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HOUSE BILL 2658

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State of Washington

66th Legislature

2020 Regular Session

By Representative Stokesbary

1 AN ACT Relating to authorizing local option revenue for  
2 homelessness services, subject to specified conditions, including  
3 prohibiting supervised injection sites and requiring local  
4 restrictions on camping on public property; and adding new sections  
5 to chapter 82.14 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.14  
8 RCW to read as follows:

9 (1) Beginning July 1, 2020, the legislative authority of a city  
10 or county may submit an authorizing proposition to the voters at a  
11 special or general election and, if the proposition is approved by a  
12 majority of persons voting, may impose a sales and use tax in  
13 accordance with this chapter and subject to the restrictions of this  
14 section. The title of each ballot measure must clearly state the  
15 purposes for which the proposed sales and use tax may be used.

16 (a) The rate of the tax under this section may not exceed one-  
17 quarter of one percent of the selling price in the case of the sales  
18 tax, or value of the article used, in the case of a use tax. If the  
19 city or county imposes the sales and use tax pursuant to RCW  
20 82.14.540, the rate authorized under this section must be reduced by  
21 the amount of credit the city or county receives under RCW 82.14.540.

1 (b) Half of the rate, up to 0.125 percent, must be credited  
2 against the state portion of the sales and use tax imposed under RCW  
3 82.08.020(1) and the corresponding use tax imposed under RCW  
4 82.12.020 and otherwise required to be collected or paid over to the  
5 department. If the city or county imposes the sales and use tax  
6 pursuant to RCW 82.14.540, the amount of the rate eligible to be  
7 credited against the state portion under this section must be reduced  
8 by one-half of the amount of credit the city or county receives under  
9 RCW 82.14.540.

10 (c) A tax imposed under this subsection (1) expires four years  
11 after the date the tax was first imposed and must be resubmitted to  
12 the voters for continuation.

13 (2) Beginning July 1, 2020, through December 30, 2020, in lieu of  
14 imposing a sales and use tax under subsection (1) of this section,  
15 the legislative authority of a city or county may authorize the  
16 imposition of a sales and use tax by the majority vote of the  
17 legislative authority in accordance with this chapter and subject to  
18 the restrictions in this section. Prior to the authorizing vote, the  
19 legislative authority must hold a public hearing on the proposed tax  
20 as well as solicit and receive comments on the proposal from the  
21 public.

22 (a) The rate under this section must not exceed one-quarter of  
23 one percent of the selling price in the case of the sales tax, or  
24 value of the article used, in the case of a use tax. If the city or  
25 county imposes the sales and use tax pursuant to RCW 82.14.540, the  
26 rate authorized under this section must be reduced by the amount of  
27 credit the city or county receives under RCW 82.14.540.

28 (b) Half of the rate, up to 0.125 percent, must be credited  
29 against the state portion of the sales and use tax imposed under RCW  
30 82.08.020(1) and the corresponding use tax imposed under RCW  
31 82.12.020 and otherwise required to be collected or paid over to the  
32 department. If the city or county imposes the sales and use tax  
33 pursuant to RCW 82.14.540, the amount of the rate eligible to be  
34 credited against the state portion under this section must be reduced  
35 by one-half of the amount of credit the city or county receives under  
36 RCW 82.14.540.

37 (c) A tax imposed under this subsection (2) expires four years  
38 after the date the tax was first imposed or December 31, 2024,  
39 whichever is earlier, and may thereafter only be imposed pursuant to  
40 voter approval as set forth in subsection (1) of this section.

1 (3) Any tax authorized under this section may not be imposed  
2 prior to January 1, 2021, and is subject to the timing restrictions  
3 of RCW 82.14.055.

4 (4) If a county imposes a tax authorized under subsection (1) or  
5 (2) of this section and a city located in that county has also  
6 imposed a tax authorized under subsection (1) or (2) of this section,  
7 the county must provide a credit against its tax for the amount  
8 imposed by a city, not to exceed the full amount of tax imposed by  
9 the county.

10 (5) The taxes authorized in this section are in addition to any  
11 other taxes authorized by law and must be collected from persons who  
12 are taxable by the state under chapters 82.08 and 82.12 RCW upon the  
13 occurrence of any taxable event within the county for a county's tax  
14 and within a city for a city's tax.

15 (6) A county or city may not collect a tax pursuant to this  
16 section unless:

17 (a) The county or city complies with the annual certification and  
18 reporting requirements under this section;

19 (b) The city or county does not impose the sales and use taxes  
20 authorized in RCW 82.14.530;

21 (c) The city or county does not impose the property tax  
22 authorized in RCW 84.52.105; and

23 (d) In the case of imposing the tax as authorized under  
24 subsection (2) of this section, the city or county adopts an  
25 emergency declaration related to the homelessness crisis and submits  
26 a copy of the emergency declaration to the department.

27 (7)(a) Prior to collecting a tax under this section, the city or  
28 county must:

29 (i) Adopt an ordinance prohibiting supervised injection sites  
30 within its jurisdiction; and

31 (ii) Adopt an ordinance making it unlawful for any person to camp  
32 on public property, without prior authorization from the city or  
33 county, within five hundred feet of (A) public or private elementary  
34 or secondary schools; (B) public parks, as defined in RCW 69.50.435;  
35 and (C) municipal courthouses.

36 (b) The eligibility requirements set forth in (a) of this  
37 subsection are minimum requirements to impose the taxes authorized by  
38 this section, and nothing in this section is intended to prohibit a  
39 county or city legislative authority from adopting and enforcing an  
40 ordinance making it unlawful for any person to camp in other public

1 places in addition to those required in (a)(ii) of this subsection,  
2 such as on public property within a specified distance of places  
3 intended primarily for the use, care, or supervision of minor  
4 children or other vulnerable persons.

5 (c) The city or county must submit copies of the ordinances to  
6 the department prior to collecting the tax along with any other  
7 materials required by the department.

8 (8) In order to impose the tax for the upcoming calendar year,  
9 the city or county must by October 1st of each year submit  
10 certification, signed by the chief executive of the city or county  
11 under the penalty of perjury to the department that the city or  
12 county meets the following requirements:

13 (a) The city or county continues to have the ordinances adopted  
14 pursuant to subsection (7) of this section and has taken reasonable  
15 steps to enforce the ordinances as follows:

16 (i) Enforcement must be undertaken when the city or county has  
17 reason to believe that a supervised injection site is operating  
18 within its jurisdiction, including making reasonable efforts to  
19 respond to complaints about unauthorized supervised injection sites  
20 within five days of receipt of a complaint;

21 (ii) Enforcement must be undertaken on an ongoing and regular  
22 basis, including visiting not less than weekly those areas where  
23 camping is prohibited and making reasonable efforts to respond to  
24 complaints about unlawful camping on such areas within five calendar  
25 days of receipt of a complaint; and

26 (b) The city or county has complied with all the reporting  
27 requirements under this section.

28 (9) A city or county imposing a tax under this section must meet  
29 the following reporting requirements:

30 (a) The city or county must make the budget for the use of the  
31 revenues generated as the result of imposing the tax authorized under  
32 this section available publicly, including on its web site. The  
33 budget document must include a description of the services and goods  
34 purchased and demonstrate that expenditures of these revenues  
35 supplement, and do not supplant, the city's or county's previous  
36 expenditures for these purposes.

37 (b) The city or county must report annually to the department of  
38 commerce as required in section 2 of this act and publish the report  
39 on the city or county web site.

1 (c) The city or county must cooperate with and provide  
2 information to the joint legislative audit and review committee as  
3 needed to complete the reviews required in section 2 of this act.

4 (10) A city or county collecting a tax under this section may  
5 spend the revenues collected under this section only for operating  
6 and capital costs of addressing and preventing homelessness by  
7 municipal law enforcement, criminal justice, and social services  
8 agencies including, but not limited to, transitional services,  
9 encampment cleanup, temporary or long-term housing, diversion  
10 services, coresponse teams, and navigation teams. The city's or  
11 county's expenditures for these purposes must supplement, and not  
12 supplant, the city's previous expenditures for these purposes.

13 (11) Failure to fulfill the requirements of this act may result  
14 in the inability to impose the tax authorized under this section.

15 (a) If the city or county fails to fulfill the certification  
16 requirements in subsection (8) of this section, the department must  
17 notify the city or county by December 1st that the city or county  
18 must not impose the tax for the upcoming calendar year.

19 (b) (i) If the city or county fails to meet the reporting  
20 requirements to the department of commerce, the department of  
21 commerce must notify the city or county that if the city or county  
22 fails to fulfill the requirements within thirty days, the department  
23 of commerce will notify the department that the city or county has  
24 failed to meet the reporting requirements of this act and will no  
25 longer be able to impose the tax authorized in this section. The  
26 department must suspend the imposition of the tax at the beginning of  
27 the next eligible fiscal quarter.

28 (ii) A city or county that has had the ability to impose the tax  
29 suspended under (b) (i) of this subsection may apply to the department  
30 of commerce to have the tax reinstated by providing all reports  
31 previously owed submitted along with a new certification required in  
32 subsection (8) of this section to the department. If the department  
33 of commerce determines all reporting requirements are currently up-  
34 to-date, the department of commerce must notify the department that  
35 the city or county is now eligible to impose the tax authorized under  
36 this act at the beginning of the next eligible fiscal quarter.

37 (c) Any suspension and later reinstatement of the ability to  
38 impose the tax authorized under this section does not alter the  
39 expiration date of the tax authorization pursuant to subsection (1)  
40 or (2) of this section.

1 (12) A county or city may enter into an interlocal agreement with  
2 one or more counties, cities, or public housing authorities in  
3 accordance with chapter 39.34 RCW.

4 (13) The definitions in this subsection apply throughout this  
5 section and section 2 of this act unless the context clearly requires  
6 otherwise.

7 (a) "Camp" or "camping" means to pitch, use, or occupy camp  
8 facilities for the purposes of habitation, as evidenced by the use of  
9 camp paraphernalia.

10 (b) "Camp facilities" include, but are not limited to, tents,  
11 huts, temporary shelters, or vehicles if said vehicle is being used  
12 as temporary living quarters.

13 (c) "Camp paraphernalia" includes, but is not limited to,  
14 tarpaulins, cots, beds, sleeping bags, blankets, mattresses,  
15 hammocks, or cooking facilities or equipment.

16 (d) "Eligible fiscal quarter" means the fiscal quarter that meets  
17 the timing and other restrictions for local sales and use tax changes  
18 under RCW 82.14.055.

19 (e) "Public property" means any street, alley, sidewalk, parking  
20 space, pedestrian or transit mall, bike path, greenway, or any other  
21 structure or area encompassed within the public right-of-way; any  
22 park, parkway, mountain park, or other recreation facility; or any  
23 other grounds, buildings, fixtures, or other facilities owned or  
24 leased by the state or by any other public owner, regardless of  
25 whether such public property is vacant or occupied and actively used  
26 for any public purpose.

27 (f) "Reside" or "dwell" includes, but is not limited to,  
28 conducting such activities as eating, sleeping, or the storage of  
29 personal possessions.

30 (g) "Supervised injection site" means any building, structure,  
31 site, facility, vehicle, or program including, but not limited to,  
32 supervised consumption or supervised injection programs, with a  
33 function of providing a space or area for either use or consumption,  
34 or both, of federally controlled substances.

35 (h) "Shelter" includes, but is not limited to, any recreational  
36 vehicle, tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets,  
37 or any form of cover or protection from the elements other than  
38 clothing.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 82.14  
2    RCW to read as follows:

3        The legislature recognizes the importance of program evaluation  
4    in order to ensure cost-effective use of public funds.

5        (1) By May 1st of each year, each city or county that has imposed  
6    the tax authorized under section 1 of this act must report to the  
7    department of commerce certain information for the prior calendar  
8    year. In addition to the metrics developed by the department of  
9    commerce in subsection (2) of this section, the city or county must  
10 also report:

11        (a) The amount of revenue collected from the tax imposed under  
12    section 1 of this act;

13        (b) The amount spent from that source;

14        (c) The amount of revenue retained for administrative costs;

15        (d) The total amount, from all sources, spent on homelessness for  
16    that year, including a baseline spending of the city or county prior  
17    to imposition of the tax authorized under section 1 of this act;

18        (e) A description of services or goods purchased; and

19        (f) Any information necessary to evaluate the enforcement of the  
20    ordinances including, but not limited to, number and frequency of  
21    visits to each type of protected public space, the number of unlawful  
22    camping complaints filed, the number of supervised injection site  
23    complaints filed, and the average response time for each type of  
24    complaint.

25        (2) (a) The department of commerce must develop standard metrics  
26    for each city or county receiving tax proceeds from the tax imposed  
27    under section 1 of this act. In addition to the items listed in  
28    subsection (1) of this section, the metrics developed by the  
29    department of commerce must include measures of workload, program  
30    effectiveness, and client outcomes.

31        (b) By July of each year, the department of commerce must  
32    aggregate the information provided by cities and counties imposing  
33    the tax under section 1 of this act. The department of commerce must  
34    make this information, along with the information provided by each  
35    individual jurisdiction, publicly available.

36        (3) By September 1, 2024, and every four years thereafter, the  
37    joint legislative audit and review committee must review the  
38    imposition of the sales and use tax under section 1 of this act and  
39    the uses of the revenues generated by the cities and counties,  
40    including:

1           (a) Information provided to the department of commerce for the  
2 previous four calendar years related to the tax authorized under  
3 section 1 of this act; and

4           (b) Compliance with the requirements of section 1(8) of this act,  
5 including supervised injection site compliance and enforcement of the  
6 unauthorized camping ordinance.

7           (4) For the purposes of this section, the definitions in section  
8 1 of this act apply.

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