

Ordinance No. 123150

Council Bill No. 116592

AN ORDINANCE repealing Chapter 5.37 of the Seattle Municipal Code (Employee Hours Tax), effective January 1, 2010.

Related Legislation File: _____

Date Introduced and Referred: <u>7.20.09</u>	To: (committee): <u>Budget</u>
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: <u>11-23-09</u>	Date Presented to Mayor: <u>11-23-09</u>
Date Signed by Mayor: <u>12.1.09</u>	Date Returned to City Clerk: <u>12.3.09</u>
Published by Title Only _____	Date Vetoed by Mayor:
Published in Full Text <input checked="" type="checkbox"/>	Date Passed Over Veto:
Date Veto Published:	Date Returned Without Signature:

The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: Jim Burgess,
Jally Clark,
Richard Conlin,
Bruce Harrell,
~~_____~~

Committee Action:

Date	Recommendation	Vote
<u>11-12-09</u>	<u>Pass</u>	<u>JG, TB, SC, RC, JD, BH, NL, TR</u>
	<u>Do Not Pass</u>	<u>RM</u>

This file is complete and ready for presentation to Full Council. _____

Full Council Action:

Date	Decision	Vote
<u>11-23-09</u>	<u>Passed</u>	<u>8-1 (No: McIver)</u>

Law Department

ORDINANCE 123150

AN ORDINANCE repealing Chapter 5.37 of the Seattle Municipal Code (Employee Hours Tax), effective January 1, 2010.

WHEREAS, in 2005, the City adopted Resolution 30790 approving the Transportation Strategic Plan with key themes of improving safety, preserving and maintaining transportation infrastructure, and providing mobility and access through transportation choices; and

WHEREAS, the City convened a Citizens Advisory Panel and conducted five public workshops to gather ideas for transportation improvements and the means to fund them; and

WHEREAS, on August 7, 2006, the City Council passed Ordinance 122191, which created an "employee hours tax" to provide partial funding for transportation improvements; and

WHEREAS, on the same day, the City Council passed Ordinance 122192, which created a "commercial parking tax" to provide additional funding for transportation improvements; and

WHEREAS, the employee hours tax has generated less revenue than expected due to the exemptions provided for employers with workers who commute by mass transit, bicycle, or walking, and the tax has been difficult for employers and the City to administer due to the exemptions and the difficulty of tracking employee hours appropriately; and

WHEREAS, the commercial parking tax has generated more revenue than expected due to the discovery of many parking operators who had not previously been identified as such; and

WHEREAS, the Mayor and City Council wish to support economic development and especially to encourage job growth in Seattle; and

WHEREAS, the higher than expected commercial parking tax revenues would largely offset the loss of employee hours tax revenues, allowing important transportation projects to proceed; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

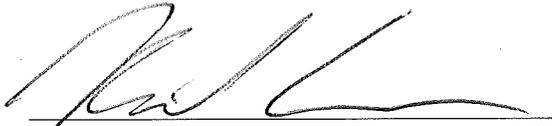
Section 1. Chapter 5.37 of the Seattle Municipal Code (Employee Hours Tax), as last amended by Ordinance 122561, is hereby repealed, effective as of January 1, 2010.



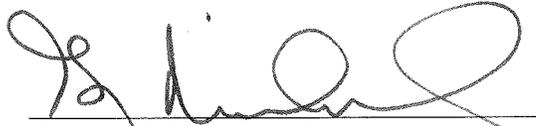
1 Section 2. Tax obligations under Chapter 5.37 for 2009 and prior years remain due and
2 payable as scheduled. The effect of this ordinance is prospective only and shall apply to tax
3 liabilities that would have been incurred in 2010 and subsequent years.

4 Section 3. This ordinance shall take effect and be in force thirty (30) days from and after
5 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days
6 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

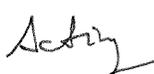
7 Passed by the City Council the 23rd day of November, 2009, and
8 signed by me in open session in authentication of its passage this
9 23rd day of November, 2009.

11
12
13 
14 President _____ of the City Council

15 Approved by me this 1st day of December, 2009.

16
17 
18 Gregory J. Nickels, Mayor

19 Filed by me this 3rd day of December, 2009.

20
21
22 
23  City Clerk

24 (Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Legislative	Ben Noble/4-8160, Mike Fong/5-1675 or Dan Eder/4-8147	Steve Barham/3-9084

Legislation Title: AN ORDINANCE repealing Chapter 5.37 of the Seattle Municipal Code (Employee Hours Tax), effective January 1, 2010.

• **Summary of the Legislation:**

This legislation repeals the City’s “Employee Hours Tax” (EHT), which provides funding for various transportation improvements. The legislation would go into effect on January 1, 2010. Tax obligations under Chapter 5.37 for 2009 and prior years remain due and payable as scheduled. The impact of this ordinance is prospective only and shall apply to tax liabilities that would have been incurred in 2010 and subsequent years.

• **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

The EHT was created through Ordinance 122191 as part of the Bridging the Gap (BTG) transportation funding package in July of 2006. BTG included three funding mechanisms: EHT, Commercial Parking Tax (CPT) and a voter approved property tax levy. The three sources of revenue were intended to generate \$544 million in revenue over the life of the 9-year levy (2007-2015) for transportation capital projects and infrastructure maintenance.

Since implementation, the EHT has generated less revenue than originally projected while the CPT has generated more revenue than anticipated. The current EHT revenue forecast for 2010 of \$4.7 million is 35% lower than the original projection of \$7.2 million. By contrast, the latest forecast of CPT revenues for 2010 of \$21 million is 48% higher than the original projection of \$14.4 million. Although higher CPT revenues appear to offset the loss of revenue from a repeal of the EHT, committed transportation spending relying on these two revenue sources has increased since the adoption of BTG in 2006. Therefore, modifications to the spending plan for Phase I (2007-2015) and Phase II (2016-2026) of the BTG program will be necessary. These modifications are discussed in greater detail below.

This legislation is intended to help encourage economic development activity and job growth in the city by reducing the tax burden on businesses.

• *Please check one of the following:*

 This legislation does not have any financial implications. *(Stop here and delete the*



remainder of this document prior to saving and printing.)

X **This legislation has financial implications.** *(Please complete all relevant sections that follow.)*

Appropriations:

Repeal of the EHT will have an impact on budget appropriations in 2010 and these will be acted upon as part of the 2010 budget process. As described below, sufficient resources will remain after the elimination of the EHT to fund all the BTG transportation projects specifically identified in the current six-year CIP.

Anticipated Revenue/Reimbursement: Resulting From This Legislation:

Department of Finance's (DOF's) most recent forecast of EHT revenues projects \$4.7 million in revenues for 2010. The following chart displays the most recent revenue forecast for EHT through 2015. Adoption of this legislation would eliminate this funding stream.

Year	2010	2011	2012	2013	2014	2015	Total: 2010 to 2015
EHT Revenue (forecast in thousands)	\$4,655	\$4,934	\$5,155	\$5,393	\$5,477	\$5,541	\$31,155

Total Regular Positions Created, Modified, Or Abrogated Through This Legislation, Including FTE Impact: It is not anticipated that this legislation will have an impact on FTE or any positions in 2010.

- **Do positions sunset in the future?** *Not applicable*

Spending/Cash Flow:

As stated previously, actual impacts on 2010 appropriations and the 2010-2015 Capital Improvement Program (CIP) will be acted upon during the 2010 budget process. The analysis presented here is intended to summarize the potential impacts on the Bridging the Gap (BTG) spending plan as it relates to the planned use of CPT and EHT revenues for Phase I (2007 to 2015) and Phase II (2016 to 2026) of the BTG program. Repeal of the EHT in 2010 will result in the following:

- 1) Loss of \$31.2M in revenue for Phase I and \$65.3M in revenue for Phase II of BTG. Per the authorizing legislation, these revenues were dedicated to transportation projects and can only be used for this purpose.
- 2) Restructuring of debt-service payments both for BTG Major Projects and for Non-Major



Projects financed through Limited Tax General Obligation (LTGO) Bonds. Such restructuring will result in “back-loading” debt-service payments. This restructuring is necessary because without EHT revenues the City would not be able to make level debt-service payments on transportation projects (Major Projects such as Mercer and Spokane and for non-Major Projects such as bridges and structures) **and** maintain planned funding for “pay as you go” projects in Phase I of BTG. The revised debt structure will result in higher interest costs over a longer period of time compared to the more level debt-service payment structure that would be possible should the EHT continue to be collected. Initial estimates anticipate that additional interest payments would be approximately \$15 million higher over the next 20 or more years. Thus, committing more of the remaining CPT revenue stream for debt-service over a longer period of time will result in \$15 million less revenue being available for “pay as you go,” cash funded transportation projects.

- 3) Approximately \$10 million in EHT/CPT revenues were held in reserves as part of the BTG spending plan in the event that project costs increase during Phase I. These reserves will be utilized to make-up for lost EHT revenues for “pay as you go” projects rather than being kept as reserves.

None of the projects included in the adopted 2009-2014 CIP will be eliminated or have their funding directly reduced as a result of eliminating the EHT. However, as noted previously, the Executive has not submitted its 2010 proposed budget. Therefore, any proposed adjustments to other revenues and appropriations for the CIP are not yet known. Spending beyond 2014 has not been programmed, so although revenues will be reduced by approximately \$5 million per year, it is unknown at this time what specific projects would not be funded.

What is the financial cost of not implementing the legislation?

Elimination of the EHT is designed to provide some financial relief to local businesses and to remove whatever disincentive for employment growth is imposed by the EHT. The precise impacts of eliminating the EHT are unknown but reducing the tax obligations of individual businesses can only help their “bottom lines”.

- **Does this legislation affect any departments besides the originating department?**

This legislation will impact the Seattle Department of Transportation (SDOT) as it relates to funding being available for transportation projects and the Department of Executive Administration (DEA) in relieving them of the responsibility of administering the EHT.

What are the possible alternatives to the legislation that could achieve the same or similar objectives?

Reducing the EHT equivalent level of revenue from other City imposed taxes on businesses.

Suspending the EHT for a finite period of time rather than permanently eliminating the EHT.

Eliminate the EHT but find a new revenue source to replace the project revenues.

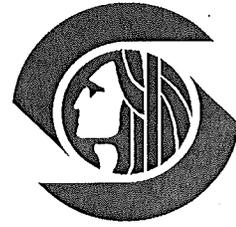


- **Is the legislation subject to public hearing requirements:**

No.

- **Other Issues** None.
- **List attachments to the fiscal note below:** “Effects of Repeal of Employee Hours Tax on Transportation Projects” memo from Department of Finance Director Dwight Dively dated July 7, 2009.





MEMORANDUM

DATE: July 7, 2009
TO: Councilmember Jan Drago, Chair, Transportation Committee
FROM: Dwight Dively, Director of Finance
RE: Effects of Repeal of Employee Hours Tax on Transportation Projects

As you know, Mayor Nickels, Council President Conlin, and Councilmember Burgess recently proposed to repeal the City's employee hours tax (EHT) effective as of January 1, 2010. The EHT was imposed in 2006 and became effective on July 1, 2007. The EHT is one revenue source for the "Bridging the Gap" (BTG) program, which is also supported by a commercial parking tax (CPT) and a voter-approved property tax levy lid lift.

The Department of Finance (DOF) currently projects the EHT to generate about \$4.6 million in 2010, with the amount growing slowly in future years. The total projected EHT revenue for the remaining term of "phase 1" of the BTG program is about \$31 million (phase 1 corresponds to the nine-year period of the levy lid lift).

The EHT has produced less revenue than originally expected. Employers are not required to pay the tax for employees who commute using modes other than single occupancy vehicles. There was little reliable information available to calculate the potential effect of this exemption, and its effect appears to be larger than expected. In addition, compliance is always an issue with a new tax and few audits have yet been done that cover the EHT. Finally, the severe economic recession has reduced employment below levels originally anticipated.

The proposal to repeal the EHT is intended to help stimulate Seattle's job market. The tax is a deterrent to hiring and is complicated for businesses to calculate.

In your June 29 letter to Grace Crunican, you expressed support for repealing the EHT but concern about the effect of the lost revenue on transportation projects during BTG's phase 1. DOF has analyzed this issue and believes all currently-planned BTG phase 1 projects can be funded. There are at least four reasons for this:

1. Commercial parking taxes have exceeded estimates. The original BTG plan (as described in Resolution 30915) assumed the CPT would generate about \$123 million during phase 1. Our most recent estimate is \$182 million, even allowing for the effect of the current recession. Most of this higher revenue is due to there being more parking



operators than originally estimated. The additional \$59 million over the nine-year period more than offsets the difference between the originally assumed EHT revenue and the actual EHT revenue if the tax were repealed starting in 2010.

2. Debt service costs have been lower than planned. The BTG plan assumed that bonds would be issued for several major projects, such as Spokane Street, the Mercer Corridor, King Street Station, and bridge upgrades and rehabilitation. The bonds issued to date have had lower interest rates than originally assumed, resulting in lower debt service. In addition, the original plan had assumed that principal repayments would be structured to match a growing revenue stream, but higher-than-expected revenues have allowed more principal to be paid earlier in the term of the bonds. These effects mean that the City has considerable flexibility to structure future BTG bond issues to match a revenue stream that does not include the EHT. We will still use maximum terms of 20 years or less, which is conservative given that the expected lifespan of most of the improvements is 30 to 50 years.
3. Construction costs have fallen during the last year. The recession has resulted in significantly lower bids for many construction projects over the last year. These savings will allow more projects to be funded than originally planned.
4. Much of the surplus CPT revenue has not been allocated to specific projects. The 2009 Adopted Budget and the 2009-2014 Adopted CIP did not show full use of the expected revenues from the CPT and EHT. The Mayor and Council have made annual decisions about the use of such funds and have typically devoted them to smaller projects such as paving or sidewalk development.

The combined effects of these four considerations mean that all currently planned projects can be funded even if the EHT is repealed starting in 2010. The current "pay as you go programs" of smaller phase 1 projects can be held harmless. DOF staff have provided a detailed projection of this information to Council Central Staff for their review.

Of course, it is true that more transportation projects could be funded in the future if the EHT were kept in place. However, the challenge for the Mayor and the Council is to balance the benefits of these projects with the adverse effects of the EHT.

The Mayor has not yet proposed specific projects to be budgeted in 2010 and beyond. This will be done through the 2010 Budget and CIP presented to the Council in late September. The SDOT capital budget will also factor in the effects of other funding sources, such as the General Fund, Cumulative Reserve Subfund (real estate excise taxes), grants, and federal recovery funds.

Finally, it is worth noting that BTG has met or exceeded its goals in every category. The Committee will be briefed on this later in today's meeting.

I hope this information addresses the concerns outlined in your June 29 letter. Please let me know if you have additional questions.

cc: Grace Crunican, Anne Fike-Zuniga, Lenda Crawford, Steve Viney – SDOT
Cameron Keyes, Steve Barham, Dave Hennes – DOF
Andrew Glass-Hastings - OPM



STATE OF WASHINGTON – KING COUNTY

--SS.

248056
CITY OF SEATTLE, CLERKS OFFICE

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

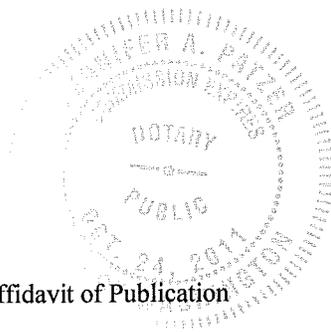
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:123150 ORDINANCE

was published on

12/10/09

The amount of the fee charged for the foregoing publication is the sum of \$ 120.28, which amount has been paid in full.



Subscribed and sworn to before me on
12/10/09 _____

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle

ORDINANCE 123150

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Passed by the City Council the 23rd day of November, 2009, and signed by me in open session in authentication of its passage this 23rd day of November, 2009.

Richard Conlin

President of the City Council

Approved by me this 1st day of December, 2009.

Gregory J. Nickels, Mayor

Filed by me this 3rd day of December, 2009.

Publication ordered by the City Clerk
Date of publication in the Seattle Daily
Journal of Commerce, December 10, 2009.
12/10(248056)