
SENATE BILL 5850

State of Washington 65th Legislature 2017 Regular Session

By Senators Frockt, Carlyle, Fain, Bailey, and Hobbs

Read first time 02/22/17. Referred to Committee on Ways & Means.

1 AN ACT Relating to modifying the lodging excise tax to remove the
2 exemption for premises with fewer than sixty lodging units and to tax
3 certain vacation rentals, short-term home-sharing arrangements, and
4 other compensated use or occupancy of dwellings; amending RCW
5 36.100.040; creating a new section; providing an effective date; and
6 declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that it is in
9 the public interest that taxation of lodging not distort the market
10 for different types of lodging and that all types of lodging
11 participate in the funding of the public benefits supported with
12 lodging tax revenue.

13 (2) The legislature further finds that, with respect to the
14 lodging taxes levied under RCW 36.100.040 (4) and (5), the current
15 significant disparity in the taxation of sales of lodging on premises
16 having fewer than sixty lodging units compared to premises having
17 sixty or more units is contrary to the public interest in both
18 equitable taxation and adequately supporting the public benefits
19 funded by lodging tax revenue.

20 (3) It is the intent of this act to equalize the taxation levied
21 under RCW 36.100.040 (4) and (5) by applying it to all lodging,

1 regardless of the number of lodging units in premises subject to such
2 taxation.

3 **Sec. 2.** RCW 36.100.040 and 2015 3rd sp.s. c 24 s 702 are each
4 amended to read as follows:

5 (1) A public facilities district may impose an excise tax on the
6 sale of or charge made for the furnishing of lodging that is subject
7 to tax under chapter 82.08 RCW, except that no such tax may be levied
8 on any premises having fewer than forty lodging units. Except for any
9 tax imposed under subsection (4) or (5) of this section, if a public
10 facilities district has not imposed such an excise tax prior to
11 December 31, 1995, the public facilities district may only impose the
12 excise tax if a ballot proposition authorizing the imposition of the
13 tax has been approved by a simple majority vote of voters of the
14 public facilities district voting on the proposition.

15 (2) The rate of the tax may not exceed two percent and the
16 proceeds of the tax may only be used for the acquisition, design,
17 construction, remodeling, maintenance, equipping, reequipping,
18 repairing, and operation of its public facilities. This excise tax
19 may not be imposed until the district has approved the proposal to
20 acquire, design, and construct the public facilities.

21 (3) Except for a public facilities district created within a
22 county with a population of one million five hundred thousand or more
23 for the purpose of acquiring, owning, and operating a convention and
24 trade center, a public facilities district may not impose the tax
25 authorized in this section if, after the tax authorized in this
26 section was imposed, the effective combined rate of state and local
27 excise taxes, including sales and use taxes and excise taxes on
28 lodging, imposed on the sale of or charge made for furnishing of
29 lodging in any jurisdiction in the public facilities district exceeds
30 eleven and one-half percent.

31 (4) To replace the tax authorized by RCW 67.40.090, a public
32 facilities district created within a county with a population of one
33 million five hundred thousand or more for the purpose of acquiring,
34 owning, and operating a convention and trade center may impose an
35 excise tax on the sale of or charge made for the furnishing of
36 lodging (including but not limited to any vacation rental, home-
37 sharing arrangement, or other compensated use or occupancy of all or
38 any portion of a dwelling or dwelling unit, for a continuous period
39 of less than one month, regardless of whether any such dwelling or

1 dwelling unit is also occupied by its owner) that is subject to tax
2 under chapter 82.08 RCW, except that no such tax may be levied on any
3 premises(~~(a) Having fewer than sixty lodging units; or (b))~~)
4 classified as a hostel. The rate of the tax may not exceed seven
5 percent within the portion of the district that corresponds to the
6 boundaries of the largest city within the public facilities district
7 and may not exceed 2.8 percent in the remainder of the district. The
8 tax imposed under this subsection (4) may not be collected prior to
9 the transfer date defined in RCW 36.100.230.

10 (5) To replace the tax authorized by RCW 67.40.130, a public
11 facilities district created within a county with a population of one
12 million five hundred thousand or more for the purpose of acquiring,
13 owning, and operating a convention and trade center may impose an
14 additional excise tax on the sale of or charge made for the
15 furnishing of lodging (including but not limited to any vacation
16 rental, home-sharing arrangement, or other compensated use or
17 occupancy of all or any portion of a dwelling or dwelling unit, for a
18 continuous period of less than one month, regardless of whether any
19 such dwelling or dwelling unit is also occupied by its owner) that is
20 subject to tax under chapter 82.08 RCW, except that no such tax may
21 be levied on any premises(~~(a) Having fewer than sixty lodging~~
22 ~~units; or (b))~~) classified as a hostel. The rate of the additional
23 excise tax may not exceed two percent and may be imposed only within
24 the portion of the district that corresponds to the boundaries of the
25 largest city within the public facilities district and may not be
26 imposed in the remainder of the district. The tax imposed under this
27 subsection (5) may not be collected prior to the transfer date
28 specified in RCW 36.100.230. The tax imposed under this subsection
29 (5) must be credited against the amount of the tax otherwise due to
30 the state from those same taxpayers under chapter 82.08 RCW. The tax
31 under this subsection (5) may be imposed only for the purpose of
32 paying or securing the payment of the principal of and interest on
33 obligations issued or incurred by the public facilities district and
34 paying annual payment amounts to the state under subsection (6)(a) of
35 this section. The authority to impose the additional excise tax under
36 this subsection (5) expires on the date that is the earlier of (a)
37 (~~((i))~~) July 1, 2029, or (b)(~~((i))~~) the date on which all
38 obligations issued or incurred by the public facilities district to
39 implement any redemption, prepayment, or legal defeasance of

1 outstanding obligations under RCW 36.100.230(3)(a) are no longer
2 outstanding.

3 (6)(a) Commencing with the first full fiscal year of the state
4 after the transfer date defined in RCW 36.100.230 and for so long as
5 a public facilities district imposes a tax under subsection (5) of
6 this section, the public facilities district must transfer to the
7 state of Washington on June 30th of each state fiscal year an annual
8 payment amount.

9 (b) For the purposes of this subsection (6), "annual payment
10 amount" means an amount equal to revenues received by the public
11 facilities district in the fiscal year from the additional excise tax
12 imposed under subsection (5) of this section plus an interest charge
13 calculated on one-half the annual payment amount times an interest
14 rate equal to the average annual rate of return for the prior
15 calendar year in the Washington state local government investment
16 pool created in chapter 43.250 RCW.

17 (c)(i) If the public facilities district in any fiscal year is
18 required to apply additional lodging excise tax revenues to the
19 payment of principal and interest on obligations it issues or incurs,
20 and the public facilities district is unable to pay all or any
21 portion of the annual payment amount to the state, the deficiency is
22 deemed to be a loan from the state to the public facilities district
23 for the purpose of assisting the district in paying such principal
24 and interest and must be repaid by the public facilities district to
25 the state after providing for the payment of the principal of and
26 interest on obligations issued or incurred by the public facilities
27 district, all on terms established by an agreement between the state
28 treasurer and the public facilities district executed prior to the
29 transfer date. Any agreement between the state treasurer and the
30 public facilities district must specify the term for the repayment of
31 the deficiency in the annual payment amount with an interest rate
32 equal to the twenty bond general obligation bond buyer index plus one
33 percentage point.

34 (ii) Outstanding obligations to repay any loans deemed to have
35 been made to the public facilities district as provided in any such
36 agreements between the state treasurer and the public facilities
37 district survive the expiration of the additional excise tax under
38 subsection (5) of this section.

1 (iii) For the purposes of this subsection (6)(c), "additional
2 lodging excise tax revenues" mean the tax revenues received by the
3 public facilities district under subsection (5) of this section.

4 (7) A public facilities district is authorized to pledge any of
5 its revenues, including without limitation revenues from the taxes
6 authorized in this section, to pay or secure the payment of
7 obligations issued or incurred by the public facilities district,
8 subject to the terms established by the board of directors of the
9 public facilities district. So long as a pledge of the taxes
10 authorized under this section is in effect, the legislature may not
11 withdraw or modify the authority to levy and collect the taxes at the
12 rates permitted under this section and may not increase the annual
13 payment amount to be transferred to the state under subsection (6) of
14 this section.

15 (8) The department of revenue must perform the collection of such
16 taxes on behalf of the public facilities district at no cost to the
17 district, and the state treasurer must distribute those taxes as
18 available on a monthly basis to the district or, upon the direction
19 of the district, to a fiscal agent, paying agent, or trustee for
20 obligations issued or incurred by the district.

21 (9) Except as expressly provided in this chapter, all of the
22 provisions contained in RCW 82.08.050 and 82.08.060 and chapter 82.32
23 RCW have full force and application with respect to taxes imposed
24 under the provisions of this section.

25 (10) In determining the effective combined rate of tax for
26 purposes of the limit in subsection (3) of this section, the tax rate
27 under RCW 82.14.530 is not included.

28 (11) The taxes imposed in this section do not apply to sales of
29 temporary medical housing exempt under RCW 82.08.997.

30 (12)(a) For the purposes of this section, "hostel" means a
31 structure or facility where a majority of the rooms for sleeping
32 accommodations are hostel dormitories containing a minimum of four
33 standard beds designed for single-person occupancy within the
34 facility. Hostel accommodations are supervised and must include at
35 least one common area and at least one common kitchen for guest use.

36 (b) For the purpose of this subsection, "hostel dormitory" means
37 a single room, containing four or more standard beds designed for
38 single-person occupancy, used exclusively as nonprivate communal
39 sleeping quarters, generally for unrelated persons, where such
40 persons independently acquire the right to occupy individual beds,

1 with the operator supervising and determining which bed each person
2 will occupy.

3 (13) Section 2, chapter . . . , Laws of 2017 (this section),
4 extending the tax imposed in subsections (4) and (5) of this section
5 to premises having fewer than sixty lodging units, must be deemed to
6 have been effective on December 1, 2000, for the purposes of RCW
7 82.14.410, in order to be consistent with the treatment of premises
8 with sixty or more units.

9 NEW SECTION. Sec. 3. This act is necessary for the immediate
10 preservation of the public peace, health, or safety, or support of
11 the state government and its existing public institutions, and takes
12 effect July 1, 2017.

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