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COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

NO. 311953

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

CITY OF WENATCHEE, a municipal corporation,

Appellant,

v.

CHELAN COUNTY PUBLIC UTILITY DISTRICT NO. 1, a municipal
corporation,

Respondent.

**AMICUS BRIEF OF THE WASHINGTON ASSOCIATION OF
SEWER AND WATER DISTRICTS AND THE SHORELINE WATER
DISTRICT**

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I. INTRODUCTION

Amicus curiae the Washington Association of Sewer and Water Districts ("WASWD") and the Shoreline Water District ("Water District") (collectively, "Amici") are, respectively, the trade association for all water-sewer districts organized under RCW Title 57 and an RCW Title 57 water district. WASWD represents more than 80 water-sewer districts in the State, serving as a clearinghouse for information, policy, and technical assistance. The Water District, located in King County, has provided domestic, fire suppression, and irrigation water to its constituents since 1931.

Amici submit this brief in support of the position of Chelan County Public Utility District No. 1 ("PUD") that the City of Wenatchee's ("City's") tax on water service revenues violates constitutional provisions and exceeds the City's statutory authority. Requisite authority to support the enforcement of the City's tax has not been granted by the State Legislature, and the superior court's invalidation of the City's tax must be affirmed.

II. STATEMENT OF THE CASE

The PUD challenged the City's imposition of a 16% tax on the PUD's revenues from the sale of water within the corporate limits of the City ("water tax"). CP 22, 35. The City filed suit, petitioning for declaratory relief on the validity of its water tax. CP 6-7. The PUD joined

the City's petition. CP 7. The City argued that the State business and occupation tax statute authorized it to tax the PUD's water service — despite the fact that the statute does not include any provision either permitting the tax to apply to local governments or extending it to utility service. CP 15-17 (citing RCW 35A.82.020).

As the parties had stipulated that no material questions of fact existed (CP 7), the Chelan County Superior Court resolved the issues by summary adjudication. The court correctly concluded that the language of RCW 35A.82.070 is not a "specific and direct authorization to tax another municipal corporation" and is not a "clear and direct authority for the City to tax the [PUD's] water revenues." CP 67. The court declared the City's tax on water revenues to be unlawful. *Id.* Amici agree with the trial court's conclusions and decision.

III. ARGUMENT

A. **Express Authority Must Be Found in the State Constitution or Statute before a Municipal Corporation May Impose a Tax**

It is bedrock Washington law that a municipal corporation, such as the City, is limited in its powers. *See Okeson v. City of Seattle*, 159 Wn.2d 436, 445, 150 P.3d 556 (2007) (citing *Farwell v. City of Seattle*, 43 Wash. 141, 86 P. 217 (1906)). A municipal corporation possesses only those powers that are (1) granted in *express* words, (2) necessarily or fairly implied in or incident to those powers expressly granted, and (3) essential

to the declared objects and purposes of the corporation. *Id.* (emphasis added). See also 2 E. McQuillin, *Municipal Corporations* § 10.09 (3d ed. 1979) (As "creatures of the state," municipal corporations possess only those powers conferred on them by the constitution, statutes, and their charters) (cited by *City of Tacoma v. Taxpayers of the City of Tacoma*, 108 Wn.2d 679, 685-86, 743 P.2d 793 (1987)).

The restriction on municipal power is narrowly construed in the context of taxation. See, e.g., *Pacific First Fed. Sav. & Loan v. Pierce County*, 27 Wn.2d 347, 353, 178 P.2d 147 (1947). Where a statute is ambiguous as to the existence of taxing authority, it must be "*construed most strongly against the taxing authority.*" *Puyallup v. Pacific N.W. Bell Tel. Co.*, 98 Wn.2d 443, 448, 656 P.2d 1035 (1982) (citing *Department of Rev. v. Hoppe*, 82 Wn.2d 549, 512 P.2d 1094 (1973); *Gould v. Gould*, 245 U.S. 151 (1917)). And see *Arborwood Idaho LLC v. City of Kennewick*, 151 Wn.2d 359, 367, 89 P.3d 217 (2004) (invalidating a city tax because it exceeded statutory authority). Finally, in Washington, the authority of one municipal government to tax another has been historically subject to heightened scrutiny. See, e.g., *King County v. City of Algona*, 101 Wn.2d 789, 793, 681 P.2d 1281 (1984) (which contrasted a tax of general application to a tax that expressly applies to "municipal corporation[s]"). This principle is rooted in the State Constitution's prohibition on any tax that has not been expressly enacted by the State legislature or authorized

by the State Constitution. As explained by the Washington Supreme Court in *Carkonen v. Williams*, 76 Wn.2d 617, 627, 458 P.2d 280 (1969):

Const. art. 7, § 9, 4 and art. 11, § 12, 5 permit the state legislature to vest county and other municipal authorities with the power to levy and collect taxes for local purposes, subject to such conditions and limitations as the constitution or the legislature may prescribe. *These constitutional provisions are not self-executing*, in the sense that county, city, and other municipal bodies are automatically invested with tax levying power. Rather, such political subdivisions must have an *express* grant of such power either by legislative act or other constitutional provision.

(Citations omitted) (emphasis added).

B. No Constitutional or Statutory Provision Confers the City with Authority to Tax Another Municipal Corporation's Revenues on the Provision of Water Service

Here, the City's water tax fails to meet the constitutional restrictions on taxing authority because there is no express authority permitting a municipal corporation to tax another municipal corporation's water service revenues. In its briefing, the City does not cite a single Constitutional provision, State statute, or judicial interpretation to support a proposition that the requisite *express* taxing authority exists. There is none. To be clear: no State constitutional provision or statute contains express language that permits a municipal corporation to (1) tax another municipal corporation on (2) revenues from the provision of water service.

As the PUD notes in its briefing, the Legislature has acted to authorize taxation on the sale of *electricity*. RCW 54.28.070 expressly addresses the two requisite subjects for such a tax to be valid: (1) it expressly applies to public utility districts organized under RCW Title 54, and (2) it expressly applies to the sale of electricity:

Any city or town in which a public utility district operates works, plants or facilities for the distribution and sale of electricity shall have the *power to levy and collect from such district a tax on the gross revenues derived by such district from the sale of electricity* within the city or town, exclusive of the revenues derived from the sale of electricity for purposes of resale. Such tax when levied shall be a debt of the district, and may be collected as such. Any such district shall have the power to add the amount of such tax to the rates or charges it makes for electricity so sold within the limits of such city or town.

(Emphasis added). No comparable statute expressly authorizes city taxation of *any* municipal corporation on revenues derived from the sale of water.

In fact, on numerous recent occasions, the State Legislature has declined to pass a statute that would have expressly authorized municipal corporations to be taxed on water service revenues. Although the legislature's *reasoning* for declining to enact a law cannot be ascertained from the failure of the Legislature to act, *see, e.g., City of Medina v. Primm*, 160 Wn.2d 268, 280, 157 P.3d 379 (2007), here, the failure to enact a law permitting the taxation of local government water revenues —

regardless of the reason — means that no such law is found in state statute. *Cf. State v. Conte*, 159 Wn.2d 797, 813, 154 P.3d 194 (2007) (the Washington Supreme Court has "often" acknowledged failed legislation even though the reason for failure cannot be inferred).

In 2009, HB 2249 would have authorized cities (in King County) to impose a utility tax on RCW Title 57 water-sewer districts, but the bill did not pass from committee before the legislative session ended. *See Appendix A* (HB 2249 at Sections 6 and 7). The next year, in 2010, HB 2637 and 2749 again would have authorized cities to impose a utility tax on RCW Title 57 water-sewer districts. These proposed statutes were not limited to King County; they would have applied everywhere in the State. They also failed. *See Appendices B and C* (HB 2637 and 2749 at Sections 7).¹

The Legislature has acted only once to authorize cities to impose a utility tax on water service revenues, and this was related to a unique situation. In a 2010 statute, codified at RCW 35.13B.010, cities are expressly authorized to tax the "gross revenues derived by [a water-sewer] district from the sale of water or sewer services within the city," but *only* if the city and water-sewer district execute an interlocal agreement, and *only*

¹ Similar legislation has been proposed to authorize *counties* to tax water and sewer revenues (*see, e.g.*, SB 5960 from the 2009 legislative session). This legislation would have reached both RCW Title 54 public utility districts and RCW Title 57 water-sewer districts. *See Appendix D* (SB 5960 at Sections 1 and 2). It, too, failed. *See Appendix D*, Bill History.

if a city had a 2009 population of between 80,000 and 85,000 (*i.e.*, Renton), in a county with a 2009 population of more than 1,500,000 (*i.e.*, King County). Further, this statute expires in January 2015, just five years after its enactment. *See Appendix E.*

Implicit in the adoption of RCW 35.13B.010 is the Legislature's view that, without this statutory authority, a city may not impose a tax on a district's water service revenues.

The examples cited above illustrate that the State Legislature has declined to grant cities with *general* utility taxing authority on another local government's water service revenues. Where the State Constitution has vested the Legislature with the power to define the scope of taxing authority—and the Legislature has confronted the particular taxing issue and refused to expressly expand cities' taxing authority—the judiciary should decline to step in.

C. Reversal of the Superior Court's Decision Could Have Statewide Impact, Affecting All Local Government Water Purveyors.

The parties' briefing addresses the question of whether the City may impose its water revenue tax on a public utility district, a local government formed under the authority of Title 54 RCW. Although this appeal involves the purported application of the water tax to a public utility district, the City's ordinance taxing water revenues does not distinguish among types of water purveyors, facially applying equally to

not only "public utility districts" but also "municipal corporations or departments thereof, public or private utilities, water companies or districts, and other associations." CP 20.

Given the broad, inclusive language of the City's tax, Amici caution that any appellate decision affirming the City's water tax could have wider impact beyond application to the City and the PUD. Specifically, across the state, there are 51 (fifty-one) RCW Title 57 water-sewer districts that operate within the boundaries of one or more incorporated cities. *See Appendix F*. Of these districts, a full 21 operate within the boundaries of cities that have already enacted a tax on water service. *See id.* For example, one or more water-sewer districts are located within the boundaries of the cities of Auburn, Bothell, Chehalis, Kent, Kirkland, Pasco, Redmond, Shoreline, and Tacoma. *See id.* Further, many of the water-sewer districts operating within one city boundary actually operate within the boundaries of multiple cities, *see id.*, creating the potential for a single district to be subject to multiple taxes on their utility services.

Amici do not have information on the number of cities that actually attempt to collect such taxes from RCW Title 57 water-sewer districts. However, at **Appendix G**, Amici include documentation of the City of Shoreline's water service tax, forestalled only during the duration

of a current franchise agreement.² Amici also attach correspondence from the City of Black Diamond announcing its intention to begin enforcement of its tax on water service against Covington Water District, an RCW Title 57 water-sewer district. *See Appendix H*. Thus, this is a current issue with potentially expansive reach. For now, the Court should decline to expand cities' taxing authority beyond constitutional limits, and leave the question to the State Legislature to do so if it wishes.

IV. CONCLUSION

The State Constitution prohibits the taxation of municipal corporations—and their residents—unless the State Constitution or the Legislature vests specific taxing authority in local governments. Below, the superior court correctly recognized the absence of Constitutional or statutory authority for cities to impose taxes on water revenues of local governments. The Amici urge this Court to affirm.

² The City of Shoreline's utility tax purports to impose a 6% tax on "water distribution operations" (impacting the Shoreline Water District) and "sewerage operation[s]" (impacting the Ronald Wastewater District, another RCW Title 57 district operating within the boundaries of the City of Shoreline). Both the Water District and Ronald Wastewater District have current franchise agreements with the City of Shoreline, expressly exempting them from the utility tax for the term of the franchise. *See Appendix G* (Ordinance No. 638 at Section 1, .030(B)). Ronald Wastewater District has similar taxing concerns as does the Water District; for no statute expressly permits a municipality to impose a tax on another local government's sewerage revenue.

Respectfully submitted this 7th day of August, 2013.

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APPENDIX A



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HB 2249 - 2009-10 [\(What is this?\)](#)

Modifying local government revenue options in counties with a population of one million five hundred thousand or more.

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History of the Bill
as of Sunday, July 21, 2013 5:02 PM

Sponsors: Representative [Hunter](#)

2009 REGULAR SESSION

- Feb 18 First reading, referred to Finance. ([View Original Bill](#))
- Feb 24 Public hearing in the House Committee on Finance at 8:00 AM. ([Committee Materials](#))
- Mar 2 Executive action taken in the House Committee on Finance at 8:00 AM. ([Committee Materials](#))
 FIN - Executive action taken by committee.
FIN - Majority; 1st substitute bill be substituted, do pass. ([View 1st Substitute](#)) ([Majority Report](#))
 Minority; do not pass. ([Minority Report](#))
[Passed to Rules Committee for second reading.](#)
- Mar 5 Rules Committee relieved of further consideration. Placed on second reading.
- Mar 12 Returned to Rules Committee for second reading.

2010 REGULAR SESSION

- Jan 11 By resolution, reintroduced and retained in present status.
 Rules Committee relieved of further consideration.
 Referred to Finance.

2010 1ST SPECIAL SESSION

- Mar 15 By resolution, reintroduced and retained in present status.

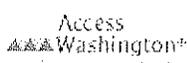
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Available Documents

Bill Documents	Bill Digests	Bill Reports
Original Bill	Bill Digest	House Bill Analysis 2009
Substitute Bill (FIN 09)	Substitute Bill Digest	House Bill Report

Amendments

Amendment Name	Num	Sponsor	Type	Description	Action
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2249-S AMH HUNT PETE 011	296	Hunter	FloorStriker	NOT CONSIDERED	04/26/2009
2249-S AMH HUNT PETE 012	302	Hunter	FloorStriker	NOT CONSIDERED	04/26/2009
2249-S AMH ORCU H2658.1	311	Orcutt	FloorPg 9 Ln 10	NOT CONSIDERED	04/26/2009
2249-S AMH ORCU H2659.1	312	Orcutt	FloorPg 8 Ln 26	NOT CONSIDERED	04/26/2009
2249-S AMH ORCU H2660.1	310	Orcutt	FloorPg 7 Ln 13	NOT CONSIDERED	04/26/2009
2249-S AMH ORCU H2662.1	309	Orcutt	FloorPg 7 Ln 14	NOT CONSIDERED	04/26/2009
2249-S AMH ORCU H2663.1	308	Orcutt	FloorPg 14 Ln 17	NOT CONSIDERED	04/26/2009
2249-S AMH SIMP H2674.1	356	Simpson	FloorPg 9 Ln 8	NOT CONSIDERED	04/26/2009
2249-S AMH ORCU H2589.1	174	Orcutt	FloorPg 6 Ln 1	NOT CONSIDERED	04/26/2009
2249-S AMH ORCU H2591.1	173	Orcutt	FloorPg 6 Ln 2	NOT CONSIDERED	04/26/2009
2249-S AMH ORCU H2593.1	175	Orcutt	FloorPg 7 Ln 29	NOT CONSIDERED	04/26/2009
2249-S AMH ORCU H2594.1	172	Orcutt	FloorPg 7 Ln 5	NOT CONSIDERED	04/26/2009
2249-S AMH ORCU H2611.1	217	Orcutt	FloorPg 11 Ln 20	NOT CONSIDERED	04/26/2009
2249-S AMH ROAD H2592.1	178	Roach	FloorPg 4 Ln 27	NOT CONSIDERED	04/26/2009
2249-S AMH SIMP H2605.1	198	Simpson	FloorPg 7 Ln 16	NOT CONSIDERED	04/26/2009

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SUBSTITUTE HOUSE BILL 2249

State of Washington 61st Legislature 2009 Regular Session

By House Finance (originally sponsored by Representative Hunter)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to modifying local government revenue options in
2 counties with a population of one million five hundred thousand or
3 more; amending RCW 82.14.415, 47.26.086, and 84.55.050; reenacting and
4 amending RCW 82.46.035; adding a new section to chapter 43.155 RCW;
5 adding a new section to chapter 35.21 RCW; adding a new section to
6 chapter 35A.82 RCW; adding a new section to chapter 43.09 RCW; adding
7 a new chapter to Title 36 RCW; creating a new section; and providing
8 expiration dates.

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

10 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that counties
11 and cities, the general purpose local governments that are closest to
12 the people, are charged with providing numerous and diverse services to
13 their residents. In providing these services, counties and cities must
14 respond to legislative and citizen directives, and a changing, and
15 often challenging, financial landscape.

16 (2) The legislature recognizes that population growth and the
17 enactment and maturation of the growth management act has resulted in
18 many governance changes throughout the state, as annexations and
19 incorporations have expanded existing cities and created new

1 incorporated areas. These actions have been consistent with growth
2 management act principles that call for growth to be thoughtfully and
3 deliberately directed to urban areas and areas characterized by urban
4 growth. These actions have also been consistent with pronouncements of
5 the act specifying that, in general, cities are most appropriate
6 providers of urban governmental services, the services and facilities
7 that are historically and typically provided in cities.

8 (3) Recognizing the governance efficiencies that will result from
9 the annexation of urban and urbanizing areas in the state's largest
10 counties, the principles of fairness that will take root as rural
11 residents cease to bear the costs of providing urban governmental
12 services in unincorporated urban and urbanizing areas, and the
13 unprecedented financial pressures that local governments face, the
14 legislature intends to establish new annexation mechanisms and related
15 fiscal provisions that apply in counties with more than one million
16 five hundred thousand residents.

17 **Sec. 2.** RCW 82.14.415 and 2006 c 361 s 1 are each amended to read
18 as follows:

19 (1) The legislative authority of any city with a population less
20 than four hundred thousand and which is located in a county with a
21 population greater than six hundred thousand that annexes an area
22 consistent with its comprehensive plan required by chapter 36.70A RCW,
23 may impose a sales and use tax in accordance with the terms of this
24 chapter. The tax is in addition to other taxes authorized by law and
25 shall be collected from those persons who are taxable by the state
26 under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable
27 event within the city. The tax may only be imposed by a city if:

28 (a) The city has commenced annexation of an area under chapter
29 35.13 or 35A.14 RCW having a population of at least ten thousand people
30 prior to January 1, (~~2010~~) 2012; and

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

35 (2) The tax authorized under this section is a credit against the
36 state tax under chapter 82.08 or 82.12 RCW. The department of revenue

1 shall perform the collection of such taxes on behalf of the city at no
2 cost to the city and shall remit the tax to the city as provided in RCW
3 82.14.060.

4 (3) The maximum rate of tax any city may impose under this section
5 shall be 0.2 percent for the total number of annexed areas the city may
6 annex. The rate of the tax imposed under this section is 0.1 percent
7 for each annexed area population that is greater than ten thousand and
8 less than twenty thousand. The rate of the tax imposed under this
9 section shall be 0.2 percent for an annexed area which the population
10 is greater than twenty thousand.

11 (4) The tax imposed by this section shall only be imposed at the
12 beginning of a fiscal year and shall continue for no more than ten
13 years from the date the tax is first imposed. Tax rate increases due
14 to additional annexed areas shall be effective on July 1st of the
15 fiscal year following the fiscal year in which the annexation occurred,
16 provided that notice is given to the department as set forth in
17 subsection (8) of this section.

18 (5) All revenue collected under this section shall be used solely
19 to provide, maintain, and operate municipal services for the annexation
20 area.

21 (6) The revenues from the tax authorized in this section may not
22 exceed that which the city deems necessary to generate revenue equal to
23 the difference between the city's cost to provide, maintain, and
24 operate municipal services for the annexation area and the general
25 revenues that the cities would otherwise expect to receive from the
26 annexation during a year. If the revenues from the tax authorized in
27 this section and the revenues from the annexation area exceed the costs
28 to the city to provide, maintain, and operate municipal services for
29 the annexation area during a given year, the city shall notify the
30 department and the tax distributions authorized in this section shall
31 be suspended for the remainder of the year.

32 (7) No tax may be imposed under this section before July 1, 2007.
33 Before imposing a tax under this section, the legislative authority of
34 a city shall adopt an ordinance that includes the following:

35 (a) The rate of tax under this section that shall be imposed within
36 the city; and

37 (b) The threshold amount for the first fiscal year following the
38 annexation and passage of the ordinance.

1 (8) The tax shall cease to be distributed to the city for the
2 remainder of the fiscal year once the threshold amount has been
3 reached. No later than March 1st of each year, the city shall provide
4 the department with a new threshold amount for the next fiscal year,
5 and notice of any applicable tax rate changes. Distributions of tax
6 under this section shall begin again on July 1st of the next fiscal
7 year and continue until the new threshold amount has been reached or
8 June 30th, whichever is sooner. Any revenue generated by the tax in
9 excess of the threshold amount shall belong to the state of Washington.
10 Any amount resulting from the threshold amount less the total fiscal
11 year distributions, as of June 30th, shall not be carried forward to
12 the next fiscal year.

13 (9) The following definitions apply throughout this section unless
14 the context clearly requires otherwise:

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

18 (b) "Department" means the department of revenue.

19 (c) "Municipal services" means those services customarily provided
20 to the public by city government.

21 (d) "Fiscal year" means the year beginning July 1st and ending the
22 following June 30th.

23 (e) "Threshold amount" means the maximum amount of tax
24 distributions as determined by the city in accordance with subsection
25 (6) of this section that the department shall distribute to the city
26 generated from the tax imposed under this section in a fiscal year.

27 **Sec. 3.** RCW 47.26.086 and 1994 c 179 s 11 are each amended to read
28 as follows:

29 Transportation improvement account projects selected for funding
30 programs after fiscal year 1995 are governed by the requirements of
31 this section.

32 The board shall allocate funds from the account by June 30th of
33 each year for the ensuing fiscal year to urban counties, cities with a
34 population of five thousand and over, and to transportation benefit
35 districts. Projects may include, but are not limited to, multi-agency
36 projects and arterial improvement projects in fast-growing areas. The

1 board shall endeavor to provide geographical diversity in selecting
2 improvement projects to be funded from the account.

3 The intent of the program is to improve mobility of people and
4 goods in Washington state by supporting economic development and
5 environmentally responsive solutions to our statewide transportation
6 system needs.

7 To be eligible to receive these funds, a project must be consistent
8 with the Growth Management Act, the Clean Air Act including conformity,
9 and the Commute Trip Reduction Law and consideration must have been
10 given to the project's relationship, both actual and potential, with
11 the statewide rail passenger program and rapid mass transit. Projects
12 must be consistent with any adopted high capacity transportation plan,
13 must consider existing or reasonably foreseeable congestion levels
14 attributable to economic development or growth and all modes of
15 transportation and safety, and must be partially funded by local
16 government or private contributions, or a combination of such
17 contributions. Priority consideration shall be given to those projects
18 with the greatest percentage of local or private contribution, or both.

19 A city or town located within a county with a population of one
20 million five hundred thousand or more may not receive funds after
21 January 1, 2012, if the city has not annexed any potential annexation
22 areas recognized in the city's comprehensive plan or related document
23 prior to the effective date of this act.

24 Within one year after board approval of an application for funding,
25 the lead agency shall provide written certification to the board of the
26 pledged local and private funding for the phase of the project
27 approved. Funds allocated to an applicant that does not certify its
28 funding within one year after approval may be reallocated by the board.

29 NEW SECTION. Sec. 4. A new section is added to chapter 43.155 RCW
30 to read as follows:

31 A city or town located within a county with a population of one
32 million five hundred thousand or more may not receive funds under this
33 chapter after January 1, 2012, if the city or town has not annexed any
34 potential annexation areas recognized in the city's comprehensive plan
35 or related document prior to the effective date of this act.

1 NEW SECTION. **Sec. 5.** (1) The legislative authority of a county
2 with a population of one million five hundred thousand or more may
3 impose an excise tax on the privilege of engaging in business as a
4 utility. The tax is equal to the gross income of the business,
5 multiplied by a rate not exceeding six percent.

6 (2) A tax imposed under this section only applies to the
7 unincorporated areas of the county. The tax must be expended only for
8 capital projects and services provided within the unincorporated area
9 of the county.

10 (3) A utility subject to tax under this section must add the tax to
11 the rates or charges it makes for utility services and separately state
12 the amount of tax on billings.

13 (4) The definitions in this subsection apply to this section.

14 (a) "Cable service utility" means a person providing cable service
15 as defined in the federal telecommunications act of 1996.

16 (b) "Electrical power utility" has the same meaning as light and
17 power business as defined in RCW 82.16.010.

18 (c) "Gas utility" has the same meaning as gas distribution business
19 as defined in RCW 82.16.010.

20 (d) "Gross income of the business" is defined as provided in RCW
21 82.04.080.

22 (e) "Sewer utility" means a sewerage collection business as defined
23 in RCW 82.16.020.

24 (f) "Solid waste utility" means a solid waste collection business
25 as defined in RCW 82.18.010.

26 (g) "Telephone utility" means a person providing telecommunications
27 service as defined in RCW 82.04.065.

28 (h) "Water utility" means a water distribution business as defined
29 in RCW 82.16.010.

30 (i) "Utility" means an electrical power utility, gas utility,
31 telephone utility, water utility, sewer utility, solid waste utility,
32 or cable service utility.

33 (5) A county may provide exemptions for sales by utilities to
34 business customers, such as, manufacturing facilities, aircraft repair
35 facilities, industrial parks, industrial facilities, farm businesses,
36 and computer data centers. A county may not provide a general
37 exemption for sales by utilities to residential customers unless
38 business customers are also exempt.

1 (6) A county must allow a credit against the cable service utility
2 tax for any franchise fee paid by the cable service utility to the
3 county.

4 (7) This section expires January 1, 2012.

5 NEW SECTION. **Sec. 6.** A new section is added to chapter 35.21 RCW
6 to read as follows:

7 (1) Subject to the requirements of this section, a city or town
8 located partially or wholly within a county with a population of one
9 million five hundred thousand or more may impose a tax upon the gross
10 income or gross receipts of a water-sewer district.

11 (2) A city or town imposing the tax authorized under this section
12 may not impose a rate of tax that exceeds six percent.

13 (3) A city or town may impose the tax authorized under this section
14 only if the city has annexed a potential annexation area that has been
15 recognized in an ordinance or resolution adopted by the city or town
16 prior to the effective date of this section.

17 NEW SECTION. **Sec. 7.** A new section is added to chapter 35A.82 RCW
18 to read as follows:

19 (1) Subject to the requirements of this section, a city or town
20 located partially or wholly within a county with a population of one
21 million five hundred thousand or more may impose a tax upon the gross
22 income or gross receipts of a water-sewer district.

23 (2) A city or town imposing the tax authorized under this section
24 may not impose a rate of tax that exceeds six percent.

25 (3) A city or town may impose the tax authorized under this section
26 only if the city has annexed a potential annexation area that has been
27 recognized in an ordinance or resolution adopted by the city or town
28 prior to the effective date of this section.

29 **Sec. 8.** RCW 82.46.035 and 1992 c 221 s 3 and 1991 sp.s c 32 s 33
30 are each reenacted and amended to read as follows:

31 (1) The legislative authority of any county or city shall identify
32 in the adopted budget the capital projects, park maintenance and
33 operation expenditures, or both funded in whole or in part from the
34 proceeds of the tax authorized in this section, and shall indicate that

1 such tax is intended to be in addition to other funds that may be
2 reasonably available for (~~(such capital projects)~~) these purposes.

3 (2) The legislative authority of any county or any city that plans
4 under RCW 36.70A.040(1) may impose an additional excise tax on each
5 sale of real property in the unincorporated areas of the county for the
6 county tax and in the corporate limits of the city for the city tax at
7 a rate not exceeding one-quarter of one percent of the selling price.
8 Any county choosing to plan under RCW 36.70A.040(2) and any city within
9 such a county may only adopt an ordinance imposing the excise tax
10 authorized by this section if the ordinance is first authorized by a
11 proposition approved by a majority of the voters of the taxing district
12 voting on the proposition at a general election held within the
13 district or at a special election within the taxing district called by
14 the district for the purpose of submitting such proposition to the
15 voters.

16 (3) Revenues generated from the tax imposed under subsection (2) of
17 this section shall be used by such counties and cities (~~(solely)~~) for
18 financing capital projects specified in a capital facilities plan
19 element of a comprehensive plan, and, at the option of the city or
20 county, park maintenance and operation expenditures. However, revenues
21 (a) pledged by such counties and cities to debt retirement prior to
22 March 1, 1992, may continue to be used for that purpose until the
23 original debt for which the revenues were pledged is retired, or (b)
24 committed prior to March 1, 1992, by such counties or cities to a
25 project may continue to be used for that purpose until the project is
26 completed.

27 (4) Revenues generated by the tax imposed by this section shall be
28 deposited in a separate account.

29 (5) As used in this section, "city" means any city or town and
30 "capital project" means those public works projects of a local
31 government for planning, acquisition, construction, reconstruction,
32 repair, replacement, rehabilitation, or improvement of streets, roads,
33 highways, sidewalks, street and road lighting systems, traffic signals,
34 bridges, domestic water systems, storm and sanitary sewer systems, and
35 planning, construction, reconstruction, repair, rehabilitation, or
36 improvement of parks.

37 (6) When the governor files a notice of noncompliance under RCW
38 36.70A.340 with the secretary of state and the appropriate county or

1 city, the county or city's authority to impose the additional excise
2 tax under this section shall be temporarily rescinded until the
3 governor files a subsequent notice rescinding the notice of
4 noncompliance.

5 **Sec. 9.** RCW 84.55.050 and 2008 c 319 s 1 are each amended to read
6 as follows:

7 (1) Subject to any otherwise applicable statutory dollar rate
8 limitations, regular property taxes may be levied by or for a taxing
9 district in an amount exceeding the limitations provided for in this
10 chapter if such levy is authorized by a proposition approved by a
11 majority of the voters of the taxing district voting on the proposition
12 at a general election held within the district or at a special election
13 within the taxing district called by the district for the purpose of
14 submitting such proposition to the voters. Any election held pursuant
15 to this section shall be held not more than twelve months prior to the
16 date on which the proposed levy is to be made, except as provided in
17 subsection (2) of this section. The ballot of the proposition shall
18 state the dollar rate proposed and shall clearly state the conditions,
19 if any, which are applicable under subsection (4) of this section.

20 (2)(a) Subject to statutory dollar limitations, a proposition
21 placed before the voters under this section may authorize annual
22 increases in levies for multiple consecutive years, up to six
23 consecutive years, during which period each year's authorized maximum
24 legal levy shall be used as the base upon which an increased levy limit
25 for the succeeding year is computed, but the ballot proposition must
26 state the dollar rate proposed only for the first year of the
27 consecutive years and must state the limit factor, or a specified index
28 to be used for determining a limit factor, such as the consumer price
29 index, which need not be the same for all years, by which the regular
30 tax levy for the district may be increased in each of the subsequent
31 consecutive years. Elections for this purpose must be held at a
32 primary or general election. The title of each ballot measure must
33 state the limited purposes for which the proposed annual increases
34 during the specified period of up to six consecutive years shall be
35 used(~~(, and funds raised under the levy shall not supplant existing~~
36 ~~funds used for these purposes)~~).

1 (b) Funds raised by a levy under this subsection shall not supplant
2 existing funds used for the limited purpose specified in the ballot
3 title. For purposes of this subsection, existing funds means the
4 actual operating expenditures for the calendar year in which the ballot
5 measure is approved by voters. Actual operating expenditures excludes
6 lost federal funds, lost or expired state grants or loans,
7 extraordinary events not likely to reoccur, changes in contract
8 provisions beyond the control of the taxing district receiving the
9 services, and major nonrecurring capital expenditures. This subsection
10 (2)(b) does not apply to levies approved by the voters in 2009, 2010,
11 and 2011.

12 (3) After a levy authorized pursuant to this section is made, the
13 dollar amount of such levy may not be used for the purpose of computing
14 the limitations for subsequent levies provided for in this chapter,
15 unless the ballot proposition expressly states that the levy made under
16 this section will be used for this purpose.

17 (4) If expressly stated, a proposition placed before the voters
18 under subsection (1) or (2) of this section may:

19 (a) Use the dollar amount of a levy under subsection (1) of this
20 section, or the dollar amount of the final levy under subsection (2) of
21 this section, for the purpose of computing the limitations for
22 subsequent levies provided for in this chapter;

23 (b) Limit the period for which the increased levy is to be made
24 under (a) of this subsection;

25 (c) Limit the purpose for which the increased levy is to be made
26 under (a) of this subsection, but if the limited purpose includes
27 making redemption payments on bonds, the period for which the increased
28 levies are made shall not exceed nine years;

29 (d) Set the levy or levies at a rate less than the maximum rate
30 allowed for the district; or

31 (e) Include any combination of the conditions in this subsection.

32 (5) Except as otherwise expressly stated in an approved ballot
33 measure under this section, subsequent levies shall be computed as if:

34 (a) The proposition under this section had not been approved; and

35 (b) The taxing district had made levies at the maximum rates which
36 would otherwise have been allowed under this chapter during the years
37 levies were made under the proposition.

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.09 RCW
2 to read as follows:

3 (1) By January 1, 2011, the state auditor shall conduct a
4 performance audit of any county with a population of one million five
5 hundred thousand or more to specifically determine whether policy
6 changes and programs the county has adopted since January 1, 2009, will
7 effectively reduce overhead and other costs, improve services, and
8 streamline operations. The performance audit must identify current
9 deficiencies in recognized best practices in the provision of county
10 goods and services and how the provision of these goods and services
11 could be provided more efficiently and effectively. As part of the
12 performance audit, the auditor shall also evaluate the amount of local
13 and regional services provided by the county within and outside city
14 limits and contrast this with other large counties in Washington and
15 with counties of similar size in other states. The state auditor shall
16 use money distributed to the auditor under RCW 82.08.020(5) to pay for
17 the performance audit required under this section.

18 (2) This section expires January 1, 2012.

19 NEW SECTION. **Sec. 11.** Section 5 of this act constitutes a new
20 chapter in Title 36 RCW.

--- END ---

APPENDIX B



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History of the Bill

as of Sunday, July 21, 2013 5:04 PM

Sponsors: Representatives [Hunter](#), [Moeller](#)

2010 REGULAR SESSION

Jan 8 Prefiled for introduction.

Jan 11 First reading, referred to Finance. [\(View Original Bill\)](#)

2010 1ST SPECIAL SESSION

Mar 15 By resolution, reintroduced and retained in present status.

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Bill Documents	Bill Digests	Bill Reports
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Fiscal Note (Available)

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Live video is available at the stated time. Archived video becomes available approximately two hours after the close of the hearing or floor session.

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HOUSE BILL 2637

State of Washington 61st Legislature 2010 Regular Session

By Representatives Hunter and Moeller

Prefiled 01/08/10. Read first time 01/11/10. Referred to Committee on Finance.

1 AN ACT Relating to local government taxation; amending RCW
2 82.14.450, 82.14.450, 82.14.460, 82.14.460, 84.55.050, 82.46.035,
3 82.12.010, and 82.14.230; reenacting and amending RCW 82.46.035; adding
4 a new section to chapter 35.21 RCW; adding a new chapter to Title 36
5 RCW; providing effective dates; and providing expiration dates.

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

7 **Sec. 1.** RCW 82.14.450 and 2009 c 551 s 1 are each amended to read
8 as follows:

9 **ELIMINATING NONSUPPLANT LANGUAGE.** (1) A county legislative
10 authority may submit an authorizing proposition to the county voters at
11 a primary or general election and, if the proposition is approved by a
12 majority of persons voting, impose a sales and use tax in accordance
13 with the terms of this chapter. The title of each ballot measure must
14 clearly state the purposes for which the proposed sales and use tax
15 will be used. (~~Funds raised under this tax shall not supplant~~
16 ~~existing funds used for these purposes, except as follows: Up to one~~
17 ~~hundred percent may be used to supplant existing funding in calendar~~
18 ~~year 2010; up to eighty percent may be used to supplant existing~~
19 ~~funding in calendar year 2011; up to sixty percent may be used to~~

1 ~~supplant existing funding in calendar year 2012; up to forty percent~~
2 ~~may be used to supplant existing funding in calendar year 2013; and up~~
3 ~~to twenty percent may be used to supplant existing funding in calendar~~
4 ~~year 2014. For purposes of this subsection, existing funds means the~~
5 ~~actual operating expenditures for the calendar year in which the ballot~~
6 ~~measure is approved by voters. Actual operating expenditures excludes~~
7 ~~lost federal funds, lost or expired state grants or loans,~~
8 ~~extraordinary events not likely to reoccur, changes in contract~~
9 ~~provisions beyond the control of the county or city receiving the~~
10 ~~services, and major nonrecurring capital expenditures.)~~) The rate of
11 tax under this section may not exceed three-tenths of one percent of
12 the selling price in the case of a sales tax, or value of the article
13 used, in the case of a use tax.

14 (2) The tax authorized in this section is in addition to any other
15 taxes authorized by law and must be collected from those persons who
16 are taxable by the state under chapters 82.08 and 82.12 RCW upon the
17 occurrence of any taxable event within the county.

18 (3) The retail sale or use of motor vehicles, and the lease of
19 motor vehicles for up to the first thirty-six months of the lease, are
20 exempt from tax imposed under this section.

21 (4) One-third of all money received under this section must be used
22 solely for criminal justice purposes, fire protection purposes, or
23 both. For the purposes of this subsection, "criminal justice purposes"
24 has the same meaning as provided in RCW 82.14.340.

25 (5) Money received under this section must be shared between the
26 county and the cities as follows: Sixty percent must be retained by
27 the county and forty percent must be distributed on a per capita basis
28 to cities in the county.

29 **Sec. 2.** RCW 82.14.450 and 2007 c 380 s 1 are each amended to read
30 as follows:

31 **ELIMINATING NONSUPPLANT LANGUAGE.** (1) A county legislative
32 authority may submit an authorizing proposition to the county voters at
33 a primary or general election and, if the proposition is approved by a
34 majority of persons voting, impose a sales and use tax in accordance
35 with the terms of this chapter. The title of each ballot measure must
36 clearly state the purposes for which the proposed sales and use tax
37 will be used. (~~Funds raised under this tax shall not supplant~~

1 existing funds used for these purposes. For purposes of this
2 subsection, existing funds means the actual operating expenditures for
3 the calendar year in which the ballot measure is approved by voters.
4 Actual operating expenditures excludes lost federal funds, lost or
5 expired state grants or loans, extraordinary events not likely to
6 reoccur, changes in contract provisions beyond the control of the
7 county or city receiving the services, and major nonrecurring capital
8 expenditures.)) The rate of tax under this section shall not exceed
9 three-tenths of one percent of the selling price in the case of a sales
10 tax, or value of the article used, in the case of a use tax.

11 (2) The tax authorized in this section is in addition to any other
12 taxes authorized by law and (~~shall~~) must be collected from those
13 persons who are taxable by the state under chapters 82.08 and 82.12 RCW
14 upon the occurrence of any taxable event within the county.

15 (3) The retail sale or use of motor vehicles, and the lease of
16 motor vehicles for up to the first thirty-six months of the lease, are
17 exempt from tax imposed under this section.

18 (4) One-third of all money received under this section (~~shall~~)
19 must be used solely for criminal justice purposes. For the purposes of
20 this subsection, "criminal justice purposes" means additional police
21 protection, mitigation of congested court systems, or relief of
22 overcrowded jails or other local correctional facilities.

23 (5) Money received under this section (~~shall~~) must be shared
24 between the county and the cities as follows: Sixty percent (~~shall~~)
25 must be retained by the county and forty percent (~~shall~~) must be
26 distributed on a per capita basis to cities in the county.

27 **Sec. 3.** RCW 82.14.460 and 2009 c 551 s 2 are each amended to read
28 as follows:

29 **ELIMINATING NONSUPPLANT LANGUAGE.** (1) A county legislative
30 authority may authorize, fix, and impose a sales and use tax in
31 accordance with the terms of this chapter.

32 (2) The tax authorized in this section (~~shall be~~) is in addition
33 to any other taxes authorized by law and (~~shall~~) must be collected
34 from those persons who are taxable by the state under chapters 82.08
35 and 82.12 RCW upon the occurrence of any taxable event within the
36 county. The rate of tax (~~shall~~) equals one-tenth of one percent of

1 the selling price in the case of a sales tax, or value of the article
2 used, in the case of a use tax.

3 (3) Moneys collected under this section (~~shall~~) must be used
4 solely for the purpose of providing for the operation or delivery of
5 chemical dependency or mental health treatment programs and services
6 and for the operation or delivery of therapeutic court programs and
7 services. For the purposes of this section, "programs and services"
8 includes, but is not limited to, treatment services, case management,
9 and housing that are a component of a coordinated chemical dependency
10 or mental health treatment program or service.

11 ~~((4) All moneys collected under this section must be used solely
12 for the purpose of providing new or expanded programs and services as
13 provided in this section, except a portion of moneys collected under
14 this section may be used to supplant existing funding for these
15 purposes in any county as follows: Up to fifty percent may be used to
16 supplant existing funding in calendar year 2010; up to forty percent
17 may be used to supplant existing funding in calendar year 2011; up to
18 thirty percent may be used to supplant existing funding in calendar
19 year 2012; up to twenty percent may be used to supplant existing
20 funding in calendar year 2013; and up to ten percent may be used to
21 supplant existing funding in calendar year 2014.~~

22 ~~(5) Nothing in this section may be interpreted to prohibit the use
23 of moneys collected under this section for the replacement of lapsed
24 federal funding previously provided for the operation or delivery of
25 services and programs as provided in this section.))~~

26 **Sec. 4.** RCW 82.14.460 and 2008 c 157 s 2 are each amended to read
27 as follows:

28 **ELIMINATING NONSUPPLANT LANGUAGE.** (1) A county legislative
29 authority may authorize, fix, and impose a sales and use tax in
30 accordance with the terms of this chapter.

31 (2) The tax authorized in this section (~~shall be~~) is in addition
32 to any other taxes authorized by law and (~~shall~~) must be collected
33 from those persons who are taxable by the state under chapters 82.08
34 and 82.12 RCW upon the occurrence of any taxable event within the
35 county. The rate of tax (~~shall~~) equals one-tenth of one percent of
36 the selling price in the case of a sales tax, or value of the article
37 used, in the case of a use tax.

1 (3) Moneys collected under this section (~~shall~~) must be used
2 solely for the purpose of providing for the operation or delivery of
3 new or expanded chemical dependency or mental health treatment programs
4 and services and for the operation or delivery of new or expanded
5 therapeutic court programs and services. For the purposes of this
6 section, "programs and services" includes, but is not limited to,
7 treatment services, case management, and housing that are a component
8 of a coordinated chemical dependency or mental health treatment program
9 or service.

10 ~~((4) Moneys collected under this section shall not be used to
11 supplant existing funding for these purposes, provided that nothing in
12 this section shall be interpreted to prohibit the use of moneys
13 collected under this section for the replacement of lapsed federal
14 funding previously provided for the operation or delivery of services
15 and programs as provided in this section.))~~

16 **Sec. 5.** RCW 84.55.050 and 2009 c 551 s 3 are each amended to read
17 as follows:

18 **ELIMINATING NONSUPPLANT LANGUAGE.** (1) Subject to any otherwise
19 applicable statutory dollar rate limitations, regular property taxes
20 may be levied by or for a taxing district in an amount exceeding the
21 limitations provided for in this chapter if such levy is authorized by
22 a proposition approved by a majority of the voters of the taxing
23 district voting on the proposition at a general election held within
24 the district or at a special election within the taxing district called
25 by the district for the purpose of submitting such proposition to the
26 voters. Any election held pursuant to this section (~~shall~~) must be
27 held not more than twelve months prior to the date on which the
28 proposed levy is to be made, except as provided in subsection (2) of
29 this section. The ballot of the proposition (~~shall~~) must state the
30 dollar rate proposed and (~~shall~~) must clearly state the conditions,
31 if any, which are applicable under subsection (4) of this section.

32 (2) ~~((a))~~ Subject to statutory dollar limitations, a proposition
33 placed before the voters under this section may authorize annual
34 increases in levies for multiple consecutive years, up to six
35 consecutive years, during which period each year's authorized maximum
36 legal levy (~~shall~~) must be used as the base upon which an increased
37 levy limit for the succeeding year is computed, but the ballot

1 proposition must state the dollar rate proposed only for the first year
2 of the consecutive years and must state the limit factor, or a
3 specified index to be used for determining a limit factor, such as the
4 consumer price index, which need not be the same for all years, by
5 which the regular tax levy for the district may be increased in each of
6 the subsequent consecutive years. Elections for this purpose must be
7 held at a primary or general election. The title of each ballot
8 measure must state the limited purposes for which the proposed annual
9 increases during the specified period of up to six consecutive years
10 shall be used.

11 ~~((b)(i) Except as otherwise provided in this subsection (2)(b),~~
12 ~~funds raised by a levy under this subsection may not supplant existing~~
13 ~~funds used for the limited purpose specified in the ballot title. For~~
14 ~~purposes of this subsection, existing funds means the actual operating~~
15 ~~expenditures for the calendar year in which the ballot measure is~~
16 ~~approved by voters. Actual operating expenditures excludes lost~~
17 ~~federal funds, lost or expired state grants or loans, extraordinary~~
18 ~~events not likely to reoccur, changes in contract provisions beyond the~~
19 ~~control of the taxing district receiving the services, and major~~
20 ~~nonrecurring capital expenditures.~~

21 ~~(ii) The supplanting limitations in (b)(i) of this subsection do~~
22 ~~not apply to levies approved by the voters in calendar years 2009,~~
23 ~~2010, and 2011, in any county with a population of one million five~~
24 ~~hundred thousand or more. This subsection (2)(b)(ii) only applies to~~
25 ~~levies approved by the voters after July 26, 2009.~~

26 ~~(iii) The supplanting limitations in (b)(i) of this subsection do~~
27 ~~not apply to levies approved by the voters in calendar year 2009 and~~
28 ~~thereafter in any county with a population less than one million five~~
29 ~~hundred thousand. This subsection (2)(b)(iii) only applies to levies~~
30 ~~approved by the voters after July 26, 2009.)~~

31 (3) After a levy authorized pursuant to this section is made, the
32 dollar amount of ~~((such))~~ the levy may not be used for the purpose of
33 computing the limitations for subsequent levies provided for in this
34 chapter, unless the ballot proposition expressly states that the levy
35 made under this section will be used for this purpose.

36 (4) If expressly stated, a proposition placed before the voters
37 under subsection (1) or (2) of this section may:

1 (a) Use the dollar amount of a levy under subsection (1) of this
2 section, or the dollar amount of the final levy under subsection (2) of
3 this section, for the purpose of computing the limitations for
4 subsequent levies provided for in this chapter;

5 (b) Limit the period for which the increased levy is to be made
6 under (a) of this subsection;

7 (c) Limit the purpose for which the increased levy is to be made
8 under (a) of this subsection, but if the limited purpose includes
9 making redemption payments on bonds, the period for which the increased
10 levies are made shall not exceed nine years;

11 (d) Set the levy or levies at a rate less than the maximum rate
12 allowed for the district; or

13 (e) Include any combination of the conditions in this subsection.

14 (5) Except as otherwise expressly stated in an approved ballot
15 measure under this section, subsequent levies (~~shall~~) must be
16 computed as if:

17 (a) The proposition under this section had not been approved; and

18 (b) The taxing district had made levies at the maximum rates which
19 would otherwise have been allowed under this chapter during the years
20 levies were made under the proposition.

21 NEW SECTION. **Sec. 6. AUTHORIZING A COUNTY UTILITY TAX.** (1)

22 Subject to the conditions and requirements of this section, a county
23 may impose an excise tax on the privilege of engaging in business as a
24 utility. The tax is equal to the gross income derived from providing
25 service to consumers within the county multiplied by the rate provided
26 in subsection (3) of this section.

27 (2) A county with a population of one million five hundred thousand
28 persons or less may not impose an excise tax on the privilege of
29 engaging in business as a gas utility.

30 (3) A county may not impose a rate of tax that exceeds six percent,
31 except a county with a population of one million five hundred thousand
32 persons or less may not impose a rate that exceeds one percent on an
33 electrical power utility.

34 (4) A county must use taxes collected under the authority of this
35 section only for public safety, infrastructure, capital projects, and
36 other services.

1 (5) A utility subject to tax under this section must add the tax to
2 the rates or charges it makes for utility services and separately state
3 the amount of tax on billings.

4 (6) A county may initially impose the tax authorized under this
5 section only on the first day of a calendar quarter and no sooner than
6 seventy-five days from the date the county adopts the ordinance or
7 resolution imposing the tax.

8 (7) A county may provide exemptions for sales by utilities to
9 business customers, such as manufacturing facilities, aircraft repair
10 facilities, industrial parks, industrial facilities, farm businesses,
11 and computer data centers. A county may not provide a general
12 exemption for sales by utilities to residential customers unless
13 business customers are also exempt.

14 (8) A county must allow a credit against the cable service utility
15 tax for any franchise fee paid by the cable service utility to the
16 county.

17 (9) A county must provide a deduction for gross income derived from
18 providing utility service to consumers: (a) Located within the
19 incorporated areas of the county; and (b) located within the
20 unincorporated areas of the county that are outside any urban growth
21 areas, as designated in the county's comprehensive plan.

22 (10) The following definitions apply throughout this section unless
23 the context clearly requires otherwise.

24 (a) "Cable service utility" means a person providing cable service
25 as defined in the federal telecommunications act of 1996.

26 (b) "Electrical power utility" means a "light and power business"
27 as defined in RCW 82.16.010.

28 (c) "Gas utility" means a "gas distribution business" as defined in
29 RCW 82.16.010.

30 (d) "Gross income" has the same meaning as provided in RCW
31 82.16.010.

32 (e) "Sewer utility" means a sewerage collection business as that
33 term is used in chapter 82.16 RCW.

34 (f) "Solid waste utility" means a "solid waste collection business"
35 as defined in RCW 82.18.010.

36 (g) "Telephone utility" means a person providing
37 "telecommunications service" as defined in RCW 82.04.065.

1 (h) "Water utility" means a "water distribution business" as
2 defined in RCW 82.16.010.

3 (i) "Utility" means an electrical power utility, gas utility,
4 telephone utility, water utility, sewer utility, solid waste utility,
5 or cable service utility. "Utility" also means a water-sewer district
6 formed under Title 57 RCW.

7 NEW SECTION. **Sec. 7.** A new section is added to chapter 35.21 RCW
8 to read as follows:

9 **AUTHORIZING A CITY TAX ON WATER-SEWER DISTRICTS.** (1) Subject to
10 the requirements of this section, a city or town may impose a tax upon
11 the gross income of a water-sewer district formed under Title 57 RCW.

12 (2) A city or town imposing the tax authorized under this section
13 may not impose a rate of tax that exceeds six percent. A city or town
14 may impose the tax only upon the gross income of a water-sewer district
15 derived from services provided within the city or town.

16 (3) A city or town imposing the tax authorized under this section
17 must allow a credit against the tax for any franchise fee paid by a
18 water-sewer district to the city or town.

19 **Sec. 8.** RCW 82.46.035 and 2009 c 211 s 1 are each amended to read
20 as follows:

21 **ALLOWING USE OF LOCAL REET FOR PARK OPERATIONS.** (1) The
22 legislative authority of any county or city (~~shall~~) must identify in
23 the adopted budget the capital projects and park maintenance and
24 operation expenditures, or both, funded in whole or in part from the
25 proceeds of the tax authorized in this section(~~(, and shall indicate~~
26 ~~that such tax is intended to be in addition to other funds that may be~~
27 ~~reasonably available for such capital projects)~~).

28 (2) The legislative authority of any county or any city that plans
29 under RCW 36.70A.040(1) may impose an additional excise tax on each
30 sale of real property in the unincorporated areas of the county for the
31 county tax and in the corporate limits of the city for the city tax at
32 a rate not exceeding one-quarter of one percent of the selling price.
33 Any county choosing to plan under RCW 36.70A.040(2) and any city within
34 such a county may only adopt an ordinance imposing the excise tax
35 authorized by this section if the ordinance is first authorized by a
36 proposition approved by a majority of the voters of the taxing district

1 voting on the proposition at a general election held within the
2 district or at a special election within the taxing district called by
3 the district for the purpose of submitting such proposition to the
4 voters.

5 (3) Revenues generated from the tax imposed under subsection (2) of
6 this section (~~shall~~) must be used by such counties and cities
7 (~~solely~~) for financing capital projects specified in a capital
8 facilities plan element of a comprehensive plan and park maintenance
9 and operation expenditures. However, revenues (a) pledged by such
10 counties and cities to debt retirement prior to March 1, 1992, may
11 continue to be used for that purpose until the original debt for which
12 the revenues were pledged is retired, or (b) committed prior to March
13 1, 1992, by such counties or cities to a project may continue to be
14 used for that purpose until the project is completed.

15 (4) Revenues generated by the tax imposed by this section (~~shall~~)
16 must be deposited in a separate account.

17 (5) As used in this section: (a) "City" means any city or town;
18 (b) "capital project" means those public works projects of a local
19 government for planning, acquisition, construction, reconstruction,
20 repair, replacement, rehabilitation, or improvement of streets, roads,
21 highways, sidewalks, street and road lighting systems, traffic signals,
22 bridges, municipally owned heavy rail short line railroads, domestic
23 water systems, storm and sanitary sewer systems, and planning,
24 construction, reconstruction, repair, rehabilitation, or improvement of
25 parks; and (c) "short line railroads" means class III railroads as
26 defined by the United States surface transportation board.

27 (6) When the governor files a notice of noncompliance under RCW
28 36.70A.340 with the secretary of state and the appropriate county or
29 city, the county or city's authority to impose the additional excise
30 tax under this section (~~shall~~) must be temporarily rescinded until
31 the governor files a subsequent notice rescinding the notice of
32 noncompliance.

33 (7) A city or county may use revenue generated under subsection (2)
34 of this section for municipally owned heavy short line railroads only
35 if the revenue was collected prior to December 31, 2008, and may not
36 use more than twenty-five percent of the total revenue generated under
37 subsection (2) of this section for municipally owned heavy short line
38 railroads.

1 **Sec. 9.** RCW 82.46.035 and 1992 c 221 s 3 and 1991 sp.s. c 32 s 33
2 are each reenacted and amended to read as follows:

3 **ALLOWING USE OF LOCAL REET FOR PARK OPERATIONS.** (1) The
4 legislative authority of any county or city shall identify in the
5 adopted budget the capital projects and park maintenance and operation
6 expenditures, or both, funded in whole or in part from the proceeds of
7 the tax authorized in this section (~~(, and shall indicate that such tax~~
8 ~~is intended to be in addition to other funds that may be reasonably~~
9 ~~available for such capital projects)~~).

10 (2) The legislative authority of any county or any city that plans
11 under RCW 36.70A.040(1) may impose an additional excise tax on each
12 sale of real property in the unincorporated areas of the county for the
13 county tax and in the corporate limits of the city for the city tax at
14 a rate not exceeding one-quarter of one percent of the selling price.
15 Any county choosing to plan under RCW 36.70A.040(2) and any city within
16 such a county may only adopt an ordinance imposing the excise tax
17 authorized by this section if the ordinance is first authorized by a
18 proposition approved by a majority of the voters of the taxing district
19 voting on the proposition at a general election held within the
20 district or at a special election within the taxing district called by
21 the district for the purpose of submitting such proposition to the
22 voters.

23 (3) Revenues generated from the tax imposed under subsection (2) of
24 this section (~~(shall)~~) must be used by such counties and cities
25 (~~(solely)~~) for financing capital projects specified in a capital
26 facilities plan element of a comprehensive plan and park maintenance
27 and operation expenditures. However, revenues (a) pledged by such
28 counties and cities to debt retirement prior to March 1, 1992, may
29 continue to be used for that purpose until the original debt for which
30 the revenues were pledged is retired, or (b) committed prior to March
31 1, 1992, by such counties or cities to a project may continue to be
32 used for that purpose until the project is completed.

33 (4) Revenues generated by the tax imposed by this section (~~(shall)~~)
34 must be deposited in a separate account.

35 (5) As used in this section, "city" means any city or town and
36 "capital project" means those public works projects of a local
37 government for planning, acquisition, construction, reconstruction,
38 repair, replacement, rehabilitation, or improvement of streets, roads,

1 highways, sidewalks, street and road lighting systems, traffic signals,
2 bridges, domestic water systems, storm and sanitary sewer systems, and
3 planning, construction, reconstruction, repair, rehabilitation, or
4 improvement of parks.

5 (6) When the governor files a notice of noncompliance under RCW
6 36.70A.340 with the secretary of state and the appropriate county or
7 city, the county or city's authority to impose the additional excise
8 tax under this section (~~shall~~) must be temporarily rescinded until
9 the governor files a subsequent notice rescinding the notice of
10 noncompliance.

11 **Sec. 10.** RCW 82.12.010 and 2009 c 535 s 304 are each amended to
12 read as follows:

13 **CLARIFYING THE LOCATION OF FIRST USE FOR BROKERED NATURAL GAS.** For
14 the purposes of this chapter:

15 (1) "Purchase price" means the same as sales price as defined in
16 RCW 82.08.010;

17 (2)(a) "Value of the article used" shall be the purchase price for
18 the article of tangible personal property, the use of which is taxable
19 under this chapter. The term also includes, in addition to the
20 purchase price, the amount of any tariff or duty paid with respect to
21 the importation of the article used. In case the article used is
22 acquired by lease or by gift or is extracted, produced, or manufactured
23 by the person using the same or is sold under conditions wherein the
24 purchase price does not represent the true value thereof, the value of
25 the article used (~~shall be~~) is determined as nearly as possible
26 according to the retail selling price at place of use of similar
27 products of like quality and character under such rules as the
28 department may prescribe.

29 (b) In case the articles used are acquired by bailment, the value
30 of the use of the articles so used (~~shall~~) must be in an amount
31 representing a reasonable rental for the use of the articles so bailed,
32 determined as nearly as possible according to the value of such use at
33 the places of use of similar products of like quality and character
34 under such rules as the department of revenue may prescribe. In case
35 any such articles of tangible personal property are used in respect to
36 the construction, repairing, decorating, or improving of, and which
37 become or are to become an ingredient or component of, new or existing

1 buildings or other structures under, upon, or above real property of or
2 for the United States, any instrumentality thereof, or a county or city
3 housing authority created pursuant to chapter 35.82 RCW, including the
4 installing or attaching of any such articles therein or thereto,
5 whether or not such personal property becomes a part of the realty by
6 virtue of installation, then the value of the use of such articles so
7 used (~~shall be~~) is determined according to the retail selling price
8 of such articles, or in the absence of such a selling price, as nearly
9 as possible according to the retail selling price at place of use of
10 similar products of like quality and character or, in the absence of
11 either of these selling price measures, such value may be determined
12 upon a cost basis, in any event under such rules as the department of
13 revenue may prescribe.

14 (c) In the case of articles owned by a user engaged in business
15 outside the state which are brought into the state for no more than one
16 hundred eighty days in any period of three hundred sixty-five
17 consecutive days and which are temporarily used for business purposes
18 by the person in this state, the value of the article used (~~shall~~)
19 must be an amount representing a reasonable rental for the use of the
20 articles, unless the person has paid tax under this chapter or chapter
21 82.08 RCW upon the full value of the article used, as defined in (a) of
22 this subsection.

23 (d) In the case of articles manufactured or produced by the user
24 and used in the manufacture or production of products sold or to be
25 sold to the department of defense of the United States, the value of
26 the articles used (~~shall be~~) is determined according to the value of
27 the ingredients of such articles.

28 (e) In the case of an article manufactured or produced for purposes
29 of serving as a prototype for the development of a new or improved
30 product, the value of the article used (~~shall be~~) is determined by:
31 (i) The retail selling price of such new or improved product when first
32 offered for sale; or (ii) the value of materials incorporated into the
33 prototype in cases in which the new or improved product is not offered
34 for sale.

35 (f) In the case of an article purchased with a direct pay permit
36 under RCW 82.32.087, the value of the article used (~~shall be~~) is
37 determined by the purchase price of such article if, but for the use of

1 the direct pay permit, the transaction would have been subject to sales
2 tax;

3 (3) "Value of the service used" means the purchase price for the
4 digital automated service or other service, the use of which is taxable
5 under this chapter. If the service is received by gift or under
6 conditions wherein the purchase price does not represent the true value
7 thereof, the value of the service used (~~shall be~~) is determined as
8 nearly as possible according to the retail selling price at place of
9 use of similar services of like quality and character under rules the
10 department may prescribe;

11 (4) "Value of the extended warranty used" means the purchase price
12 for the extended warranty, the use of which is taxable under this
13 chapter. If the extended warranty is received by gift or under
14 conditions wherein the purchase price does not represent the true value
15 of the extended warranty, the value of the extended warranty used
16 (~~shall be~~) is determined as nearly as possible according to the
17 retail selling price at place of use of similar extended warranties of
18 like quality and character under rules the department may prescribe;

19 (5) "Value of the digital good or digital code used" means the
20 purchase price for the digital good or digital code, the use of which
21 is taxable under this chapter. If the digital good or digital code is
22 acquired other than by purchase, the value of the digital good or
23 digital code must be determined as nearly as possible according to the
24 retail selling price at place of use of similar digital goods or
25 digital codes of like quality and character under rules the department
26 may prescribe;

27 (6) "Use," "used," "using," or "put to use" have their ordinary
28 meaning, and mean:

29 (a) With respect to tangible personal property, except for natural
30 gas and manufactured gas, the first act within this state by which the
31 taxpayer takes or assumes dominion or control over the article of
32 tangible personal property (as a consumer), and include installation,
33 storage, withdrawal from storage, distribution, or any other act
34 preparatory to subsequent actual use or consumption within this state;

35 (b) With respect to a service defined in RCW 82.04.050(2)(a), the
36 first act within this state after the service has been performed by
37 which the taxpayer takes or assumes dominion or control over the
38 article of tangible personal property upon which the service was

1 performed (as a consumer), and includes installation, storage,
2 withdrawal from storage, distribution, or any other act preparatory to
3 subsequent actual use or consumption of the article within this state;

4 (c) With respect to an extended warranty, the first act within this
5 state after the extended warranty has been acquired by which the
6 taxpayer takes or assumes dominion or control over the article of
7 tangible personal property to which the extended warranty applies, and
8 includes installation, storage, withdrawal from storage, distribution,
9 or any other act preparatory to subsequent actual use or consumption of
10 the article within this state;

11 (d) With respect to a digital good or digital code, the first act
12 within this state by which the taxpayer, as a consumer, views,
13 accesses, downloads, possesses, stores, opens, manipulates, or
14 otherwise uses or enjoys the digital good or digital code;

15 (e) With respect to a digital automated service, the first act
16 within this state by which the taxpayer, as a consumer, uses, enjoys,
17 or otherwise receives the benefit of the service;

18 (f) With respect to a service defined as a retail sale in RCW
19 82.04.050(6)(b), the first act within this state by which the taxpayer,
20 as a consumer, accesses the prewritten computer software; (~~and~~)

21 (g) With respect to a service defined as a retail sale in RCW
22 82.04.050(2)(g), the first act within this state after the service has
23 been performed by which the taxpayer, as a consumer, views, accesses,
24 downloads, possesses, stores, opens, manipulates, or otherwise uses or
25 enjoys the digital good upon which the service was performed; and

26 (h) With respect to natural gas or manufactured gas, the use of
27 which is taxable under RCW 82.12.022, including gas that is also
28 taxable under the authority of RCW 82.14.230, the first act within this
29 state by which the taxpayer consumes the gas by burning the gas or
30 storing the gas in the taxpayer's own facilities for later consumption
31 by the taxpayer;

32 (7) "Taxpayer" and "purchaser" include all persons included within
33 the meaning of the word "buyer" and the word "consumer" as defined in
34 chapters 82.04 and 82.08 RCW;

35 (8)(a)(i) Except as provided in (a)(ii) of this subsection (8),
36 "retailer" means every seller as defined in RCW 82.08.010 and every
37 person engaged in the business of selling tangible personal property at

1 retail and every person required to collect from purchasers the tax
2 imposed under this chapter.

3 (ii) "Retailer" does not include a professional employer
4 organization when a covered employee coemployed with the client under
5 the terms of a professional employer agreement engages in activities
6 that constitute a sale of tangible personal property, extended
7 warranty, digital good, digital code, or a sale of any digital
8 automated service or service defined as a retail sale in RCW 82.04.050
9 (2) (a) or (g), (3) (a), or (6) (b) that is subject to the tax imposed by
10 this chapter. In such cases, the client, and not the professional
11 employer organization, is deemed to be the retailer and is responsible
12 for collecting and remitting the tax imposed by this chapter.

13 (b) For the purposes of (a) of this subsection, the terms "client,"
14 "covered employee," "professional employer agreement," and
15 "professional employer organization" have the same meanings as in RCW
16 82.04.540;

17 (9) "Extended warranty" has the same meaning as in RCW
18 82.04.050(7);

19 (10) The meaning ascribed to words and phrases in chapters 82.04
20 and 82.08 RCW, insofar as applicable, (~~shall have~~) has full force and
21 effect with respect to taxes imposed under the provisions of this
22 chapter. "Consumer," in addition to the meaning ascribed to it in
23 chapters 82.04 and 82.08 RCW insofar as applicable, (~~shall~~) also
24 means any person who distributes or displays, or causes to be
25 distributed or displayed, any article of tangible personal property,
26 except newspapers, the primary purpose of which is to promote the sale
27 of products or services. With respect to property distributed to
28 persons within this state by a consumer as defined in this subsection
29 (10), the use of the property shall be deemed to be by such consumer.

30 **Sec. 11.** RCW 82.14.230 and 1989 c 384 s 2 are each amended to read
31 as follows:

32 **CLARIFYING THE LOCATION OF FIRST USE FOR BROKERED NATURAL GAS.** (1)
33 The governing body of any city, while not required by legislative
34 mandate to do so, may, by resolution or ordinance for the purposes
35 authorized by this chapter, fix and impose on every person a use tax
36 for the privilege of using natural gas or manufactured gas in the city
37 as a consumer.

1 (2) The tax (~~shall be~~) is imposed in an amount equal to the value
2 of the article used by the taxpayer multiplied by the rate in effect
3 for the tax on natural gas businesses under RCW 35.21.870 in the city
4 in which the article is used. The "value of the article used," does
5 not include any amounts that are paid for the hire or use of a natural
6 gas business in transporting the gas subject to tax under this
7 subsection if those amounts are subject to tax under RCW 35.21.870.

8 (3) The tax imposed under this section (~~shall~~) does not apply to
9 the use of natural or manufactured gas if the person who sold the gas
10 to the consumer has paid a tax under RCW 35.21.870 with respect to the
11 gas for which exemption is sought under this subsection.

12 (4) There (~~shall be~~) is a credit against the tax levied under
13 this section in an amount equal to any tax paid by:

14 (a) The person who sold the gas to the consumer when that tax is a
15 gross receipts tax similar to that imposed pursuant to RCW 35.21.870 by
16 another (~~state~~) municipality or other unit of local government with
17 respect to the gas for which a credit is sought under this subsection;
18 or

19 (b) The person consuming the gas upon which a use tax similar to
20 the tax imposed by this section was paid to another (~~state~~)
21 municipality or other unit of local government with respect to the gas
22 for which a credit is sought under this subsection.

23 (5) The use tax (~~hereby~~) imposed (~~shall~~) must be paid by the
24 consumer. The administration and collection of the tax (~~hereby~~)
25 imposed (~~shall be~~) is pursuant to RCW 82.14.050.

26 NEW SECTION. Sec. 12. Section 6 of this act constitutes a new
27 chapter in Title 36 RCW.

28 NEW SECTION. Sec. 13. Sections 2 and 4 of this act take effect
29 January 1, 2015.

30 NEW SECTION. Sec. 14. Sections 1 and 3 of this act expire January
31 1, 2015.

32 NEW SECTION. Sec. 15. Section 9 of this act takes effect June 30,
33 2012.

1 NEW SECTION. **Sec. 16.** Section 8 of this act expires June 30,
2 2012.

--- END ---

APPENDIX C



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History of the Bill

as of Sunday, July 21, 2013 5:05 PM

Sponsors: Representatives [Nelson](#), [White](#), [Chase](#)

2010 REGULAR SESSION

Jan 13 First reading, referred to Finance. ([View Original Bill](#))

Jan 19 Public hearing in the House Committee on Finance at 1:30 PM. ([Committee Materials](#))

2010 1ST SPECIAL SESSION

Mar 15 By resolution, reintroduced and retained in present status.

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Bill Documents	Bill Digests	Bill Reports
Original Bill	Bill Digest	House Bill Analysis 2010

Fiscal Note (Available)

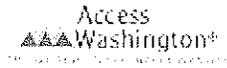
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[Jan 19, 2010 House Finance at 1:30 PM](#)



HOUSE BILL 2749

State of Washington 61st Legislature 2010 Regular Session

By Representatives Nelson, White, and Chase

Read first time 01/13/10. Referred to Committee on Finance.

1 AN ACT Relating to local government taxation; amending RCW
2 82.14.450, 82.14.450, 82.14.460, 82.14.460, 84.55.050, 82.46.035,
3 82.12.010, and 82.14.230; reenacting and amending RCW 82.46.035; adding
4 a new section to chapter 35.21 RCW; adding a new chapter to Title 36
5 RCW; providing effective dates; and providing expiration dates.

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

7 **Sec. 1.** RCW 82.14.450 and 2009 c 551 s 1 are each amended to read
8 as follows:

9 **ELIMINATING NONSUPPLANT LANGUAGE.** (1) A county legislative
10 authority may submit an authorizing proposition to the county voters at
11 a primary or general election and, if the proposition is approved by a
12 majority of persons voting, impose a sales and use tax in accordance
13 with the terms of this chapter. The title of each ballot measure must
14 clearly state the purposes for which the proposed sales and use tax
15 will be used. ~~((Funds raised under this tax shall not supplant
16 existing funds used for these purposes, except as follows: Up to one
17 hundred percent may be used to supplant existing funding in calendar
18 year 2010; up to eighty percent may be used to supplant existing
19 funding in calendar year 2011; up to sixty percent may be used to~~

1 ~~supplant existing funding in calendar year 2012; up to forty percent~~
2 ~~may be used to supplant existing funding in calendar year 2013; and up~~
3 ~~to twenty percent may be used to supplant existing funding in calendar~~
4 ~~year 2014. For purposes of this subsection, existing funds means the~~
5 ~~actual operating expenditures for the calendar year in which the ballot~~
6 ~~measure is approved by voters. Actual operating expenditures excludes~~
7 ~~lost federal funds, lost or expired state grants or loans,~~
8 ~~extraordinary events not likely to reoccur, changes in contract~~
9 ~~provisions beyond the control of the county or city receiving the~~
10 ~~services, and major nonrecurring capital expenditures.)) The rate of~~
11 tax under this section may not exceed three-tenths of one percent of
12 the selling price in the case of a sales tax, or value of the article
13 used, in the case of a use tax.

14 (2) The tax authorized in this section is in addition to any other
15 taxes authorized by law and must be collected from those persons who
16 are taxable by the state under chapters 82.08 and 82.12 RCW upon the
17 occurrence of any taxable event within the county.

18 (3) The retail sale or use of motor vehicles, and the lease of
19 motor vehicles for up to the first thirty-six months of the lease, are
20 exempt from tax imposed under this section.

21 (4) One-third of all money received under this section must be used
22 solely for criminal justice purposes, fire protection purposes, or
23 both. For the purposes of this subsection, "criminal justice purposes"
24 has the same meaning as provided in RCW 82.14.340.

25 (5) Money received under this section must be shared between the
26 county and the cities as follows: Sixty percent must be retained by
27 the county and forty percent must be distributed on a per capita basis
28 to cities in the county.

29 **Sec. 2.** RCW 82.14.450 and 2007 c 380 s 1 are each amended to read
30 as follows:

31 **ELIMINATING NONSUPPLANT LANGUAGE.** (1) A county legislative
32 authority may submit an authorizing proposition to the county voters at
33 a primary or general election and, if the proposition is approved by a
34 majority of persons voting, impose a sales and use tax in accordance
35 with the terms of this chapter. The title of each ballot measure must
36 clearly state the purposes for which the proposed sales and use tax
37 will be used. (~~Funds raised under this tax shall not supplant~~

1 existing funds used for these purposes. For purposes of this
2 subsection, existing funds means the actual operating expenditures for
3 the calendar year in which the ballot measure is approved by voters.
4 Actual operating expenditures excludes lost federal funds, lost or
5 expired state grants or loans, extraordinary events not likely to
6 reoccur, changes in contract provisions beyond the control of the
7 county or city receiving the services, and major nonrecurring capital
8 expenditures.)) The rate of tax under this section shall not exceed
9 three-tenths of one percent of the selling price in the case of a sales
10 tax, or value of the article used, in the case of a use tax.

11 (2) The tax authorized in this section is in addition to any other
12 taxes authorized by law and (~~shall~~) must be collected from those
13 persons who are taxable by the state under chapters 82.08 and 82.12 RCW
14 upon the occurrence of any taxable event within the county.

15 (3) The retail sale or use of motor vehicles, and the lease of
16 motor vehicles for up to the first thirty-six months of the lease, are
17 exempt from tax imposed under this section.

18 (4) One-third of all money received under this section (~~shall~~)
19 must be used solely for criminal justice purposes. For the purposes of
20 this subsection, "criminal justice purposes" means additional police
21 protection, mitigation of congested court systems, or relief of
22 overcrowded jails or other local correctional facilities.

23 (5) Money received under this section (~~shall~~) must be shared
24 between the county and the cities as follows: Sixty percent (~~shall~~)
25 must be retained by the county and forty percent (~~shall~~) must be
26 distributed on a per capita basis to cities in the county.

27 **Sec. 3.** RCW 82.14.460 and 2009 c 551 s 2 are each amended to read
28 as follows:

29 **ELIMINATING NONSUPPLANT LANGUAGE.** (1) A county legislative
30 authority may authorize, fix, and impose a sales and use tax in
31 accordance with the terms of this chapter.

32 (2) The tax authorized in this section (~~shall be~~) is in addition
33 to any other taxes authorized by law and (~~shall~~) must be collected
34 from those persons who are taxable by the state under chapters 82.08
35 and 82.12 RCW upon the occurrence of any taxable event within the
36 county. The rate of tax (~~shall~~) equals one-tenth of one percent of

1 the selling price in the case of a sales tax, or value of the article
2 used, in the case of a use tax.

3 (3) Moneys collected under this section (~~shall~~) must be used
4 solely for the purpose of providing for the operation or delivery of
5 chemical dependency or mental health treatment programs and services
6 and for the operation or delivery of therapeutic court programs and
7 services. For the purposes of this section, "programs and services"
8 includes, but is not limited to, treatment services, case management,
9 and housing that are a component of a coordinated chemical dependency
10 or mental health treatment program or service.

11 ~~((4) All moneys collected under this section must be used solely
12 for the purpose of providing new or expanded programs and services as
13 provided in this section, except a portion of moneys collected under
14 this section may be used to supplant existing funding for these
15 purposes in any county as follows: Up to fifty percent may be used to
16 supplant existing funding in calendar year 2010; up to forty percent
17 may be used to supplant existing funding in calendar year 2011; up to
18 thirty percent may be used to supplant existing funding in calendar
19 year 2012; up to twenty percent may be used to supplant existing
20 funding in calendar year 2013; and up to ten percent may be used to
21 supplant existing funding in calendar year 2014.~~

22 ~~(5) Nothing in this section may be interpreted to prohibit the use
23 of moneys collected under this section for the replacement of lapsed
24 federal funding previously provided for the operation or delivery of
25 services and programs as provided in this section.)~~

26 **Sec. 4.** RCW 82.14.460 and 2008 c 157 s 2 are each amended to read
27 as follows:

28 **ELIMINATING NONSUPPLANT LANGUAGE.** (1) A county legislative
29 authority may authorize, fix, and impose a sales and use tax in
30 accordance with the terms of this chapter.

31 (2) The tax authorized in this section (~~shall be~~) is in addition
32 to any other taxes authorized by law and (~~shall~~) must be collected
33 from those persons who are taxable by the state under chapters 82.08
34 and 82.12 RCW upon the occurrence of any taxable event within the
35 county. The rate of tax (~~shall~~) equals one-tenth of one percent of
36 the selling price in the case of a sales tax, or value of the article
37 used, in the case of a use tax.

1 (3) Moneys collected under this section (~~shall~~) must be used
2 solely for the purpose of providing for the operation or delivery of
3 new or expanded chemical dependency or mental health treatment programs
4 and services and for the operation or delivery of new or expanded
5 therapeutic court programs and services. For the purposes of this
6 section, "programs and services" includes, but is not limited to,
7 treatment services, case management, and housing that are a component
8 of a coordinated chemical dependency or mental health treatment program
9 or service.

10 (~~(4) Moneys collected under this section shall not be used to~~
11 ~~supplant existing funding for these purposes, provided that nothing in~~
12 ~~this section shall be interpreted to prohibit the use of moneys~~
13 ~~collected under this section for the replacement of lapsed federal~~
14 ~~funding previously provided for the operation or delivery of services~~
15 ~~and programs as provided in this section.))~~

16 **Sec. 5.** RCW 84.55.050 and 2009 c 551 s 3 are each amended to read
17 as follows:

18 **ELIMINATING NONSUPPLANT LANGUAGE.** (1) Subject to any otherwise
19 applicable statutory dollar rate limitations, regular property taxes
20 may be levied by or for a taxing district in an amount exceeding the
21 limitations provided for in this chapter if such levy is authorized by
22 a proposition approved by a majority of the voters of the taxing
23 district voting on the proposition at a general election held within
24 the district or at a special election within the taxing district called
25 by the district for the purpose of submitting such proposition to the
26 voters. Any election held pursuant to this section (~~shall~~) must be
27 held not more than twelve months prior to the date on which the
28 proposed levy is to be made, except as provided in subsection (2) of
29 this section. The ballot of the proposition (~~shall~~) must state the
30 dollar rate proposed and (~~shall~~) must clearly state the conditions,
31 if any, which are applicable under subsection (4) of this section.

32 (2) (~~(a)~~) Subject to statutory dollar limitations, a proposition
33 placed before the voters under this section may authorize annual
34 increases in levies for multiple consecutive years, up to six
35 consecutive years, during which period each year's authorized maximum
36 legal levy (~~shall~~) must be used as the base upon which an increased
37 levy limit for the succeeding year is computed, but the ballot

1 proposition must state the dollar rate proposed only for the first year
2 of the consecutive years and must state the limit factor, or a
3 specified index to be used for determining a limit factor, such as the
4 consumer price index, which need not be the same for all years, by
5 which the regular tax levy for the district may be increased in each of
6 the subsequent consecutive years. Elections for this purpose must be
7 held at a primary or general election. The title of each ballot
8 measure must state the limited purposes for which the proposed annual
9 increases during the specified period of up to six consecutive years
10 shall be used.

11 ~~((b)(i) Except as otherwise provided in this subsection (2)(b),~~
12 ~~funds raised by a levy under this subsection may not supplant existing~~
13 ~~funds used for the limited purpose specified in the ballot title. For~~
14 ~~purposes of this subsection, existing funds means the actual operating~~
15 ~~expenditures for the calendar year in which the ballot measure is~~
16 ~~approved by voters. Actual operating expenditures excludes lost~~
17 ~~federal funds, lost or expired state grants or loans, extraordinary~~
18 ~~events not likely to reoccur, changes in contract provisions beyond the~~
19 ~~control of the taxing district receiving the services, and major~~
20 ~~nonrecurring capital expenditures.~~

21 ~~(ii) The supplanting limitations in (b)(i) of this subsection do~~
22 ~~not apply to levies approved by the voters in calendar years 2009,~~
23 ~~2010, and 2011, in any county with a population of one million five~~
24 ~~hundred thousand or more. This subsection (2)(b)(ii) only applies to~~
25 ~~levies approved by the voters after July 26, 2009.~~

26 ~~(iii) The supplanting limitations in (b)(i) of this subsection do~~
27 ~~not apply to levies approved by the voters in calendar year 2009 and~~
28 ~~thereafter in any county with a population less than one million five~~
29 ~~hundred thousand. This subsection (2)(b)(iii) only applies to levies~~
30 ~~approved by the voters after July 26, 2009.)~~

31 (3) After a levy authorized pursuant to this section is made, the
32 dollar amount of ~~((such))~~ the levy may not be used for the purpose of
33 computing the limitations for subsequent levies provided for in this
34 chapter, unless the ballot proposition expressly states that the levy
35 made under this section will be used for this purpose.

36 (4) If expressly stated, a proposition placed before the voters
37 under subsection (1) or (2) of this section may:

1 (a) Use the dollar amount of a levy under subsection (1) of this
2 section, or the dollar amount of the final levy under subsection (2) of
3 this section, for the purpose of computing the limitations for
4 subsequent levies provided for in this chapter;

5 (b) Limit the period for which the increased levy is to be made
6 under (a) of this subsection;

7 (c) Limit the purpose for which the increased levy is to be made
8 under (a) of this subsection, but if the limited purpose includes
9 making redemption payments on bonds, the period for which the increased
10 levies are made shall not exceed nine years;

11 (d) Set the levy or levies at a rate less than the maximum rate
12 allowed for the district; or

13 (e) Include any combination of the conditions in this subsection.

14 (5) Except as otherwise expressly stated in an approved ballot
15 measure under this section, subsequent levies (~~shall~~) must be
16 computed as if:

17 (a) The proposition under this section had not been approved; and

18 (b) The taxing district had made levies at the maximum rates which
19 would otherwise have been allowed under this chapter during the years
20 levies were made under the proposition.

21 NEW SECTION. **Sec. 6. AUTHORIZING A COUNTY UTILITY TAX.** (1)

22 Subject to the conditions and requirements of this section, a county
23 may impose an excise tax on the privilege of engaging in business as a
24 utility. The tax is equal to the gross income derived from providing
25 service to consumers within the county multiplied by the rate provided
26 in subsection (3) of this section.

27 (2) A county with a population of one million five hundred thousand
28 persons or less may not impose an excise tax on the privilege of
29 engaging in business as a gas utility.

30 (3) A county may not impose a rate of tax that exceeds six percent,
31 except a county with a population of one million five hundred thousand
32 persons or less may not impose a rate that exceeds one percent on an
33 electrical power utility.

34 (4) A county must use taxes collected under the authority of this
35 section only for public safety, infrastructure, capital projects, and
36 other services.

1 (5) A utility subject to tax under this section must add the tax to
2 the rates or charges it makes for utility services and separately state
3 the amount of tax on billings.

4 (6) A county may initially impose the tax authorized under this
5 section only on the first day of a calendar quarter and no sooner than
6 seventy-five days from the date the county adopts the ordinance or
7 resolution imposing the tax.

8 (7) A county may provide exemptions for sales by utilities to
9 business customers, such as manufacturing facilities, aircraft repair
10 facilities, industrial parks, industrial facilities, farm businesses,
11 and computer data centers. A county may not provide a general
12 exemption for sales by utilities to residential customers unless
13 business customers are also exempt.

14 (8) A county must allow a credit against the cable service utility
15 tax for any franchise fee paid by the cable service utility to the
16 county.

17 (9) A county must provide a deduction for gross income derived from
18 providing utility service to consumers: (a) Located within the
19 incorporated areas of the county; and (b) located within the
20 unincorporated areas of the county that are outside any urban growth
21 areas, as designated in the county's comprehensive plan.

22 (10) The following definitions apply throughout this section unless
23 the context clearly requires otherwise.

24 (a) "Cable service utility" means a person providing cable service
25 as defined in the federal telecommunications act of 1996.

26 (b) "Electrical power utility" means a "light and power business"
27 as defined in RCW 82.16.010.

28 (c) "Gas utility" means a "gas distribution business" as defined in
29 RCW 82.16.010.

30 (d) "Gross income" has the same meaning as provided in RCW
31 82.16.010.

32 (e) "Sewer utility" means a sewerage collection business as that
33 term is used in chapter 82.16 RCW.

34 (f) "Solid waste utility" means a "solid waste collection business"
35 as defined in RCW 82.18.010.

36 (g) "Telephone utility" means a person providing
37 "telecommunications service" as defined in RCW 82.04.065.

1 (h) "Water utility" means a "water distribution business" as
2 defined in RCW 82.16.010.

3 (i) "Utility" means an electrical power utility, gas utility,
4 telephone utility, water utility, sewer utility, solid waste utility,
5 or cable service utility. "Utility" also means a water-sewer district
6 formed under Title 57 RCW.

7 NEW SECTION. **Sec. 7.** A new section is added to chapter 35.21 RCW
8 to read as follows:

9 **AUTHORIZING A CITY TAX ON WATER-SEWER DISTRICTS.** (1) Subject to
10 the requirements of this section, a city or town may impose a tax upon
11 the gross income of a water-sewer district formed under Title 57 RCW.

12 (2) A city or town imposing the tax authorized under this section
13 may not impose a rate of tax that exceeds six percent. A city or town
14 may impose the tax only upon the gross income of a water-sewer district
15 derived from services provided within the city or town.

16 (3) A city or town imposing the tax authorized under this section
17 must allow a credit against the tax for any franchise fee paid by a
18 water-sewer district to the city or town.

19 **Sec. 8.** RCW 82.46.035 and 2009 c 211 s 1 are each amended to read
20 as follows:

21 **ALLOWING USE OF LOCAL REET FOR PARK OPERATIONS.** (1) The
22 legislative authority of any county or city (~~shall~~) must identify in
23 the adopted budget the capital projects and park maintenance and
24 operation expenditures, or both, funded in whole or in part from the
25 proceeds of the tax authorized in this section(~~(, and shall indicate~~
26 ~~that such tax is intended to be in addition to other funds that may be~~
27 ~~reasonably available for such capital projects)~~)).

28 (2) The legislative authority of any county or any city that plans
29 under RCW 36.70A.040(1) may impose an additional excise tax on each
30 sale of real property in the unincorporated areas of the county for the
31 county tax and in the corporate limits of the city for the city tax at
32 a rate not exceeding one-quarter of one percent of the selling price.
33 Any county choosing to plan under RCW 36.70A.040(2) and any city within
34 such a county may only adopt an ordinance imposing the excise tax
35 authorized by this section if the ordinance is first authorized by a
36 proposition approved by a majority of the voters of the taxing district

1 voting on the proposition at a general election held within the
2 district or at a special election within the taxing district called by
3 the district for the purpose of submitting such proposition to the
4 voters.

5 (3) Revenues generated from the tax imposed under subsection (2) of
6 this section (~~(shall)~~) must be used by such counties and cities
7 (~~(solely)~~) for financing capital projects specified in a capital
8 facilities plan element of a comprehensive plan and park maintenance
9 and operation expenditures. However, revenues (a) pledged by such
10 counties and cities to debt retirement prior to March 1, 1992, may
11 continue to be used for that purpose until the original debt for which
12 the revenues were pledged is retired, or (b) committed prior to March
13 1, 1992, by such counties or cities to a project may continue to be
14 used for that purpose until the project is completed.

15 (4) Revenues generated by the tax imposed by this section (~~(shall)~~)
16 must be deposited in a separate account.

17 (5) As used in this section: (a) "City" means any city or town;
18 (b) "capital project" means those public works projects of a local
19 government for planning, acquisition, construction, reconstruction,
20 repair, replacement, rehabilitation, or improvement of streets, roads,
21 highways, sidewalks, street and road lighting systems, traffic signals,
22 bridges, municipally owned heavy rail short line railroads, domestic
23 water systems, storm and sanitary sewer systems, and planning,
24 construction, reconstruction, repair, rehabilitation, or improvement of
25 parks; and (c) "short line railroads" means class III railroads as
26 defined by the United States surface transportation board.

27 (6) When the governor files a notice of noncompliance under RCW
28 36.70A.340 with the secretary of state and the appropriate county or
29 city, the county or city's authority to impose the additional excise
30 tax under this section (~~(shall)~~) must be temporarily rescinded until
31 the governor files a subsequent notice rescinding the notice of
32 noncompliance.

33 (7) A city or county may use revenue generated under subsection (2)
34 of this section for municipally owned heavy short line railroads only
35 if the revenue was collected prior to December 31, 2008, and may not
36 use more than twenty-five percent of the total revenue generated under
37 subsection (2) of this section for municipally owned heavy short line
38 railroads.

1 **Sec. 9.** RCW 82.46.035 and 1992 c 221 s 3 and 1991 sp.s. c 32 s 33
2 are each reenacted and amended to read as follows:

3 **ALLOWING USE OF LOCAL REET FOR PARK OPERATIONS.** (1) The
4 legislative authority of any county or city shall identify in the
5 adopted budget the capital projects and park maintenance and operation
6 expenditures, or both, funded in whole or in part from the proceeds of
7 the tax authorized in this section (~~(, and shall indicate that such tax~~
8 ~~is intended to be in addition to other funds that may be reasonably~~
9 ~~available for such capital projects)~~).

10 (2) The legislative authority of any county or any city that plans
11 under RCW 36.70A.040(1) may impose an additional excise tax on each
12 sale of real property in the unincorporated areas of the county for the
13 county tax and in the corporate limits of the city for the city tax at
14 a rate not exceeding one-quarter of one percent of the selling price.
15 Any county choosing to plan under RCW 36.70A.040(2) and any city within
16 such a county may only adopt an ordinance imposing the excise tax
17 authorized by this section if the ordinance is first authorized by a
18 proposition approved by a majority of the voters of the taxing district
19 voting on the proposition at a general election held within the
20 district or at a special election within the taxing district called by
21 the district for the purpose of submitting such proposition to the
22 voters.

23 (3) Revenues generated from the tax imposed under subsection (2) of
24 this section (~~(shall)~~) must be used by such counties and cities
25 (~~(solely)~~) for financing capital projects specified in a capital
26 facilities plan element of a comprehensive plan and park maintenance
27 and operation expenditures. However, revenues (a) pledged by such
28 counties and cities to debt retirement prior to March 1, 1992, may
29 continue to be used for that purpose until the original debt for which
30 the revenues were pledged is retired, or (b) committed prior to March
31 1, 1992, by such counties or cities to a project may continue to be
32 used for that purpose until the project is completed.

33 (4) Revenues generated by the tax imposed by this section (~~(shall)~~)
34 must be deposited in a separate account.

35 (5) As used in this section, "city" means any city or town and
36 "capital project" means those public works projects of a local
37 government for planning, acquisition, construction, reconstruction,
38 repair, replacement, rehabilitation, or improvement of streets, roads,

1 highways, sidewalks, street and road lighting systems, traffic signals,
2 bridges, domestic water systems, storm and sanitary sewer systems, and
3 planning, construction, reconstruction, repair, rehabilitation, or
4 improvement of parks.

5 (6) When the governor files a notice of noncompliance under RCW
6 36.70A.340 with the secretary of state and the appropriate county or
7 city, the county or city's authority to impose the additional excise
8 tax under this section (~~shall~~) must be temporarily rescinded until
9 the governor files a subsequent notice rescinding the notice of
10 noncompliance.

11 **Sec. 10.** RCW 82.12.010 and 2009 c 535 s 304 are each amended to
12 read as follows:

13 **CLARIFYING THE LOCATION OF FIRST USE FOR BROKERED NATURAL GAS.** For
14 the purposes of this chapter:

15 (1) "Purchase price" means the same as sales price as defined in
16 RCW 82.08.010;

17 (2)(a) "Value of the article used" shall be the purchase price for
18 the article of tangible personal property, the use of which is taxable
19 under this chapter. The term also includes, in addition to the
20 purchase price, the amount of any tariff or duty paid with respect to
21 the importation of the article used. In case the article used is
22 acquired by lease or by gift or is extracted, produced, or manufactured
23 by the person using the same or is sold under conditions wherein the
24 purchase price does not represent the true value thereof, the value of
25 the article used (~~shall be~~) is determined as nearly as possible
26 according to the retail selling price at place of use of similar
27 products of like quality and character under such rules as the
28 department may prescribe.

29 (b) In case the articles used are acquired by bailment, the value
30 of the use of the articles so used (~~shall~~) must be in an amount
31 representing a reasonable rental for the use of the articles so bailed,
32 determined as nearly as possible according to the value of such use at
33 the places of use of similar products of like quality and character
34 under such rules as the department of revenue may prescribe. In case
35 any such articles of tangible personal property are used in respect to
36 the construction, repairing, decorating, or improving of, and which
37 become or are to become an ingredient or component of, new or existing

1 buildings or other structures under, upon, or above real property of or
2 for the United States, any instrumentality thereof, or a county or city
3 housing authority created pursuant to chapter 35.82 RCW, including the
4 installing or attaching of any such articles therein or thereto,
5 whether or not such personal property becomes a part of the realty by
6 virtue of installation, then the value of the use of such articles so
7 used (~~shall be~~) is determined according to the retail selling price
8 of such articles, or in the absence of such a selling price, as nearly
9 as possible according to the retail selling price at place of use of
10 similar products of like quality and character or, in the absence of
11 either of these selling price measures, such value may be determined
12 upon a cost basis, in any event under such rules as the department of
13 revenue may prescribe.

14 (c) In the case of articles owned by a user engaged in business
15 outside the state which are brought into the state for no more than one
16 hundred eighty days in any period of three hundred sixty-five
17 consecutive days and which are temporarily used for business purposes
18 by the person in this state, the value of the article used (~~shall~~)
19 must be an amount representing a reasonable rental for the use of the
20 articles, unless the person has paid tax under this chapter or chapter
21 82.08 RCW upon the full value of the article used, as defined in (a) of
22 this subsection.

23 (d) In the case of articles manufactured or produced by the user
24 and used in the manufacture or production of products sold or to be
25 sold to the department of defense of the United States, the value of
26 the articles used (~~shall be~~) is determined according to the value of
27 the ingredients of such articles.

28 (e) In the case of an article manufactured or produced for purposes
29 of serving as a prototype for the development of a new or improved
30 product, the value of the article used (~~shall be~~) is determined by:
31 (i) The retail selling price of such new or improved product when first
32 offered for sale; or (ii) the value of materials incorporated into the
33 prototype in cases in which the new or improved product is not offered
34 for sale.

35 (f) In the case of an article purchased with a direct pay permit
36 under RCW 82.32.087, the value of the article used (~~shall be~~) is
37 determined by the purchase price of such article if, but for the use of

1 the direct pay permit, the transaction would have been subject to sales
2 tax;

3 (3) "Value of the service used" means the purchase price for the
4 digital automated service or other service, the use of which is taxable
5 under this chapter. If the service is received by gift or under
6 conditions wherein the purchase price does not represent the true value
7 thereof, the value of the service used (~~shall be~~) is determined as
8 nearly as possible according to the retail selling price at place of
9 use of similar services of like quality and character under rules the
10 department may prescribe;

11 (4) "Value of the extended warranty used" means the purchase price
12 for the extended warranty, the use of which is taxable under this
13 chapter. If the extended warranty is received by gift or under
14 conditions wherein the purchase price does not represent the true value
15 of the extended warranty, the value of the extended warranty used
16 (~~shall be~~) is determined as nearly as possible according to the
17 retail selling price at place of use of similar extended warranties of
18 like quality and character under rules the department may prescribe;

19 (5) "Value of the digital good or digital code used" means the
20 purchase price for the digital good or digital code, the use of which
21 is taxable under this chapter. If the digital good or digital code is
22 acquired other than by purchase, the value of the digital good or
23 digital code must be determined as nearly as possible according to the
24 retail selling price at place of use of similar digital goods or
25 digital codes of like quality and character under rules the department
26 may prescribe;

27 (6) "Use," "used," "using," or "put to use" have their ordinary
28 meaning, and mean:

29 (a) With respect to tangible personal property, except for natural
30 gas and manufactured gas, the first act within this state by which the
31 taxpayer takes or assumes dominion or control over the article of
32 tangible personal property (as a consumer), and include installation,
33 storage, withdrawal from storage, distribution, or any other act
34 preparatory to subsequent actual use or consumption within this state;

35 (b) With respect to a service defined in RCW 82.04.050(2)(a), the
36 first act within this state after the service has been performed by
37 which the taxpayer takes or assumes dominion or control over the
38 article of tangible personal property upon which the service was

1 performed (as a consumer), and includes installation, storage,
2 withdrawal from storage, distribution, or any other act preparatory to
3 subsequent actual use or consumption of the article within this state;

4 (c) With respect to an extended warranty, the first act within this
5 state after the extended warranty has been acquired by which the
6 taxpayer takes or assumes dominion or control over the article of
7 tangible personal property to which the extended warranty applies, and
8 includes installation, storage, withdrawal from storage, distribution,
9 or any other act preparatory to subsequent actual use or consumption of
10 the article within this state;

11 (d) With respect to a digital good or digital code, the first act
12 within this state by which the taxpayer, as a consumer, views,
13 accesses, downloads, possesses, stores, opens, manipulates, or
14 otherwise uses or enjoys the digital good or digital code;

15 (e) With respect to a digital automated service, the first act
16 within this state by which the taxpayer, as a consumer, uses, enjoys,
17 or otherwise receives the benefit of the service;

18 (f) With respect to a service defined as a retail sale in RCW
19 82.04.050(6)(b), the first act within this state by which the taxpayer,
20 as a consumer, accesses the prewritten computer software; (~~and~~)

21 (g) With respect to a service defined as a retail sale in RCW
22 82.04.050(2)(g), the first act within this state after the service has
23 been performed by which the taxpayer, as a consumer, views, accesses,
24 downloads, possesses, stores, opens, manipulates, or otherwise uses or
25 enjoys the digital good upon which the service was performed; and

26 (h) With respect to natural gas or manufactured gas, the use of
27 which is taxable under RCW 82.12.022, including gas that is also
28 taxable under the authority of RCW 82.14.230, the first act within this
29 state by which the taxpayer consumes the gas by burning the gas or
30 storing the gas in the taxpayer's own facilities for later consumption
31 by the taxpayer;

32 (7) "Taxpayer" and "purchaser" include all persons included within
33 the meaning of the word "buyer" and the word "consumer" as defined in
34 chapters 82.04 and 82.08 RCW;

35 (8)(a)(i) Except as provided in (a)(ii) of this subsection (8),
36 "retailer" means every seller as defined in RCW 82.08.010 and every
37 person engaged in the business of selling tangible personal property at

1 retail and every person required to collect from purchasers the tax
2 imposed under this chapter.

3 (ii) "Retailer" does not include a professional employer
4 organization when a covered employee coemployed with the client under
5 the terms of a professional employer agreement engages in activities
6 that constitute a sale of tangible personal property, extended
7 warranty, digital good, digital code, or a sale of any digital
8 automated service or service defined as a retail sale in RCW 82.04.050
9 (2) (a) or (g), (3) (a), or (6) (b) that is subject to the tax imposed by
10 this chapter. In such cases, the client, and not the professional
11 employer organization, is deemed to be the retailer and is responsible
12 for collecting and remitting the tax imposed by this chapter.

13 (b) For the purposes of (a) of this subsection, the terms "client,"
14 "covered employee," "professional employer agreement," and
15 "professional employer organization" have the same meanings as in RCW
16 82.04.540;

17 (9) "Extended warranty" has the same meaning as in RCW
18 82.04.050(7);

19 (10) The meaning ascribed to words and phrases in chapters 82.04
20 and 82.08 RCW, insofar as applicable, (~~shall have~~) has full force and
21 effect with respect to taxes imposed under the provisions of this
22 chapter. "Consumer," in addition to the meaning ascribed to it in
23 chapters 82.04 and 82.08 RCW insofar as applicable, (~~shall~~) also
24 means any person who distributes or displays, or causes to be
25 distributed or displayed, any article of tangible personal property,
26 except newspapers, the primary purpose of which is to promote the sale
27 of products or services. With respect to property distributed to
28 persons within this state by a consumer as defined in this subsection
29 (10), the use of the property shall be deemed to be by such consumer.

30 **Sec. 11.** RCW 82.14.230 and 1989 c 384 s 2 are each amended to read
31 as follows:

32 **CLARIFYING THE LOCATION OF FIRST USE FOR BROKERED NATURAL GAS.** (1)
33 The governing body of any city, while not required by legislative
34 mandate to do so, may, by resolution or ordinance for the purposes
35 authorized by this chapter, fix and impose on every person a use tax
36 for the privilege of using natural gas or manufactured gas in the city
37 as a consumer.

1 (2) The tax (~~(shall be)~~) is imposed in an amount equal to the value
2 of the article used by the taxpayer multiplied by the rate in effect
3 for the tax on natural gas businesses under RCW 35.21.870 in the city
4 in which the article is used. The "value of the article used," does
5 not include any amounts that are paid for the hire or use of a natural
6 gas business in transporting the gas subject to tax under this
7 subsection if those amounts are subject to tax under RCW 35.21.870.

8 (3) The tax imposed under this section (~~(shall)~~) does not apply to
9 the use of natural or manufactured gas if the person who sold the gas
10 to the consumer has paid a tax under RCW 35.21.870 with respect to the
11 gas for which exemption is sought under this subsection.

12 (4) There (~~(shall be)~~) is a credit against the tax levied under
13 this section in an amount equal to any tax paid by:

14 (a) The person who sold the gas to the consumer when that tax is a
15 gross receipts tax similar to that imposed pursuant to RCW 35.21.870 by
16 another (~~(state)~~) municipality or other unit of local government with
17 respect to the gas for which a credit is sought under this subsection;
18 or

19 (b) The person consuming the gas upon which a use tax similar to
20 the tax imposed by this section was paid to another (~~(state)~~)
21 municipality or other unit of local government with respect to the gas
22 for which a credit is sought under this subsection.

23 (5) The use tax (~~(hereby)~~) imposed (~~(shall)~~) must be paid by the
24 consumer. The administration and collection of the tax (~~(hereby)~~)
25 imposed (~~(shall be)~~) is pursuant to RCW 82.14.050.

26 NEW SECTION. Sec. 12. Section 6 of this act constitutes a new
27 chapter in Title 36 RCW.

28 NEW SECTION. Sec. 13. Sections 2 and 4 of this act take effect
29 January 1, 2015.

30 NEW SECTION. Sec. 14. Sections 1 and 3 of this act expire January
31 1, 2015.

32 NEW SECTION. Sec. 15. Section 9 of this act takes effect June 30,
33 2012.

1 NEW SECTION. **Sec. 16.** Section 8 of this act expires June 30,
2 2012.

--- END ---

APPENDIX D



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5960



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SB 5960 - 2009-10 [\(What is this?\)](#)

Authorizing cities and counties to levy and collect certain additional taxes.

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History of the Bill

as of Sunday, July 21, 2013 5:04 PM

Sponsors: Senators Regala, [Fraser](#), [Kline](#)

2009 REGULAR SESSION

Feb 10 First reading, referred to Ways & Means. ([View Original Bill](#))

Feb 26 Public hearing in the Senate Committee on Ways & Means at 1:30 PM. ([Committee Materials](#))

2010 REGULAR SESSION

Jan 11 By resolution, reintroduced and retained in present status.

2010 1ST SPECIAL SESSION

Mar 15 By resolution, reintroduced and retained in present status.

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Available Documents

Bill Documents

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Available Videos (Video links take you to the TVW website)

Live video is available at the stated time. Archived video becomes available approximately two hours after the close of the hearing or floor session.

[Feb 26, 2009 Senate Ways & Means at 1:30 PM](#)

SENATE BILL 5960

State of Washington 61st Legislature 2009 Regular Session

By Senators Regala, Fraser, and Kline

Read first time 02/10/09. Referred to Committee on Ways & Means.

1 AN ACT Relating to authorizing cities and counties to levy and
2 collect certain additional taxes; amending RCW 82.14.450; adding a new
3 chapter to Title 82 RCW; providing an effective date; and declaring an
4 emergency.

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

6 NEW SECTION. **Sec. 1.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires otherwise.

8 (1) "Telephone utility" means a person providing telecommunications
9 services as defined in RCW 82.04.065.

10 (2) "Water utility" means a water distribution business as defined
11 in RCW 82.16.010.

12 (3) "Sewer utility" means a sewerage collection business as defined
13 in RCW 82.16.020.

14 (4) "Solid waste utility" means a solid waste collection business
15 as defined in RCW 82.18.010.

16 (5) "Cable service utility" means a person providing cable service
17 as defined in the federal telecommunications act of 1996.

18 (6) "Electric utility" means a light and power business as defined
19 in RCW 82.16.010.

1 (7) "Natural gas utility" means a gas distribution business as
2 defined in RCW 82.16.010.

3 (8) "Utility" means a telephone utility, water utility, sewer
4 utility, solid waste utility, cable service utility, electric utility,
5 or natural gas utility.

6 (9) "Gross income of the business" is defined as provided in RCW
7 82.04.080.

8 NEW SECTION. **Sec. 2.** (1) The legislative authority of a county,
9 by resolution or ordinance, may impose an excise tax on the privilege
10 of engaging in business as a utility within the unincorporated
11 territory of the county. The tax is equal to the gross income of the
12 business multiplied by a rate not exceeding six percent.

13 (2) Taxes imposed under this section must apply uniformly
14 throughout the unincorporated territory of the county.

15 (3) The utility must add a tax imposed under this section to the
16 rates or charges it makes for utility services and separately state the
17 amount of tax on billings.

18 (4) The resolution or ordinance adopted must provide a credit
19 against the county utility tax imposed under this chapter for the full
20 amount of any city utility tax imposed upon the same taxable event so
21 that the combined utilities' taxes do not exceed six percent.

22 NEW SECTION. **Sec. 3.** Thirty percent of the revenues received from
23 taxes imposed under this chapter must be used exclusively for criminal
24 justice purposes as defined in RCW 82.14.340.

25 NEW SECTION. **Sec. 4.** Any county in which a public utility
26 district operates works, plants, or facilities for the distribution and
27 sale of electricity has the power to levy and collect from such
28 district a tax on the gross revenues derived by such district from the
29 sale of electricity within the county, exclusive of the revenues
30 derived from the sale of electricity for purposes of resale. Such tax
31 when levied is a debt of the district, and may be collected as such.
32 Any such district has the power to add the amount of such tax to the
33 rates or charges it makes for electricity so sold within the limits of
34 such city or town.

1 **Sec. 5.** RCW 82.14.450 and 2007 c 380 s 1 are each amended to read
2 as follows:

3 (1) Until July 1, 2009, a county legislative authority may submit
4 an authorizing proposition to the county voters at a primary or general
5 election and, if the proposition is approved by a majority of persons
6 voting, impose a sales and use tax in accordance with the terms of this
7 chapter. The title of each ballot measure must clearly state the
8 purposes for which the proposed sales and use tax will be used.
9 ~~((Funds raised under this tax shall not supplant existing funds used
10 for these purposes. For purposes of this subsection, existing funds
11 means the actual operating expenditures for the calendar year in which
12 the ballot measure is approved by voters. Actual operating
13 expenditures excludes lost federal funds, lost or expired state grants
14 or loans, extraordinary events not likely to reoccur, changes in
15 contract provisions beyond the control of the county or city receiving
16 the services, and major nonrecurring capital expenditures.))~~ The rate
17 of tax under this section shall not exceed three-tenths of one percent
18 of the selling price in the case of a sales tax, or value of the
19 article used, in the case of a use tax.

20 (2) Beginning July 1, 2009, a county legislative authority may, by
21 resolution or ordinance, impose a sales and use tax in accordance with
22 the terms of this chapter, provided that such sales and use tax is
23 subject to repeal by referendum, using the procedures provided in RCW
24 82.14.036. The referendum procedure provided in RCW 82.14.036 is the
25 exclusive method for subjecting any county sales and use tax ordinance
26 or resolution to a referendum vote. The rate of tax under this
27 subsection may not exceed three-tenths of one percent of the selling
28 price in the case of a sales tax, or value of the article used, in the
29 case of a use tax.

30 (3) The tax authorized in this section is in addition to any other
31 taxes authorized by law and shall be collected from those persons who
32 are taxable by the state under chapters 82.08 and 82.12 RCW upon the
33 occurrence of any taxable event within the county.

34 ~~((3))~~ (4) The retail sale or use of motor vehicles, and the lease
35 of motor vehicles for up to the first thirty-six months of the lease,
36 are exempt from tax imposed under this section.

37 ~~((4))~~ (5) One-third of all money received under this section
38 shall be used solely for criminal justice purposes and fire protection

1 purposes. For the purposes of this subsection, "criminal justice
2 purposes" (~~(means additional police protection, mitigation of congested~~
3 ~~court systems, or relief of overcrowded jails or other local~~
4 ~~correctional facilities)~~) has the same meaning as in RCW 82.14.340.

5 ~~((+5))~~ (6)(a) Money received under subsections (1) and (2) of this
6 section shall be shared between the county and the cities as follows:
7 Sixty percent shall be retained by the county and forty percent shall
8 be distributed on a per capita basis to cities in the county.

9 (b) A tax imposed under subsection (1) of this section continues
10 until repealed or expires.

11 (c) If a county has imposed a sales and use tax with a rate of tax
12 equal to three-tenths of one percent under subsection (1) of this
13 section, the tax authorized in subsection (2) of this section is not
14 available to the county or any city within the county.

15 (d) If a county has imposed a sales and use tax with a rate of tax
16 less than three-tenths of one percent under subsection (1) of this
17 section, a county may impose an additional sales and use tax under
18 subsection (2) of this section so that the combined rate of tax does
19 not exceed three-tenths of one percent.

20 NEW SECTION. Sec. 6. Sections 1 through 4 of this act constitute
21 a new chapter in Title 82 RCW.

22 NEW SECTION. Sec. 7. This act is necessary for the immediate
23 preservation of the public peace, health, or safety, or support of the
24 state government and its existing public institutions, and takes effect
25 July 1, 2009.

--- END ---

APPENDIX E

RCW 35.13B.010

Tax authorized — Interlocal agreement. (Expires January 1, 2015.)

(1) A city in which a water-sewer district operates works, plants, or facilities for the distribution and sale of water or sewer services may levy and collect from the district a tax on the gross revenues derived by the district from the sale of water or sewer services within the city, exclusive of the revenues derived from the sale of water or sewer services for purposes of resale. The tax when levied must be a debt of the district, and may be collected as such. The district may add the amount of tax to the rates or charges it makes for water or sewer services sold within the limits of the city.

(2)(a) A city imposing a tax under this section:

(i) May not impose a franchise fee or other charge on the water-sewer district; and

(ii) May only do so through an interlocal agreement with the district under chapter 39.34 RCW.

(b) The interlocal agreement required by this subsection (2) must identify the district as the collection and pass-through entity, with revenues submitted to the city. The interlocal agreement may include provisions addressing city assumptions of the water-sewer district and the expenditure of revenues collected under this section in areas of the district that are located within the corporate limits of the city.

(3) For purposes of this section, the term "city" has the same meaning as defined in RCW 35.13A.010.

[2010 c 102 § 1.]

Notes:

Reviser's note: 2010 c 102 § 1 directed that this section be codified in chapter 35.21 RCW, but codification in chapter 35.13B RCW appears to be more appropriate.

Application -- 2010 c 102: "This act applies only to a city, as well as the water-sewer districts within the corporate boundaries of the city and potential annexation areas that, as of June 10, 2010:

(1) Has a population of between eighty thousand and eighty-five thousand as certified in the April 1, 2009, official population estimates listed by the office of financial management; and

(2) Is located in a county with a population of one million five hundred thousand or more." [2010 c 102 § 9.]

Expiration date -- 2010 c 102: "This act expires January 1, 2015." [2010 c 102 § 11.]

APPENDIX F

List of Washington Cities and Towns that are Within the Boundaries of Special Districts

Updated February 2013

The source data for the spread sheets is principally from the Department of Revenue Tax Code Areas, documents received by MRSC, election results, and information contained on Web pages of jurisdictions.

The lists included represent the known cities that are in special districts, however changes occur through annexation of territory, mergers, and dissolutions. The Department of Revenue only lists those districts which assess property taxes. It does not lists benefit assessment districts, such as Mosquito Control Districts.

MRSC offers two additional spread sheets. One provides a list of special purpose districts in each county. The county list replaces the 39 individual county web pages previously existing on MRSC's Website. In addition to active districts, it includes the dissolved, merged, and those with unknown disposition. The link to the spreadsheet List of Special Districts Purpose by County Appears below [List of Special Purpose Districts by County](#)

A second Excel spreadsheet provides list of special purpose districts by type of district in each county. The link to the spreadsheet List of Special Purpose Districts by Type and by County Appears below

[List of Special Purpose Districts by Type and by County](#)

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[Cities in Hospital Districts](#)

[Cities in Library Districts \(all types of library districts\)](#)

[Cities in Park Districts \(All types of park districts\)](#)

[Water-Sewer Districts with Boundaries within Cities](#)

If you have information to add or corrections, please contact:

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E-Mail: ldemerritt@mrsc.org

Water-Sewer Districts with Boundaries within Cities

[Return to Contents](#)

City or Town	Water-Sewer District	County
Auburn	King County Water District No. 111	King, Pierce
Auburn	Lakehaven Water District	King, Pierce
Auburn	Soos Creek Water and Sewer District	King, Pierce
Bainbridge Island	Kitsap Sewer District No. 7	Kitsap
Bainbridge Island	Crystal Springs Water District No. 3	King
Black Diamond	Covington Water District	King
Black Diamond	Soos Creek Water and Sewer District	King
Bonney Lake	Valley Water District	
Bothell	Alderwood Waste Water District	Snohomish
Bothell	Northshore Utility District	King, Snohomish
Bothell	Woodinville Water District	King
Bremerton	Sunnyslope Water District No. 15	Kitsap
Brier	Alderwood Waste Water District	Snohomish
Burien	Highline Water District (Formerly King County Water District 75)	King
Burien	King County Water District No. 20	King
Burien	King County Water District No. 49	King
Burien	King County Water District No. 54	King
Burien	King County Water District No. 125	King
Burien	Southwest Suburban Sewer	King
Burien	Midway Sewer District	King
Burien	Valley View Sewer District	King
Chehalis	Lewis County Water and Sewer District No. 4	Lewis
Covington	Coal Creek Utility District	King
Covington	Covington Water District	King
Covington	King County Water District No. 111	King
Covington	Soos Creek Water and Sewer District	King
Des Moines	Highline Water District (Formerly King County Water District 75)	King
Des Moines	King County Water District No. 54	King
Des Moines	Lakehaven Water District	King
Des Moines	Midway Sewer District	King
Des Moines	Southwest Suburban Sewer District	King
East Wenatchee	East Wenatchee Water District	Chelan

East Wenatchee	Douglas County Sewer District No. 1	Chelan
Edmonds	Olympic View Water and Sewer District	Snohomish
Edmonds	Alderwood Waste Water District	Snohomish
Everett	Alderwood Waste Water District	Snohomish
Everett	Silverlake Water District	Snohomish
Everett	Mukilteo Waste Water District	Snohomish
Federal Way	Highline Water District (Formerly King County Water District 75)	King
Federal Way	Lakehaven Water District	King
Federal Way	Midway Sewer District	King
Issaquah	Sammamish Plateau Water and Sewer District	King
Kenmore	Northshore Utility District	King
Kent	Covington Water District	King
Kent	Highline Water District (Formerly King County Water District 75)	King
Kent	King County Water District No. 111	King
Kent	Lakehaven Water District	King
Kent	Midway Sewer District	King
Kent	Soos Creek Water and Sewer District	King
Kirkland	Northshore Utility District	King
Kirkland	Woodinville Water District	King
Lake Forest Park	Lake Forest Park Water District	King
Lake Forest Park	Northshore Utility District	King
Lake Forest Park	Shoreline Water District	King
Lake Stevens	Lake Stevens Sewer District	Snohomish
Lakewood	Lakewood Water District	Pierce
Liberty Lake	Liberty Lake Sewer and Water District No. 1	Spokane
Lynnwood	Alderwood Waste Water District	Snohomish
Maple Valley	Covington Water District	King
Maple Valley	Cedar River Water and Sewer District	King
Maple Valley	Soos Creek Water and Sewer District	King
Mill Creek	Alderwood Waste Water District	Snohomish
Milton	Lakehaven Water District	Pierce
Mountlake Terrace	Alderwood Waste Water District	Snohomish
Mountlake Terrace	Olympic View Water and Sewer District	Snohomish
Mukilteo	Mukilteo Waste Water District	Snohomish
Mukilteo	Alderwood Waste Water District	Snohomish
Mukilteo	Silverlake Water District	Snohomish
Newcastle	Coal Creek Utility District	King
Normandy Park	Highline Water (Formerly King County Water District 75)	King

Normandy Park	King County Water District No. 49	King
Normandy Park	King County Water District No. 54	King
Normandy Park	Midway Sewer District	King
Normandy Park	Southwest Suburban Sewer	King
Pacific	Lakehaven Water District	Pierce
Pasco	Basin City Water and Sewer District	Franklin
Port Orchard	West Sound Utility District No. 1	Kitsap
Puyallup	Valley Water District	Pierce
Redmond	Woodinville Water District	King
Renton	Coal Creek Utility District	King
Renton	Coal River Water and Sewer District	King
Renton	King County Water District No. 90	King
Renton	Sky Water and Sewer District	King
Renton	Soos Creek District	King
Roslyn	Kittitas Co. Water District No. 3	Kittitas
Sammamish	Northeast Sammamish Sewer and Water District	King
Sammamish	Sammamish Plateau Water and Sewer District	King
SeaTac	Highline Water District (King County Water District 75)	King
SeaTac	King County Water District No. 20	King
SeaTac	King County Water District No. 49	King
SeaTac	King County Water District No. 125	King
SeaTac	Midway Sewer District	King
SeaTac	Southwest Suburban Sewer District	King
SeaTac	Valley View Sewer District	King
SeaTac	King County Water District No. 20	King
Seattle	Shoreline Water District	King
Seattle	Southwest Suburban Sewer District	King
Seattle	Highlands Sewer District	King
Shoreline	Ronald Wastewater District	King
Shoreline	Shoreline Water District	King
Shoreline	Cross Valley Water District	Snohomish
Snohomish	Valley Water District	Pierce
Steilacoom	Highland Water District	Snohomish
Sultan	Lakewood Water District	Pierce
Tacoma	Highline Water District (Formerly King County Water District 75)	King
Tukwila	King County Water District No. 20	King
Tukwila	King County Water District No. 49	King
Tukwila	King County Water District No. 125	King
Tukwila	Valley View Sewer District	King

University Place
Woodinville
Woodinville
Woodway

Lakewood Water District
Northshore Utility District
Woodinville Water District
Olympic View Water and Sewer District

King County Water District No 1 (maintenance, operations, and water supply system improvements purchased by Bellevue)

Yarrow Point

Pierce
King
King
Snohomish

King

APPENDIX G

ORDINANCE NO. 634

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AMENDING THE SHORELINE UTILITY TAX BY CLARIFYING THAT UTILITY TAXES ARE APPLICABLE TO WATER AND SEWER UTILITIES BY PRIVATE OR MUNICIPAL PARTIES BUT AMENDING EXEMPTIONS FOR THOSE UTILITIES IN GOOD STANDING FOR DEDUCTION OF AN EQUIVALENT FRANCHISE FEE; AND AMENDING CHAPTER 3.32 OF THE SHORELINE MUNICIPAL CODE

WHEREAS, Shoreline Municipal Code section 3.32.030 applies a utility tax of 6% to Water Distribution Operations and Sewerage Operations; and

WHEREAS, there was uncertainty at the time Shoreline adopted its utility tax as to whether statutory authority to assess a utility tax by cities included a power to tax utilities provided by another municipal corporation even where the utility was a proprietary but this area has recently been clarified by the Washington Court to allow taxing of other municipalities' proprietary utility operations such as water and sewer; and

WHEREAS, a full credit for franchise fees paid by Utilities in Good Standing against the proposed 6% utility tax against water and sewer operators will result in no net increase to ratepayers for Seattle Public Utilities and Shoreline Water District;

WHEREAS, this action is exempt from SEPA as an assessment of taxes under WAC 197-11-800(14)(b); now therefore,

THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment. Shoreline Municipal Code section 3.32.010 *Imposed* is amended to read as follows:

.030 *Imposed*. There is levied and shall be collected from every person a tax for the act or privilege of engaging in utility occupation activities as defined in Section 2. Such tax shall be measured by the application of rates against the gross proceeds of sales from customers within the City. The tax provided for in this ordinance shall be known as the "utility tax," and is levied upon the privilege of conducting the business of manufacturing or distributing natural gas, telephone, cellular telephone, cable television, or solid waste collection business within the City of Shoreline. This tax is also levied upon any public or private operator of any municipal domestic water distribution and supply system or municipal domestic sewer system as a public utility, ~~to the extent that such tax is or may in the future be authorized by law.~~ All revenues collected pursuant to this ordinance shall be deposited into the General Fund and shall be used for the funding of general City services or capital projects as the City Council shall direct through its annual budget process.

Section 2. Amendment. Shoreline Municipal Code section 3.32.020 *Definitions* is hereby amended to read as follows:

.020 Definitions. As used in this ordinance, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

A. "Cable television services" means the one-way transmission of video programming and associated nonvideo signals to subscribers together with subscriber interaction, if any, which is provided in connection with video programming.

B. "Cellular telephone service" means two-way voice and data telephone/telecommunications system based in whole or substantially in part on wireless radio communications and which is not currently subject to regulation by the Washington Utilities and Transportation Commission (WUTC). Cellular telephone service includes cellular mobile service. The definition of cellular mobile service includes other wireless radio communications services such as specialized mobile radio (SMR), personal communications services (PCS) and any other evolving wireless radio communications technology which accomplishes the same purpose as cellular mobile service.

C. "Gas distribution business" means the business of selling, furnishing, or transmitting gas, whether manufactured or natural.

D. "Gross proceeds of sale" or "Gross income of business" means the value proceeding or accruing from the sale of tangible personal property and/or for services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction for losses.

E. "Pager service" means service provided by means of an electronic device which has the ability to send or receive voice or digital messages transmitted through the local telephone network, vial satellite or any other form of voice or data transmission.

F. "Person" means any person, firm, corporation, association, or entity of any type engaged in a business subject to taxation under this ordinance.

G. "Solid waste collection business" means every person who receives solid waste or recyclable materials, or both, as defined in this section, for transfer, storage, or disposal including but not limited to all collection services, public or private solid waste disposal sites, transfer stations, and similar operations.

"Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

"Recyclable materials" means those solid wastes that are separated for recycling or reuse, such as papers, metals, and glass, that are designated as recyclable materials pursuant to SMC 13.15.020.

H. "Telephone business" means the business of providing network telephone service as defined in this section. It includes cooperative or farmer line telephone companies or associations operating an exchange.

"Network telephone service" means the providing by any person of access to a local telephone network, local telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Network telephone service" includes interstate service, including toll service, originating from or received on telecommunications equipment or apparatus in this state if the charge for the service is billed to a person in this state. "Network telephone service" does not include the providing of competitive telephone service, the providing of cable television service, or the providing of broadcast services by radio or television stations.

"Competitive telephone service" means the providing by any person of telecommunications equipment or apparatus, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which can be provided by persons that are not subject to regulation as telephone companies under RCW Title 80 and for which a separate charge is made.

I. "Sewerage Operation" means operation of sanitary sewer facilities, including collection, treatment and disposal facilities, and combined sanitary and surface water drains and outfalls.

J. "Water Distribution Operation" means the ~~business of operating~~ operation of a plant or system for the distribution of water for hire or sale.

Section 3. Amendment. Shoreline Municipal Code section 3.34.030 *Utility occupation activities subject to taxation* is amended to read as follows:

.030.

A. Upon every person within the city in the following activities; as to such persons, the amount of the tax due with respect to such business in the city shall be equal to the gross income of the business, multiplied by the following applicable rates:

<u>Activity</u>	<u>Tax Rate</u>
A. Gas Distribution Business	6%
B. Telephone Business	6%
C. Cellular Telephone Service	6%
D. Cable Television Service	6%
E. Solid Waste Collection Business	6%
F. Water Distribution Operation	6%
G. Sewerage Operation	6%
H. Paging Service	6%

B. Tax Credits, Exemptions. Water Distribution Operations and Sewerage Operations in good standing with a franchise or right-of-way use agreement pursuant to chapter 12.25 SMC executed prior to May 21, 2012 shall be exempt from taxation under this section for the term of the franchise or use agreement. Thereafter, a credit for franchise fees or right-of-way use agreement payments executed pursuant to chapter 12.25 SMC will be applied as a credit to the tax assessed under this section.

Section 4. Amendment. Shoreline Municipal Code section 3.32.040 *Deductions* is amended to read as follows:

.040 Deductions. The following items may be deducted from the total gross income upon which the tax is computed:

A. Credit losses actually sustained by taxpayers whose regular books are kept on an accrual basis.

B. That portion of gross income derived from charges to another telecommunications company for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services, or charges for telephone service which the purchaser buys for the purpose of resale.

C. Adjustments made to a billing or customer account in order to reverse a billing or charge that was not properly a debt of the customer.

D. Amounts derived from a business which the City is prohibited from taxing under the constitution of this state or the Constitution or laws of the United States.

E. Grants from governmental agencies.

~~F. For municipal sewer utilities, the amount paid to another municipal corporation or agency for sewer interception, treatment, or disposal.~~

~~G. For municipal water operations, the amount paid to another municipal corporation or agency for water distributed within the City.~~

-Section 5. Publication and Effective Date. This ordinance shall take effect five days after publication of the title of this ordinance as an approved summary of the ordinance in the official newspaper of the City.

PASSED BY THE CITY COUNCIL ON MAY 14, 2012.



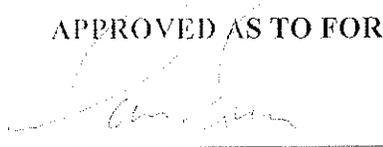
Mayor Keith A. McGlashan

ATTEST:



Scott Passey
City Clerk

APPROVED AS TO FORM:



Ian Sievers
City Attorney

Date of publication: May 17, 2012
Effective date: May 22, 2012

ORIGINAL

ORDINANCE NO. 638

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AMENDING THE APPLICATION OF THE EXEMPTION FROM UTILITY TAX FOR UTILITIES IN GOOD STANDING; AND AMENDING SECTION 3.32.030 OF THE SHORELINE MUNICIPAL CODE

WHEREAS, Shoreline Ordinance No. 634 added an exemption from utility tax for water distribution and sewer operations utilities with an existing franchise on May 21, 2012 to preserve the financial expectations for those utilities with executed contracts on the effective date of the ordinance; and

WHEREAS, negotiating a replacement franchise with the Shoreline Water District provided by May 21, 2012 may not be possible and the exemption should be amended to extend to all water and sewer Utilities in Good Standing unless specifically addressed in the utility's franchise ordinance; and

WHEREAS, this action is exempt from SEPA as an assessment of taxes under WAC 197-11-800(14)(b); now therefore,

THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment. Shoreline Municipal Code section 3.32.030 *Utility occupation activities subject to taxation* is amended to read as follows:

.030.

A. Upon every person within the city in the following activities; as to such persons, the amount of the tax due with respect to such business in the city shall be equal to the gross income of the business, multiplied by the following applicable rates:

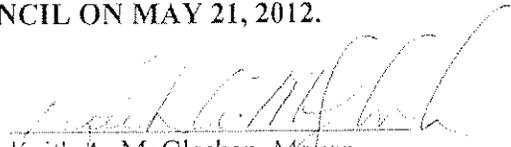
<u>Activity</u>	<u>Tax Rate</u>
A. Gas Distribution Business	6%
B. Telephone Business	6%
C. Cellular Telephone Service	6%
D. Cable Television Service	6%
E. Solid Waste Collection Business	6%
F. Water Distribution Operation	6%
G. Sewerage Operation	6%
H. Paging Service	6%

ORIGINAL

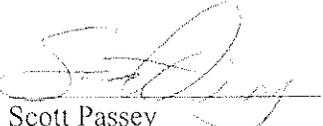
B. Tax Credits, Exemptions. Water Distribution Operations and Sewerage Operations in good standing with a franchise or right-of-way use agreement ~~pursuant issued under to~~ chapter 12.25 SMC ~~executed prior to May 21, 2012~~ shall be exempt from taxation under this section for the term of the franchise or use agreement unless applicability of the utility tax or tax credit is specifically addressed in a franchise or use agreements entered after May 21, 2012. ~~Thereafter, a credit for franchise fees or right-of-way use agreement payments executed pursuant to chapter 12.25 SMC will be applied as a credit to the tax assessed under this section.~~

Section 5. Publication and Effective Date. This ordinance shall take effect five days after publication of the title of this ordinance as an approved summary of the ordinance in the official newspaper of the City.

PASSED BY THE CITY COUNCIL ON MAY 21, 2012.


Keith A. McGlashan, Mayor

ATTEST:

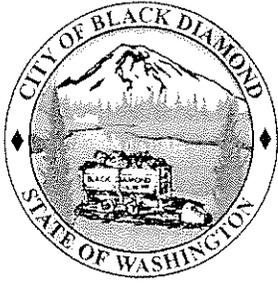

Scott Passey
City Clerk

APPROVED AS TO FORM:


Ian Sievers
City Attorney

Date of publication: May 24, 2012
Effective date: May 29, 2012

APPENDIX H



CITY OF BLACK DIAMOND

24301 Roberts Drive - PO Box 599
Black Diamond, WA 98010

Phone: (360) 886-5700
Fax: (360) 886-2592

April 10, 2013

Gwenn Maxfield,
General Manager
Covington Water District
18631 SE 300th Place
Covington, WA. 98042

Re: Water Utility Tax - Deficiency

Dear Ms. Maxfield:

The purpose of this letter is to re-visit an issue that was raised with the Covington Water District (the "District") at the end of 2007 by former Black Diamond City Administrator, Gwendolyn Voelpel.

In late 2007 the former City Administrator notified you, as General Manager of the District, that the District had not been paying utility taxes to the City as required pursuant to the Black Diamond Municipal Code. The City code provides at BDMC 5.35.030(E) that there shall be levied a tax equal to six percent of the total gross income derived from the operation of any water distribution system within or partly within the corporate limits of the city. In December of 2007 you responded by e-mail that your legal counsel had advised that such a tax upon District revenues was precluded under the government immunity doctrine. Thus, the District has not been reporting and paying utility taxes to the City.

We have asked our City Attorney to review this issue to determine if in fact the District is immune from the City utility tax. He has completed his review and concluded that the governmental tax immunity doctrine is inapplicable to revenues of the District and that the District should be paying utility taxes to the City as required under the City Code. The government tax immunity doctrine is applicable only to revenues derived by municipal corporations when acting in their governmental capacity. The Washington Courts have long held that a municipal corporation providing water is doing so in its proprietary capacity, and thus does not enjoy sovereign immunity from taxation as an agent of the state. The case relied upon by the District's attorney¹ involved solid waste collection which has been historically considered a governmental activity and thus, does not support the District's position.

¹ *King County v. Algona*, 101 Wn.2d 789 (1984)

Gwen Maxfield, General Manager
Covington Water District
April 10, 2013
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We believe that the District is subject to the City Utility tax levied pursuant to BDMC 5.35.030 and that there is a deficiency in payment of the District's utility tax obligation. This letter is not a formal deficiency notice or notice of violation as we would like to meet with representatives of the District to discuss this issue and determine whether or not the City and the District can identify common ground to resolve this issue and bring the District current on its utility tax obligations.

Please notify me as soon as possible of your response and availability for a meeting. Thank you for your prompt attention.

Very truly yours,

A handwritten signature in cursive script that reads "Rebecca Olness".

Rebecca Olness,
Mayor