

# PSSB 5450

Effect: Amends section 3 of the bill draft (relating to collection of the tax and deposit into a state custodial account when Department of Revenue is the contracted entity to collect the county tax) by adding standard language related to custodial accounts and amending the correct interest income retention provisions (for custodial accounts, instead of treasury accounts).

AN ACT Relating to creating a local mineral severance tax; reenacting and amending RCW 43.79A.040; and adding a new chapter to Title 82 RCW.

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

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

(1) "Mineral" means rock, stone, sand, and gravel.

(2) "Person" means "person" as defined in RCW 82.04.030.

(3) "Producer" means any person subject to tax under chapter 82.04 RCW who, from the person's own land or from the land of another under a right or license granted by lease or other contract, either directly or by contracting with others for the necessary labor or mechanical services, severs minerals for sale or for commercial or industrial use.

(4) "Severance" or "sever" means the taking of or producing from the lands or waters of this state any mineral by whatever means used.

(5) "Value" means "value of products" as determined under RCW 82.04.450.

NEW SECTION. **Sec. 2.** (1) The legislative body of any county, by ordinance, may impose an excise tax upon the privilege of severing minerals from the land or waters within the county. The tax is imposed upon the entire production in the county regardless of the place of sale or that delivery may be made outside the county or the state. The tax authorized in this section is in addition to any other taxes authorized by law.

(2) The tax imposed by this chapter on the severance of minerals is the liability of the producer.

(3) The rate of the tax imposed is up to five percent.

(4) The measure of the tax is the value of the minerals.

NEW SECTION. **Sec. 3.** (1) Counties must contract, no less than seventy-five days prior to the effective date of an ordinance imposing the severance tax, for the administration and collection of the tax by the department. A county must provide the department with at least seventy-five days' notice prior to the expiration of the tax in section 2 of this act and the department must notify affected taxpayers before the expiration. The department must deduct an amount, as provided by contract, not to exceed one percent of the taxes collected for administration and collection expenses incurred by the department.

(2) The county severance taxation account is created in the custody of the state treasurer. All receipts from the remainder of any portion of any tax authorized by this chapter that are collected by the department must be deposited into the account. Expenditures from the account may be used only for the counties as provided in this section. Distributions may be made from the account only as authorized in this section.

(3) Monthly, the state treasurer must distribute moneys in the county severance taxation account to counties imposing a county severance tax authorized in section 2 of this act. Fifty percent of

the moneys must be deposited in the county general fund and fifty percent must be deposited into the county road fund. Except as provided in RCW 43.08.190, all earnings of investments of balances in the county severance taxation account must be credited to the county severance taxation account and distributed monthly to the counties imposing the tax.

NEW SECTION. **Sec. 4.** (1) The taxes imposed under this chapter are due and payable monthly within twenty-five days after the end of the month in which the taxable activity occurs. The department may relieve any taxpayer from the obligation of filing a monthly return and may require the return to cover other periods, but in no event may periodic returns be filed for a period greater than one year. In such cases tax returns and payments are due on or before the last day of the month next succeeding the end of the period covered by the return. The department must assign a reporting frequency for the tax authorized in this chapter that coincides with the taxpayer's reporting frequency for the tax imposed in chapter 82.04 RCW.

(2) The taxpayer must file a return, upon the forms, or electronically as provided in RCW 82.32.080, setting forth the information, as the department may require, showing the amount of tax for which the taxpayer is liable for the reporting period. The taxpayer must transmit the return and remit payment of the amount due to the department by the due date.

NEW SECTION. **Sec. 5.** The following are exempt from the taxes imposed under this chapter:

(1) The value of any minerals severed from the land or waters by a person and incorporated into a construction project located on the site where the minerals were severed;

(2) The value of any minerals owned by a producer:

(a) Regulated by chapters 78.56 and 78.44 RCW; or

(b) Exempt from tax by reason of federal law or a compact negotiated by the state with a tribal government.

NEW SECTION.     **Sec. 6.**     Chapter 82.32 RCW applies to the tax authorized in section 2 of this act. The department may adopt any administrative rules necessary for the effective administration of this chapter.

**Sec. 7.**     RCW 43.79A.040 and 2010 1st sp.s. c 19 s 22, 2010 1st sp.s. c 13 s 4, 2010 1st sp.s. c 9 s 6, 2010 c 222 s 4, and 2010 c 215 s 7 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the accessible communities account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust

fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the county severance taxation account, the Washington international exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high

occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. **Sec. 9.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.