
HOUSE BILL 2052

State of Washington 62nd Legislature 2011 Regular Session

By Representative Alexander

Read first time 04/07/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to sourcing and mitigation provisions under the
2 streamlined sales and use tax agreement; amending RCW 82.14.020 and
3 82.14.390; and repealing RCW 82.32.730, 82.14.490, 82.14.495, and
4 82.14.500.

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

6 NEW SECTION. **Sec. 1.** The following acts or parts of acts are each
7 repealed:

8 (1) RCW 82.32.730 (Sourcing--Streamlined sales and use tax
9 agreement) and 2010 c 106 s 229;

10 (2) RCW 82.14.490 (Sourcing--Sales and use taxes) and 2007 c 6 s
11 503;

12 (3) RCW 82.14.495 (Streamlined sales and use tax mitigation
13 account--Creation) and 2010 1st sp.s. c 37 s 952, 2009 c 4 s 907, &
14 2007 c 6 s 902; and

15 (4) RCW 82.14.500 (Streamlined sales and use tax mitigation
16 account--Funding--Determination of losses) and 2007 c 6 s 903.

17 **Sec. 2.** RCW 82.14.020 and 2010 c 106 s 223 are each amended to
18 read as follows:

1 For purposes of this chapter:

2 (1) A retail sale consisting solely of the sale of tangible
3 personal property is deemed to have occurred at the retail outlet at or
4 from which delivery is made to the consumer;

5 (2) A retail sale consisting essentially of the performance of
6 personal, business, or professional services is deemed to have occurred
7 at the place at which such services were primarily performed, except
8 that for the performance of a tow truck service, as defined in RCW
9 46.55.010, the retail sale is deemed to have occurred at the place of
10 business of the operator of the tow truck service;

11 (3) A retail sale consisting of the rental of tangible personal
12 property is deemed to have occurred (a) in the case of a rental
13 involving periodic rental payments, at the place of primary use by the
14 lessee during the period covered by each payment, or (b) in all other
15 cases, at the place of first use by the lessee;

16 (4) A retail sale within the scope of RCW 82.04.050(2), and a
17 retail sale of taxable personal property to be installed by the seller
18 is deemed to have occurred at the place where the labor and services
19 involved were primarily performed;

20 (5) A retail sale consisting of the providing of telecommunications
21 services shall be sourced in accordance with RCW 82.32.520;

22 (6) A retail sale of linen and uniform supply services is deemed to
23 occur as provided in RCW 82.08.0202;

24 (7) A retail sale consisting of an extended warranty is deemed to
25 have occurred at the business location of the seller if the extended
26 warranty is received by the purchaser at that location. If an extended
27 warranty is not received by the purchaser at the business location of
28 the seller, a retail sale of an extended warranty is deemed to have
29 occurred at the location where receipt by the buyer occurs;

30 (8) A retail sale consisting of a digital good, digital code, or
31 digital automated service is deemed to have occurred at the location
32 where the purchaser takes receipt of the good, code, or service. The
33 department may adopt rules necessary to implement this subsection,
34 including rules that address circumstances where it may be unclear
35 where receipt by the purchaser occurred;

36 (9) "City" means a city or town;

37 ((+2)) (10) The meaning ascribed to words and phrases in chapters
38 82.04, 82.08, and 82.12 RCW, as now or hereafter amended, insofar as

1 applicable, has full force and effect with respect to taxes imposed
2 under authority of this chapter. However, the terms "retail sale" and
3 "sale at retail" have only the meaning provided in RCW 82.08.010 for
4 the purposes of this chapter, unless the context clearly requires that
5 a different definition apply;

6 ~~((3))~~ (11) "Taxable event" means any retail sale, or any use,
7 upon which a state tax is imposed pursuant to chapter 82.08 or 82.12
8 RCW, as they now exist or may hereafter be amended. However, the term
9 does not include a retail sale taxable pursuant to RCW 82.08.150, as
10 now or hereafter amended; and

11 ~~((4))~~ (12) "Treasurer or other legal depository" means the
12 treasurer or legal depository of a county or city.

13 **Sec. 3.** RCW 82.14.390 and 2008 c 48 s 1 are each amended to read
14 as follows:

15 (1) Except as provided in subsection ~~((7))~~ (6) of this section,
16 the governing body of a public facilities district (a) created before
17 July 31, 2002, under chapter 35.57 or 36.100 RCW that commences
18 construction of a new regional center, or improvement or rehabilitation
19 of an existing new regional center, before January 1, 2004; (b) created
20 before July 1, 2006, under chapter 35.57 RCW in a county or counties in
21 which there are no other public facilities districts on June 7, 2006,
22 and in which the total population in the public facilities district is
23 greater than ninety thousand that commences construction of a new
24 regional center before February 1, 2007; (c) created under the
25 authority of RCW 35.57.010(1)(d); or (d) created before September 1,
26 2007, under chapter 35.57 or 36.100 RCW, in a county or counties in
27 which there are no other public facilities districts on July 22, 2007,
28 and in which the total population in the public facilities district is
29 greater than seventy thousand, that commences construction of a new
30 regional center before January 1, 2009, or before January 1, 2011, in
31 the case of a new regional center in a county designated by the
32 president as a disaster area in December 2007, may impose a sales and
33 use tax in accordance with the terms of this chapter. The tax is in
34 addition to other taxes authorized by law and ~~((shall))~~ must be
35 collected from those persons who are taxable by the state under
36 chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event

1 within the public facilities district. The rate of tax (~~shall~~) may
2 not exceed 0.033 percent of the selling price in the case of a sales
3 tax or value of the article used in the case of a use tax.

4 ~~(2)((a) The governing body of a public facilities district~~
5 ~~imposing a sales and use tax under the authority of this section may~~
6 ~~increase the rate of tax up to 0.037 percent if, within three fiscal~~
7 ~~years of July 1, 2008, the department determines that, as a result of~~
8 ~~RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW~~
9 ~~82.14.020, a public facilities district's sales and use tax collections~~
10 ~~for fiscal years after July 1, 2008, have been reduced by a net loss of~~
11 ~~at least 0.50 percent from the fiscal year before July 1, 2008. The~~
12 ~~fiscal year in which this section becomes effective is the first fiscal~~
13 ~~year after July 1, 2008.~~

14 ~~(b) The department shall determine sales and use tax collection net~~
15 ~~losses under this section as provided in RCW 82.14.500 (2) and (3).~~
16 ~~The department shall provide written notice of its determinations to~~
17 ~~public facilities districts. Determinations by the department of a~~
18 ~~public facilities district's sales and use tax collection net losses as~~
19 ~~a result of RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to~~
20 ~~RCW 82.14.020 are final and not appealable.~~

21 ~~(c) A public facilities district may increase its rate of tax after~~
22 ~~it has received written notice from the department as provided in (b)~~
23 ~~of this subsection. The increase in the rate of tax must be made in~~
24 ~~0.001 percent increments and must be the least amount necessary to~~
25 ~~mitigate the net loss in sales and use tax collections as a result of~~
26 ~~RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW~~
27 ~~82.14.020. The increase in the rate of tax is subject to RCW~~
28 ~~82.14.055.~~

29 ~~(3))~~ The tax imposed under subsection (1) of this section
30 (~~shall~~) must be deducted from the amount of tax otherwise required to
31 be collected or paid over to the department of revenue under chapter
32 82.08 or 82.12 RCW. The department of revenue (~~shall~~) must perform
33 the collection of such taxes on behalf of the county at no cost to the
34 public facilities district.

35 ~~((4))~~ (3) No tax may be collected under this section before
36 August 1, 2000. The tax imposed in this section (~~shall~~) expires when
37 the bonds issued for the construction of the regional center and

1 related parking facilities are retired, but not more than twenty-five
2 years after the tax is first collected.

3 ~~((+5))~~ (4) Moneys collected under this section ~~((shall))~~ may only
4 be used for the purposes set forth in RCW 35.57.020 and must be matched
5 with an amount from other public or private sources equal to thirty-
6 three percent of the amount collected under this section, provided that
7 amounts generated from nonvoter approved taxes authorized under chapter
8 35.57 RCW or nonvoter approved taxes authorized under chapter 36.100
9 RCW ~~((shall))~~ does not constitute a public or private source. For the
10 purpose of this section, public or private sources includes, but is not
11 limited to cash or in-kind contributions used in all phases of the
12 development or improvement of the regional center, land that is donated
13 and used for the siting of the regional center, cash or in-kind
14 contributions from public or private foundations, or amounts attributed
15 to private sector partners as part of a public and private partnership
16 agreement negotiated by the public facilities district.

17 ~~((+6))~~ (5) The combined total tax levied under this section
18 ~~((shall))~~ may not be greater than ~~((0.037))~~ 0.033 percent. If both a
19 public facilities district created under chapter 35.57 RCW and a public
20 facilities district created under chapter 36.100 RCW impose a tax under
21 this section, the tax imposed by a public facilities district created
22 under chapter 35.57 RCW ~~((shall))~~ must be credited against the tax
23 imposed by a public facilities district created under chapter 36.100
24 RCW.

25 ~~((+7))~~ (6) A public facilities district created under chapter
26 36.100 RCW is not eligible to impose the tax under this section if the
27 legislative authority of the county where the public facilities
28 district is located has imposed a sales and use tax under RCW
29 82.14.0485 or 82.14.0494.

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