
 CHAPTER 89

 [Engrossed Senate Bill No. 2194]
 VACANCY IN UNITED STATES
 SENATORSHIP—FILLING

AN ACT Relating to United States senators; amending section 29.68.070, chapter 9, Laws of 1965 and RCW 29.68.070; and providing for the submission of this act to a vote of the people.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 29.68.070, chapter 9, Laws of 1965 and RCW 29.68.070 are each amended to read as follows:

When a vacancy happens in the representation of this state in the senate of the United States the governor shall make a temporary appointment until the people fill the vacancy by election at the next ensuing general state election occurring during an even-numbered year. Such temporary appointment shall be from a list of three names submitted to the governor by the state central committee of the same political party as the senator holding office prior to the vacancy. A vacancy occurring after the first day for filing specified in RCW 29.18.030 and prior to the general state election shall be filled by election at the next ensuing general state election occurring during an even-numbered year.

NEW SECTION. Sec. 2. This amendatory act shall be submitted to the people for their adoption and ratification, or rejection, at a special election hereby ordered by the legislature, which election shall be held in conjunction with the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1975, all in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof.

Passed the Senate April 17, 1975.

Passed the House May 23, 1975.

Filed in Office of Secretary of State May 27, 1975.

 CHAPTER 90

 [Substitute House Bill No. 86]
 EXCISE TAXES—GOVERNMENT CONSTRUCTION

AN ACT Relating to revenue and taxation; amending section 1, chapter 8, Laws of 1970 ex. sess. as last amended by section 1, chapter 145, Laws of 1973 1st ex. sess. and RCW 82.04.050; amending section 82.04.190, chapter 15, Laws of 1961 as last amended by section 4, chapter 299, Laws of 1971 ex. sess. and RCW 82.04.190; amending section 2, chapter 8, Laws of 1970 ex. sess. as last amended by section 5, chapter 299, Laws of 1971 ex. sess. and RCW 82.04.280; creating a new section; and prescribing an effective date.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 1, chapter 8, Laws of 1970 ex. sess. as last amended by section 1, chapter 145, Laws of 1973 1st ex. sess. and RCW 82.04.050 are each amended to read as follows:

"Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of

the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who (a) purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, or (b) installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person, or (c) purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), or (c) above following such use. The term also means every sale of tangible personal property to persons engaged in any business which is taxable under RCW 82.04.280, subsections (2) and (7) and RCW 82.04.290.

The term "sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following: (a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house, trailer camp or tourist camp for the exclusive use of the tenants thereof, and also excluding sales of laundry service to members by nonprofit associations composed exclusively of nonprofit hospitals, and excluding services rendered in respect to live animals, birds and insects; (b) the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture; (c) the sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning,

snow removal or sandblasting; (d) the sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW; (e) the sale of and charge made for the furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same; (f) the sale of or charge made for tangible personal property, labor and services to persons taxable under (a), (b), (c), (d), and (e) above when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this paragraph shall be construed to modify the first paragraph of this section and nothing contained in the first paragraph of this section shall be construed to modify this paragraph.

The term "sale at retail" or "retail sale" shall include the sale of or charge made for personal business or professional services, including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities; (a) amusement and recreation businesses including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows and others; (b) abstract, title insurance and escrow businesses; (c) credit bureau businesses; (d) automobile parking and storage garage businesses.

The term shall also include the renting or leasing of tangible personal property to consumers.

The term shall not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind, nor shall it include sales of feed, seed, fertilizer, and spray materials to persons for the purpose of producing for sale any agricultural product whatsoever, including milk, eggs, wool, fur, meat, honey, or other substances obtained from animals, birds, or insects but only when such production and subsequent sale are exempt from tax under RCW 82.04.330, nor shall it include sales of chemical sprays or washes to persons for the purpose of post-harvest treatment of fruit for the prevention of scald, fungus, mold, or decay.

The term shall not include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible

personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor shall the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority.

Sec. 2. Section 82.04.190, chapter 15, Laws of 1961 as last amended by section 4, chapter 299, Laws of 1971 ex. sess. and RCW 82.04.190 are each amended to read as follows:

"Consumer" means the following:

(1) Any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of his business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose (a) of resale as tangible personal property in the regular course of business or (b) of incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers or (c) of consuming such property in producing for sale a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale;

(2) Any person engaged in any business activity taxable under RCW 82.04.290;

(3) Any person engaged in the business of contracting for the building, repairing or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state of Washington or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind as defined in RCW 82.04.280, in respect to tangible personal property when such person incorporates such property as an ingredient or component of such publicly owned street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or upon the right of way of such street, place, road, highway, easement, bridge, tunnel, or trestle or in or upon the site of such mass public transportation terminal or parking facility;

(4) Any person who is an owner, lessee or has the right of possession to or an easement in real ~~((or personal))~~ property which is being constructed, repaired, decorated, improved, ((cleaned, imprinted,)) or otherwise altered by a person engaged in business, excluding only ~~((the United States and))~~ (a) municipal corporations or political subdivisions of the state in respect to labor and services rendered to their real property which is used or held for public road purposes, and (b) the United States, instrumentalities thereof, and county and city housing authorities created pursuant to chapter 35.82 RCW in respect to labor and services

rendered to their real property. Nothing contained in this or any other subsection of this definition shall be construed to modify any other definition of "consumer";

(5) Any person who is an owner, lessee, or has the right of possession to personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business;

(6) Any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Any such person shall be a consumer within the meaning of this subsection in respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person.

Sec. 3. Section 2, chapter 8, Laws of 1970 ex. sess. as last amended by section 5, chapter 299, Laws of 1971 ex. sess. and RCW 82.04.280 are each amended to read as follows:

Upon every person engaging within this state in the business of: (1) Printing, and of publishing newspapers, periodicals or magazines; (2) building, repairing or improving any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used, primarily for foot or vehicular traffic including mass transportation vehicles of any kind and including any readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of such building, repairing or improving, the cost of which readjustment, reconstruction, or relocation, is the responsibility of the public authority whose street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle is being built, repaired or improved; (3) extracting for hire or processing for hire; (4) operating a cold storage warehouse, but not including the rental of cold storage lockers; (5) representing and performing services for fire or casualty insurance companies as an independent resident managing general agent licensed under the provisions of RCW 48.05.310; (6) radio and television broadcasting, excluding network, national and regional advertising computed as a standard deduction based on the national average thereof as annually reported by the Federal Communications Commission, or in lieu thereof by itemization by the individual broadcasting station, and excluding that portion of revenue represented by the out-of-state audience computed as a ratio to the station's total audience as measured by the 100 micro-volt signal strength and delivery by wire, if any; (7) engaging in activities which bring a person within the definition of consumer contained in RCW 82.04.190(6), as now or hereafter amended; as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of forty-four one hundredths of one percent.

NEW SECTION. Sec. 4. In the event any person has entered into a contract prior to July 1, 1975 or has bid upon a contract prior to July 1, 1975 and has been awarded the contract after July 1, 1975 and would be required under the terms of

the contract to bear the economic burden of the additional taxes imposed by this 1975 amendatory act, the additional taxes imposed by this 1975 amendatory act shall not be required to be paid by such person in carrying on activities in the fulfillment of such contract.

NEW SECTION. Sec. 5. This 1975 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975.

Passed the House March 14, 1975.

Passed the Senate May 19, 1975.

Approved by the Governor May 27, 1975.

Filed in Office of Secretary of State May 27, 1975.

CHAPTER 91

[House Bill No. 1075]

STATE FUNDS AND ACCOUNTS—TRANSFERS

AN ACT Relating to state funds; adding a new section to chapter 43.79 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. There is added to chapter 43.79 RCW a new section to read as follows:

All moneys to the credit of the following state funds or accounts as of the effective date of this act are transferred to the state general fund on that date:

(1) The public school building construction account of the general fund created under RCW 43.79.330; and

(2) The general administration construction fund in the general fund created under RCW 43.82.090.

***NEW SECTION.** Sec. 2. *This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.*

*Sec. 2. was vetoed, see message at end of chapter.

Passed the House May 8, 1975.

Passed the Senate May 16, 1975.

Approved by the Governor May 27, 1975, with the exception of section 2 which is vetoed.

Filed in Office of Secretary of State May 27, 1975.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section House Bill No. 1075 entitled:

"AN ACT Relating to state funds."

This bill transfers balances in the general administration construction fund and public school building construction account to the state general fund.

Section 2 declares an emergency and provides for the act to take effect immediately. I have, on several recent occasions, expressed my increasing apprehension