the department~~
27 ~~determines annual losses under subsection (3) of this section, the~~
28 ~~department must determine the amount of local sales tax net loss each~~
29 ~~local taxing jurisdiction experiences as a result of the sourcing~~
30 ~~provisions of the streamlined sales and use tax agreement under this~~
31 ~~title each calendar quarter. The department must determine losses by~~
32 ~~analyzing and comparing data from tax return information and tax~~
33 ~~collections for each local taxing jurisdiction before and after July 1,~~
34 ~~2008, on a calendar quarter basis. The department's analysis may be~~
35 ~~revised and supplemented in consultation with the oversight committee~~
36 ~~as provided in subsection (4) of this section. To determine net~~
37 ~~losses, the department must reduce losses by the amount of voluntary~~

1 compliance revenue for the calendar quarter analyzed. Beginning
2 December 31, 2008, distributions must be made quarterly from the
3 streamlined sales and use tax mitigation account by the state
4 treasurer, as directed by the department, to each local taxing
5 jurisdiction, other than public facilities districts for losses in
6 respect to taxes imposed under the authority of RCW 82.14.390, in an
7 amount representing its net losses for the previous calendar quarter.
8 Distributions must be made on the last working day of each calendar
9 quarter and must cease when distributions under subsection (3) of this
10 section begin.

11 ~~(3))~~(a) By December 31, 2009, ~~((or such later date the department~~
12 ~~in consultation with the oversight committee determines that sufficient~~
13 ~~data is available,))~~ the department must determine each local taxing
14 jurisdiction's annual loss. The department must determine annual
15 losses by comparing at least twelve months of data from tax return
16 information and tax collections for each local taxing jurisdiction
17 before and after July 1, 2008. The department is not required to
18 determine annual losses on a recurring basis, but may make any
19 adjustments to annual losses as it deems proper ~~((as a result of the~~
20 ~~annual reviews provided in (b) of this subsection))~~ until the effective
21 date of this section. Beginning the calendar quarter in which the
22 department determines annual losses, and each calendar quarter
23 thereafter, distributions must be made from the streamlined sales and
24 use tax mitigation account by the state treasurer on the last working
25 day of the calendar quarter, as directed by the department, to each
26 local taxing jurisdiction, other than public facilities districts for
27 losses in respect to taxes imposed under the authority of RCW
28 82.14.390, in an amount representing one-fourth of the jurisdiction's
29 annual loss reduced by voluntary compliance revenue reported during the
30 previous calendar quarter.

31 (b) ~~((The department's analysis of annual losses must be reviewed~~
32 ~~by December 1st of each year and may be revised and supplemented in~~
33 ~~consultation with the oversight committee as provided in subsection (4)~~
34 ~~of this section.~~

35 ~~(4) The department must convene an oversight committee to assist in~~
36 ~~the determination of losses. The committee includes one representative~~
37 ~~of one city whose revenues are increased, one representative of one~~
38 ~~city whose revenues are reduced, one representative of one county whose~~

1 revenues are increased, one representative of one county whose revenues
2 are decreased, one representative of one transportation authority under
3 RCW 82.14.045 whose revenues are increased, and one representative of
4 one transportation authority under RCW 82.14.045 whose revenues are
5 reduced, as a result of RCW 82.14.490 and the chapter 6, Laws of 2007
6 amendments to RCW 82.14.020. Beginning July 1, 2008, the oversight
7 committee must meet quarterly with the department to review and provide
8 additional input and direction on the department's analyses of losses.
9 Local taxing jurisdictions may also present to the oversight committee
10 additional information to improve the department's analyses of the
11 jurisdiction's loss. Beginning January 1, 2010, the oversight
12 committee must meet at least annually with the department by December
13 1st.

14 (5)) For fiscal year 2012, distributions to each local taxing
15 jurisdiction, other than public facilities districts, must be reduced,
16 as necessary, so that the cumulative amount distributed to the
17 jurisdiction during the entire fiscal year is reduced by the lesser of
18 3.4 percent or the full amount of the last two quarterly distributions.

19 (c) For fiscal year 2013, quarterly distributions to each local
20 taxing jurisdiction, other than public facilities districts, must be
21 reduced by 13.4 percent.

22 (d) Beginning July 1, 2013, quarterly distributions to each local
23 taxing jurisdiction, other than public facilities districts, must be
24 reduced by ten percent.

25 (3) The rule-making provisions of chapter 34.05 RCW do not apply to
26 this section.

27 NEW SECTION. Sec. 3. This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 immediately.

--- END ---