

Ordinance No. 122561

Council Bill No. 116055

AN ORDINANCE relating to taxation for transportation purposes; deleting a duplicate tax reduction provision for sole proprietorships and partnerships; making technical corrections; and amending SMC sections 5.37.020, 5.37.030, 5.37.050, 5.37.070 and 5.37.080.

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: *David J. McDev*
Councilmember

(circled)

Committee Action:

11-9-07 Budget Pass As Amended RM, RC, JD, JG, AL, PS
Do Not Pass SC, DD, JR

11-19-07 Full Council Pass 6-3
(No: Clark, Della, Rasmussen)

CF No. _____

Date Introduced:	<u>Oct. 22, 2007</u>	
Date 1st Referred:	To: (committee) <u>Budget</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: <u>6-3</u>	
Date Presented to Mayor:	Date Approved: <u>11-26-2007</u>	
Date Returned to City Clerk:	Date Published: <u>7</u>	T.O. <input type="checkbox"/> F.T. <input checked="" type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

This file is complete and ready for presentation to Full Council. Committee: _____
(initial/date)

Law Department

Law Dept. Review	OMP Review	City Clerk Review	Electronic Copy Loaded	Indexed
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City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

September 24, 2007

Honorable Nick Licata
Council President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Licata:

I am pleased to transmit the attached proposed Council Bill that amends the Seattle Municipal Code (SMC) to remove a duplicate tax provision for sole proprietorships and partnerships, and make technical corrections specifying that 10 percent of the tax receipts must be deposited in the Park and Recreation Fund per the City Charter. Additionally, the Bill helps to clarify a deduction, the tax rate, and tax calculation for 2007, when businesses will have only a partial year liability due to the mid-year effective date of the tax.

As drafted and subsequently codified in the SMC, Ordinance 122191 provided an exemption for sole proprietors and partners by excluding them from the definition of "employee," and included a \$50 tax credit to reduce the tax liability for sole proprietorships, partnerships, and other small businesses. The attached proposed Council Bill deletes the exclusive language from the definition of "employee."

Passage of this legislation will benefit taxpayers by assisting them in correctly measuring and calculating their tax liability, especially for the initial tax period from July 1 to December 31, 2007. Thank you for your consideration of this legislation. Should you have questions, please contact Dwight Dively at 684-5200 or Dave Hennes at 684-0537 in the Department of Finance, or Mel McDonald at 233-0071 in the Department of Executive Administration.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Nickels".

GREG NICKELS
Mayor of Seattle

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, E:mail: mayors.office@seattle.gov

An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.



1 B. "Employee" means any person who performs work, labor, or services for a business,
2 and is on the business' payroll, and who performs any part of their duties within the ((€))city of
3 Seattle. For purposes of this chapter, the term "employee" also includes all full-time, part-time,
4 and temporary employees or workers on the business' payroll. A business' payroll includes the
5 payroll of any related company that acts as a paymaster for the related entities. ((A sole
6 proprietor or partner shall not be considered to be an employee.))

8 C. "Full-time employee" means an employee who works at least one thousand nine
9 hundred twenty (1,920) hours in a calendar year.

10 D. "Part-time employee" means an employee who works less than one thousand nine
11 hundred twenty (1,920) hours in a calendar year.

13 E. "Payroll" means the regular remuneration by a business to the individuals who
14 perform work, labor, services, or make other similar contributions for the business. Payroll
15 includes, but is not limited to, salaries, wages, or other draws or distributions made to employees,
16 officers, partners, or members of Limited Liability Companies and Professional Limited Liability
17 Companies as compensation for their labor and services.

19 **Section 2.** Section 5.37.030 of the Seattle Municipal Code is amended as follows:

20 **5.37.030 Tax Imposed-Measure of the Tax.**

21 A. An employee hours tax is hereby levied upon and shall be collected from every person
22 for the act or privilege of engaging in business activities within the ((€))city. The tax shall be
23 measured by the number of employee hours of work conducted within the ((€))city during the
24 calendar year, except that for the year 2007, the tax shall be measured by the number of employee
25



1 hours of work conducted within the ((€))city during the period July 1, 2007, through December
2 31, 2007.

3 B. The amount of the tax shall be equal to the employee hours worked within the
4 ((€))city during the calendar year multiplied by the rate of \$0.01302, except that for the year
5 2007, the amount of the tax shall be equal to the employee hours worked within the ((€))city
6 during the period July 1, 2007, through December 31, 2007, multiplied by the rate of \$0.01302.
7 The employee hours worked excludes vacation and sick leave hours. If an employee works
8 within and outside the ((€))city, it will be the responsibility of the business to calculate and
9 report the number of hours worked within the ((€))city.
10

11 C. Alternative Full-Time Equivalent (FTE) Calculation Method. A business may choose
12 to calculate its annual employee hours tax based on the number of its FTE employees as follows:
13

14 1. Calculation of FTEs Post-2007. For all periods following December 31, 2007,
15 the number of FTE employees is (i) the number of a business' full-time employees
16 for the calendar year, plus (ii) the sum of the hours worked by part-time
17 employees in the calendar year divided by 1,920 hours.
18

19 2. Calculation of FTEs for 2007. For the year 2007, the number of FTE
20 employees is (i) the number of a business' employees who work at least nine
21 hundred sixty (960) hours during the period July 1, 2007, through December 31,
22 2007, plus (ii) the sum of the hours worked by all other employees divided by 960
23 hours.
24



1 3. Tax. Any fractional FTE remaining after the determination of FTE employees
2 under SMC 5.37.030C1 and 5.37.030C2 shall be rounded up to the nearest whole
3 number. Once the number of FTE employees is thus determined, that number
4 shall be multiplied by \$25 to determine the annual employee hours tax, except for
5 2007 the rate will be \$12.50. Once the FTE alternative method is used, it must be
6 used for all future reporting periods, unless a change is approved by the Director.

7
8 D. Businesses with more than one place of business must use the same method of
9 calculation for all places of business.

10 E. The tax applies to employee hours worked or FTEs inside the ((€))city regardless of
11 whether the place of business is located within or outside of the ((€))city.

12
13 F. Temporary employment agencies that supply temporary employees to businesses
14 engaging in business activities within the ((€))city, and pay the temporary employee's salary,
15 shall report and pay the tax on all such temporary employees. Businesses engaging temporary
16 employees who are on the business' payroll shall report and pay the tax on the employee hours of
17 such temporary employees, whether or not they are from an employment agency.

18
19 G. All businesses reporting an employee hours tax ((~~due~~))imposed under SMC
20 5.37.((040))030 shall be entitled to a credit of up to \$50.00 from the amount of the tax due. No
21 credit shall be more than the amount of tax owed for each year.

22 **Section 3.** Section 5.37.050 of the Seattle Municipal Code is amended as follows:

23 **5.37.050 Exemptions and deductions from the employee hour tax.**

24 A. The following are exempt from the employee hours tax:
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1 1. Any business having annual worldwide gross income of \$~~((5))~~80,000 or less.

2 2. Businesses that are preempted from taxation by cities pursuant to federal or
3 state statutes or regulations, including, but not limited to, the following:

4 (a) Insurance businesses and their agents as defined by RCW 48.01.050
5 and 48.17.010, respectively, and whose total revenue is exempt from the
6 business license tax per SMC 5.45.

7 (b) Businesses that only sell, manufacture, or distribute motor vehicle fuel
8 as defined in RCW 82.36.010 and exempted under RCW 82.36.440.

9 (c) Businesses that only distribute or sell liquor as defined in RCW
10 66.04.010 and exempted in RCW 66.08.120.

11 (d) Federal and state government agencies and subdivisions (except the
12 City of Seattle).

13 3. Domestic servants or gardeners, maintenance or repair persons employed in or
14 around a private home.

15 4. Volunteers and persons providing services in return for only aid or sustenance
16 from religious or charitable organizations.

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18 B. Non Single-Occupancy-Vehicle Deduction. When computing the number of
19 employees or employee hours, a business may deduct the number of employees, or their hours,
20 for those employees who ~~((do not regularly commute to a workplace in the City using a motor
21 vehicle occupied by a single person))~~ use alternatives to driving alone as their regular commute
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1 mode of transportation. The Director shall adopt rules to define eligibility for this non single-
2 occupancy-vehicle deduction.

3 **Section 4.** Section 5.37.070 of the Seattle Municipal Code is amended as follows:

4 **5.37.070 Use of Revenues.**

5 The proceeds of the employee hours tax, ~~((imposed herein))~~ less 10 percent, which under
6 the City Charter must be deposited in the Park and Recreation Fund, and any interest or other
7 earnings ~~((from their deposit or investment))~~ placed in and segregated within the Transportation
8 Fund in accordance with SMC 5.37.080, shall be used for transportation purposes. None of the
9 proceeds of the tax imposed herein shall be used to fund the major repair or replacement,
10 including but not limited to replacement with a waterfront tunnel, of the Alaskan Way Viaduct or
11 the seawall located to the west of Alaskan Way, unless appropriated for those purposes by
12 ordinance. To the extent permitted by applicable law the City may issue bonds, notes, or other
13 evidences of indebtedness payable wholly or in part from the additional taxes authorized under
14 this ordinance, and may pledge and may apply such taxes to the payment of principal of, interest
15 on, and premium (if any) on such bonds, notes, or other evidences of indebtedness and to the
16 payment of costs associated with them.

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20 **Section 5.** Section 5.37.080 of the Seattle Municipal Code is amended as follows:

21 **5.37.080 Receipts To Transportation Fund.**

22 All ~~((receipts))~~ proceeds from the employee hours tax, less 10 percent, which under the
23 City Charter must be deposited in the Park and Recreation Fund, shall be placed in and
24 segregated within the Transportation Fund. ~~The ~~((se receipts))~~~~ proceeds placed in and segregated
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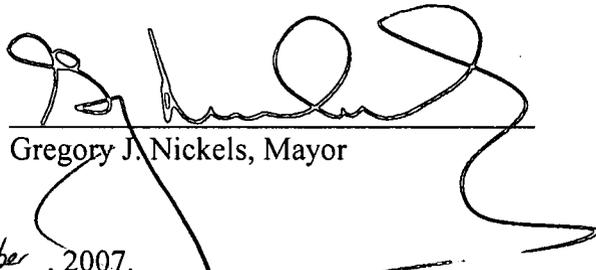
1 within the Transportation Fund may be temporarily deposited or invested in such manner as may
2 be lawful for the investment of City money. ~~((and))~~ Any interest and other earnings from the
3 deposit or investment of employee hours tax proceeds placed in and segregated within the
4 Transportation Fund shall also be ~~((deposited))~~ placed in and segregated within ~~((in))~~ the
5 Transportation Fund.

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

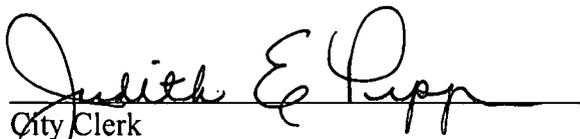
10 Passed by the City Council the 19th day of November, 2007, and signed by me in open
11 session in authentication of its passage this 19th day of November, 2007.

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14 
15 _____
16 President _____ of the City Council

17 Approved by me this 26th day of November, 2007.

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19 
20 _____
21 Gregory J. Nickels, Mayor

22 Filed by me this 26th day of November, 2007.

23
24 
25 _____
26 City Clerk

27 (Seal)



2008 BUDGET LEGISLATION FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Department of Finance	Dwight Dively/4-5212	Dave Hennes/4-0537

Legislation Title:

AN ORDINANCE relating to taxation for transportation purposes; deleting a duplicate tax reduction provision for sole proprietorships and partnerships; making technical corrections; and amending SMC sections 5.37.020, 5.37.030, 5.37.050, 5.37.070 and 5.37.080.

• **Summary of the Legislation:**

This legislation amends the Seattle Municipal Code (SMC) to delete a duplicate tax reduction provision for sole proprietorships and partnerships. Currently, the SMC provides an exemption for sole proprietors and partners by excluding them from the definition of "employee." In addition, another provision provides a \$50 tax credit to reduce the tax liability for sole proprietorships, partnerships, and other small businesses. This legislation deletes the exclusive language from the definition of "employee," adds a definition of "payroll" that specifically includes compensation received by partners, and adds language specifying that 10 percent of the receipts from the tax are required by City Charter to be deposited in the Park and Recreation Fund. The bill also increases the exemption threshold to \$80,000. Finally, the Bill makes technical corrections to clarify a deduction, and provide a half-year tax rate for calculating the tax for 2007, when businesses will have only a partial year liability due to the mid-year effective date of the tax.

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

Ordinance 122191, which was passed in August 2006, added a new Chapter 5.37 to Title 5 of the SMC, and amended Sections 5.30.010, 5.55.010, 5.55.040 A, 5.55.060 A, 5.55.150 E, 5.55.165, 5.55.220 A and B, 5.55.230 A, and 3.02.125 A. The original ordinance provides for the imposition of an employee hours tax (also referred to as the business transportation tax). It is one of three ordinances adopted in 2006 to raise additional tax revenues to help fund a 20-year transportation improvement program known as "Bridging the Gap" (BTG). The BTG program combines revenues generated from this tax, property taxes, and a commercial parking tax aimed at reducing the City's large maintenance backlog on its arterial streets, bridges, sidewalks, retaining walls, trees, and other transportation infrastructure. In addition, BTG will make targeted investments in additional bike and pedestrian ways, transit, freight and commuter corridors, and four additional major transportation projects.



This legislation amends Ordinance 122191's codified language in the SMC to remove a duplicate tax provision, increase the exemption threshold, and make technical corrections as described above.

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

Summary of Changes to Revenue Generated Resulting From This Legislation

Fee Type	2007 Adopted	2008 Proposed	Total of New Revenue Proposed
Total Fees and Charges Resulting From Passage of This Ordinance			

Notes: The technical changes to clarify the tax rate in 2007 will have no effect on revenues. It is anticipated that revenue would increase marginally as a result of the definitional change regarding sole proprietors and partners, and revenue would decrease marginally as a result of increasing the exemption threshold to \$80,000. The fiscal note to Ordinance 122191 estimated 2007 revenue from the new employee hours tax at approximately \$2.125 million. Since this is a new tax for the City of Seattle, with no historical figures to extrapolate from, this figure represents the City's best estimate based on several assumptions as determined by the Department of Finance. Given the prospective nature of this revenue estimate, the Department of Finance would not recommend changing its forecast in anticipation of the relatively minor increase or decrease in revenue from this amendment. The specification of 10 percent of this revenue for deposit in the Park and Recreation Fund has no net effect on City revenues, but is addressed as an accounting and budget adjustment.

- **What is the financial cost of not implementing the legislation?** (Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)

Please see note under Summary table above.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** (Include any potential alternatives to the proposed legislation, such



as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)

None.

Is the legislation subject to public hearing requirements: *(If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)* No.

- **Other Issues** *(including long-term implications of the legislation):* None

1
2 **ORDINANCE _____**

3 AN ORDINANCE relating to taxation for transportation purposes; deleting a duplicate tax
4 reduction provision for sole proprietorships and partnerships; making technical
5 corrections; and amending SMC sections 5.37.020, 5.37.030, 5.37.050, 5.37.070 and
6 5.37.080.

7 WHEREAS, the City Council adopted a new chapter to Title 5 of the Seattle Municipal Code,
8 Chapter 5.37, imposing an employee hours tax on Seattle businesses effective as of
9 July 1, 2007, in order to provide partial funding for a set of transportation improvements,
10 more commonly known as the "Bridging the Gap" program; and

11 WHEREAS, the SMC includes an unintended, duplicate tax provision for sole proprietors,
12 partnerships, and other small businesses; and

13 WHEREAS, technical corrections to the Seattle Municipal Code are necessary to clarify the
14 calculations of the tax and the application of Article XI of the Charter of the City of
15 Seattle; NOW, THEREFORE,

16 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

17 **Section 1.** Section 5.37.020 of the Seattle Municipal Code is amended as follows:

18 **5.37.020 Definitions.**

19 The definitions contained in Chapter 5.30 of the Seattle Municipal Code shall be fully
20 applicable to this chapter except as may be expressly stated to the contrary herein. The following
21 additional definitions shall apply throughout this Chapter:

22 A. "Business" means any person engaging in business as defined in SMC 5.30.030.

23 B. "Employee" means any person who performs work, labor, or services for a business,
24 and is on the business' payroll, and who performs any part of their duties within the ((C))city of
25 Seattle. For purposes of this chapter, the term "employee" also includes all full-time, part-time,
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1 and temporary employees or workers on the business' payroll. A business' payroll includes the
2 payroll of any related company that acts as a paymaster for the related entities. ((A sole
3 proprietor or partner shall not be considered to be an employee.))

4 C. "Full-time employee" means an employee who works at least one thousand nine
5 hundred twenty (1,920) hours in a calendar year.

6 D. "Part-time employee" means an employee who works less than one thousand nine
7 hundred twenty (1,920) hours in a calendar year.

8 E. "Payroll" means the regular remuneration by a business to the individuals who
9 perform work, labor, services, or make other similar contributions for the business. Payroll
10 includes, but is not limited to, salaries, wages, or other draws or distributions made to employees,
11 officers, partners, or members of Limited Liability Companies and Professional Limited Liability
12 Companies as compensation for their labor and services.

13 **Section 2.** Section 5.37.030 of the Seattle Municipal Code is amended as follows:
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15 **5.37.030 Tax Imposed-Measure of the Tax.**
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17 A. An employee hours tax is hereby levied upon and shall be collected from every person
18 for the act or privilege of engaging in business activities within the ((€))city. The tax shall be
19 measured by the number of employee hours of work conducted within the ((€))city during the
20 calendar year, except that for the year 2007, the tax shall be measured by the number of employee
21 hours of work conducted within the ((€))city during the period July 1, 2007, through December
22 31, 2007.
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1 B. The amount of the tax shall be equal to the employee hours worked within the
2 ((€))city during the calendar year multiplied by the rate of \$0.01302, except that for the year
3 2007, the amount of the tax shall be equal to the employee hours worked within the ((€))city
4 during the period July 1, 2007, through December 31, 2007, multiplied by the rate of \$0.01302.
5 The employee hours worked excludes vacation and sick leave hours. If an employee works
6 within and outside the ((€))city, it will be the responsibility of the business to calculate and
7 report the number of hours worked within the ((€))city.
8

9 C. Alternative Full-Time Equivalent (FTE) Calculation Method. A business may choose
10 to calculate its annual employee hours tax based on the number of its FTE employees as follows:
11

12 1. Calculation of FTEs Post-2007. For all periods following December 31, 2007,
13 the number of FTE employees is (i) the number of a business' full-time employees
14 for the calendar year, plus (ii) the sum of the hours worked by part-time
15 employees in the calendar year divided by 1,920 hours.
16

17 2. Calculation of FTEs for 2007. For the year 2007, the number of FTE
18 employees is (i) the number of a business' employees who work at least nine
19 hundred sixty (960) hours during the period July 1, 2007, through December 31,
20 2007, plus (ii) the sum of the hours worked by all other employees divided by 960
21 hours.
22

23 3. Tax. Any fractional FTE remaining after the determination of FTE employees
24 under SMC 5.37.030C1 and 5.37.030C2 shall be rounded up to the nearest whole
25 number. Once the number of FTE employees is thus determined, that number
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1 shall be multiplied by \$25 to determine the annual employee hours tax, except for
2 2007 the rate will be \$12.50. Once the FTE alternative method is used, it must be
3 used for all future reporting periods, unless a change is approved by the Director.

4 D. Businesses with more than one place of business must use the same method of
5 calculation for all places of business.
6

7 E. The tax applies to employee hours worked or FTEs inside the ((€))city regardless of
8 whether the place of business is located within or outside of the ((€))city.

9 F. Temporary employment agencies that supply temporary employees to businesses
10 engaging in business activities within the ((€))city, and pay the temporary employee's salary,
11 shall report and pay the tax on all such temporary employees. Businesses engaging temporary
12 employees who are on the business' payroll shall report and pay the tax on the employee hours of
13 such temporary employees, whether or not they are from an employment agency.
14

15 G. All businesses reporting an employee hours tax ~~((due))~~imposed under SMC
16 5.37.~~((040))~~030 shall be entitled to a credit of up to \$50.00 from the amount of the tax due. No
17 credit shall be more than the amount of tax owed for each year.
18

19 **Section 3.** Section 5.37.050 of the Seattle Municipal Code is amended as follows:

20 **5.37.050 Exemptions and deductions from the employee hour tax.**

21 A. The following are exempt from the employee hours tax:

- 22
- 23 1. Any business having annual worldwide gross income of \$50,000 or less.
 - 24 2. Businesses that are preempted from taxation by cities pursuant to federal or
25 state statutes or regulations, including, but not limited to, the following:
26



1 (a) Insurance businesses and their agents as defined by RCW 48.01.050
2 and 48.17.010, respectively, and whose total revenue is exempt from the
3 business license tax per SMC 5.45.

4 (b) Businesses that only sell, manufacture, or distribute motor vehicle fuel
5 as defined in RCW 82.36.010 and exempted under RCW 82.36.440.

6 (c) Businesses that only distribute or sell liquor as defined in RCW
7 66.04.010 and exempted in RCW 66.08.120.

8 (d) Federal and state government agencies and subdivisions (except the
9 City of Seattle).

10
11
12 3. Domestic servants or gardeners, maintenance or repair persons employed in or
13 around a private home.

14 4. Volunteers and persons providing services in return for only aid or sustenance
15 from religious or charitable organizations.

16
17 B. Non Single-Occupancy-Vehicle Deduction. When computing the number of
18 employees or employee hours, a business may deduct the number of employees, or their hours,
19 for those employees who ~~((do not regularly commute to a workplace in the City using a motor
20 vehicle occupied by a single person))~~ use alternatives to driving alone as their regular commute
21 mode of transportation. The Director shall adopt rules to define eligibility for this non single-
22 occupancy-vehicle deduction.
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1 **Section 4.** Section 5.37.070 of the Seattle Municipal Code is amended as follows:

2 **5.37.070 Use of Revenues.**

3 The proceeds of the employee hours tax, ~~((imposed herein))~~ less 10 percent, which under
4 the City Charter must be deposited in the Park and Recreation Fund, and any interest or other
5 earnings ~~((from their deposit or investment))~~ placed in and segregated within the Transportation
6 Fund in accordance with SMC 5.37.080, shall be used for transportation purposes. None of the
7 proceeds of the tax imposed herein shall be used to fund the major repair or replacement,
8 including but not limited to replacement with a waterfront tunnel, of the Alaskan Way Viaduct or
9 the seawall located to the west of Alaskan Way, unless appropriated for those purposes by
10 ordinance. To the extent permitted by applicable law the City may issue bonds, notes, or other
11 evidences of indebtedness payable wholly or in part from the additional taxes authorized under
12 this ordinance, and may pledge and may apply such taxes to the payment of principal of, interest
13 on, and premium (if any) on such bonds, notes, or other evidences of indebtedness and to the
14 payment of costs associated with them.
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18 **Section 5.** Section 5.37.080 of the Seattle Municipal Code is amended as follows:

19 **5.37.080 Receipts To Transportation Fund.**

20 All ~~((receipts))~~ proceeds from the employee hours tax, less 10 percent, which under the
21 City Charter must be deposited in the Park and Recreation Fund, shall be placed in and
22 segregated within the Transportation Fund. The ~~((se receipts))~~ proceeds placed in and segregated
23 within the Transportation Fund may be temporarily deposited or invested in such manner as may
24 be lawful for the investment of City money. ~~((and))~~ Any interest and other earnings from the
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1 deposit or investment of employee hours tax proceeds placed in and segregated within the
2 Transportation Fund shall also be ((deposited)) placed in and segregated within ((in)) the
3 Transportation Fund.

4 **Section 6.** 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

8 Passed by the City Council the ____ day of _____, 2007, and signed by me in open
9 session in authentication of its passage this ____ day of _____, 2007.
10

11
12 _____
13 President _____ of the City Council

14 Approved by me this ____ day of _____, 2007.
15

16
17 _____
18 Gregory J. Nickels, Mayor

19 Filed by me this ____ day of _____, 2007.
20

21
22 _____
23 City Clerk

24 (Seal)
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2008 BUDGET LEGISLATION FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Department of Finance	Dwight Dively/4-5212	Dave Hennes/4-0537

Legislation Title:

AN ORDINANCE relating to taxation for transportation purposes; deleting a duplicate tax reduction provision for sole proprietorships and partnerships; making technical corrections; and amending SMC sections 5.37.020, 5.37.030, 5.37.050, 5.37.070 and 5.37.080.

• **Summary of the Legislation:**

This legislation amends the Seattle Municipal Code (SMC) to delete a duplicate tax reduction provision for sole proprietorships and partnerships. Currently, the SMC provides an exemption for sole proprietors and partners by excluding them from the definition of "employee." In addition, another provision provides a \$50 tax credit to reduce the tax liability for sole proprietorships, partnerships, and other small businesses. This legislation deletes the exclusive language from the definition of "employee," adds a definition of "payroll" that specifically includes compensation received by partners, and adds language specifying that 10 percent of the receipts from the tax are required by City Charter to be deposited in the Park and Recreation Fund. Finally, the Bill makes technical corrections to clarify a deduction, and provide a half-year tax rate for calculating the tax for 2007, when businesses will have only a partial year liability due to the mid-year effective date of the tax.

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

Ordinance 122191, which was passed in August 2006, added a new Chapter 5.37 to Title 5 of the SMC, and amended Sections 5.30.010, 5.55.010, 5.55.040 A, 5.55.060 A, 5.55.150 E, 5.55.165, 5.55.220 A and B, 5.55.230 A, and 3.02.125 A. The original ordinance provides for the imposition of an employee hours tax (also referred to as the business transportation tax). It is one of three ordinances adopted in 2006 to raise additional tax revenues to help fund a 20-year transportation improvement program known as "Bridging the Gap" (BTG). The BTG program combines revenues generated from this tax, property taxes, and a commercial parking tax aimed at reducing the City's large maintenance backlog on its arterial streets, bridges, sidewalks, retaining walls, trees, and other transportation infrastructure. In addition, BTG will make targeted investments in additional bike and pedestrian ways, transit, freight and commuter corridors, and four additional major transportation projects.



This legislation amends Ordinance 122191's codified language in the SMC to remove a duplicate tax provision and make technical corrections as described above.

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

Summary of Changes to Revenue Generated Resulting From This Legislation

Fee Type	2007 Adopted	2008 Proposed	Total of New Revenue Proposed
Total Fees and Charges Resulting From Passage of This Ordinance			

Notes: The technical changes to clarify the tax rate in 2007 will have no effect on revenues. It is anticipated that revenue would increase marginally as a result of the definitional change regarding sole proprietors and partners. The fiscal note to Ordinance 122191 estimated 2007 revenue from the new employee hours tax at approximately \$2.125 million. Since this is a new tax for the City of Seattle, with no historical figures to extrapolate from, this figure represents the City's best estimate based on several assumptions as determined by the Department of Finance. Given the prospective nature of this revenue estimate, the Department of Finance would not recommend changing its forecast in anticipation of the relatively minor increase in revenue from this amendment. The specification of 10 percent of this revenue for deposit in the Park and Recreation Fund has no net effect on City revenues, but is addressed as an accounting and budget adjustment.

- **What is the financial cost of not implementing the legislation?** (Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)

Please see note under Summary table above.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** (Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)



None.

Is the legislation subject to public hearing requirements: *(If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)* No.

- **Other Issues** *(including long-term implications of the legislation):* None

STATE OF WASHINGTON – KING COUNTY

--SS.

217887
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.

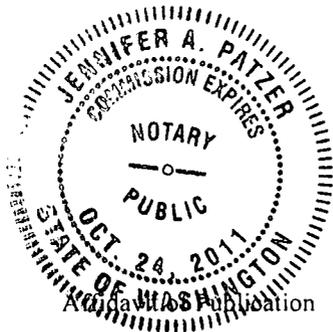
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORDINANCE 122561

was published on

11/28/07

The amount of the fee charged for the foregoing publication is the sum of \$ 362.70, which amount has been paid in full.



[Signature]

Subscribed and sworn to before me on
11/28/07 *[Signature]*

Notary public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 122561

AN ORDINANCE relating to taxation for transportation purposes; deleting a duplicate tax reduction provision for sole proprietorships and partnerships; making technical corrections; and amending SMC sections

5.37.020, 5.37.030, 5.37.050, 5.37.070 and 5.37.080.

WHEREAS, the City Council adopted a new chapter to Title 5 of the Seattle Municipal Code, Chapter 5.37, imposing an employee hours tax on Seattle businesses effective as of

July 1, 2007, in order to provide partial funding for a set of transportation improvements, more commonly known as the "Bridging the Gap" program; and

WHEREAS, the SMC includes an unintended, duplicate tax provision for sole proprietors, partnerships, and other small businesses; and

WHEREAS, technical corrections to the Seattle Municipal Code are necessary to clarify the calculations of the tax and the application of Article XI of the Charter of the City of Seattle; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 5.37.020 of the Seattle Municipal Code is amended as follows:

5.37.020 Definitions.

The definitions contained in Chapter 5.30 of the Seattle Municipal Code shall be fully applicable to this chapter except as may be expressly stated to the contrary herein. The following additional definitions shall apply throughout this Chapter:

A. "Business" means any person engaging in business as defined in SMC 5.30.030.

B. "Employee" means any person who performs work, labor, or services for a business, and is on the business' payroll, and who performs any part of their duties within the ((G))city of Seattle. For purposes of this chapter, the term "employee" also includes all full-time, part-time, and temporary employees or workers on the business' payroll. A business' payroll includes the payroll of any related company that acts as a paymaster for the related entities. (A sole proprietor or partner shall not be considered to be an employee-)

C. "Full-time employee" means an employee who works at least one thousand nine hundred twenty (1,920) hours in a calendar year.

D. "Part-time employee" means an employee who works less than one thousand nine hundred twenty (1,920) hours in a calendar year.

E. "Payroll" means the regular remuneration by a business to the individuals who perform work, labor, services, or make other similar contributions for the business. Payroll includes, but is not limited to, salaries, wages, or other draws or distributions made to employees, officers, partners, or members of Limited Liability Companies and Professional Limited Liability Companies as compensation for their labor and services.

Section 2. Section 5.37.030 of the Seattle Municipal Code is amended as follows:

5.37.030 Tax Imposed-Measure of the Tax.

A. An employee hours tax is hereby levied upon and shall be collected from every person for the act or privilege of engaging in business activities within the ((G))city. The tax shall be measured by the number of employee hours of work conducted within the ((G))city during the calendar year, except that for the year 2007, the tax shall be measured by the number of employee hours of work conducted within the ((G))city during the period July 1, 2007, through December 31, 2007.

State of Washington, King County

B. The amount of the tax shall be equal to the employee hours worked within the ((G))city during the calendar year multiplied by the rate of \$0.01302, except that for the year 2007, the amount of the tax shall be equal to the employee hours worked within the ((G))city during the period July 1, 2007, through December 31, 2007, multiplied by the rate of \$0.01302. The employee hours worked excludes vacation and sick leave hours. If an employee works within and outside the ((G))city, it will be the responsibility of the business to calculate and report the number of hours worked within the ((G))city.

C. Alternative Full-Time Equivalent (FTE) Calculation Method. A business may choose to calculate its annual employee hours tax based on the number of its FTE employees as follows:

1. Calculation of FTEs Post-2007. For all periods following December 31, 2007, the number of FTE employees is (i) the number of a business' full-time employees for the calendar year, plus (ii) the sum of the hours worked by part-time employees in the calendar year divided by 1,920 hours.

2. Calculation of FTEs for 2007. For the year 2007, the number of FTE employees is (i) the number of a business' employees who work at least nine hundred sixty (960) hours during the period July 1, 2007, through December 31, 2007, plus (ii) the sum of the hours worked by all other employees divided by 960 hours.

3. Tax. Any fractional FTE remaining after the determination of FTE employees under SMC 5.37.030C1 and 5.37.030C2 shall be rounded up to the nearest whole number. Once the number of FTE employees is thus determined, that number shall be multiplied by \$25 to determine the annual employee hours tax, except for 2007 the rate will be \$12.50. Once the FTE alternative method is used, it must be used for all future reporting periods, unless a change is approved by the Director.

D. Businesses with more than one place of business must use the same method of calculation for all places of business.

E. The tax applies to employee hours worked or FTEs inside the ((G))city regardless of whether the place of business is located within or outside of the ((G))city.

F. Temporary employment agencies that supply temporary employees to businesses engaging in business activities within the ((G))city, and pay the temporary employee's salary, shall report and pay the tax on all such temporary employees. Businesses engaging temporary employees who are on the business' payroll shall report and pay the tax on the employee hours of such temporary employees, whether or not they are from an employment agency.

G. All businesses reporting an employee hours tax ((due))imposed under SMC 5.37.((040))030 shall be entitled to a credit of up to \$50.00 from the amount of the tax due. No credit shall be more than the amount of tax owed for each year.

Section 3. Section 5.37.050 of the Seattle Municipal Code is amended as follows:

5.37.050 Exemptions and deductions from the employee hour tax.

A. The following are exempt from the employee hours tax:

1. Any business having annual worldwide gross income of \$50,000 or less.

2. Businesses that are preempted from taxation by cities pursuant to federal or state statutes or regulations, including, but not limited to, the following:

(a) Insurance businesses and their agents as defined by RCW 48.01.050 and 48.17.010, respectively, and whose total revenue is exempt from the business license tax per SMC 6.45.

(b) Businesses that only sell, manufacture, or distribute motor vehicle fuel as defined in RCW 82.36.010 and exempted under RCW 82.36.440.

(c) Businesses that only distribute or sell liquor as defined in RCW 66.04.010 and exempted in RCW 66.08.120.

(d) Federal and state government agencies and subdivisions (except the City of Seattle).

3. Domestic servants or gardeners, maintenance or repair persons employed in or around a private home.

4. Volunteers and persons providing services in return for only aid or sustenance from religious or charitable organizations.

B. Non Single-Occupancy-Vehicle Deduction. When computing the number of employees or employee hours, a business may deduct the number of employees, or their hours, for those employees who ((do not regularly commute to a workplace in the City using a motor vehicle occupied by a single person)) use alternatives to driving alone as their regular commute mode of transportation. The Director shall adopt rules to define eligibility for this non single-occupancy-vehicle deduction.

Section 4. Section 5.37.070 of the Seattle Municipal Code is amended as follows:

5.37.070 Use of Revenues.

The proceeds of the employee hours tax, ((imposed herein)) less 10 percent, which under the City Charter must be deposited in the Park and Recreation Fund, and any interest or other earnings ((from their deposit or investment)) placed in and segregated within the Transportation Fund in accordance with SMC 5.37.080, shall be used for transportation purposes. None of the proceeds of the tax imposed herein shall be used to fund the major repair or replacement, including but not limited to replacement with a waterfront tunnel, of the Alaskan Way Viaduct or the seawall located to the west of Alaskan Way, unless appropriated for those purposes by ordinance. To the extent permitted by applicable law the City may issue bonds, notes, or other evidences of indebtedness payable wholly or in part from the additional taxes authorized under this ordinance, and may pledge and may apply such taxes to the payment of principal of, interest on, and premium (if any) on such bonds, notes, or other evidences of indebtedness and to the payment of costs associated with them.

Section 5. Section 5.37.080 of the Seattle Municipal Code is amended as follows:

5.37.080 Receipts To Transportation Fund.

All ((receipts)) proceeds from the employee hours tax, less 10 percent, which under the City Charter must be deposited in the Park and Recreation Fund, shall be placed in and segregated within the Transportation Fund. The ((se receipts)) proceeds placed in and segregated within the Transportation Fund may be temporarily deposited or invested in such manner as may be lawful for the investment of City money, ((and)) Any interest and other earnings from the deposit or investment of employee hours tax proceeds placed in and segregated within the Transportation Fund shall also be ((deposited)) placed in and segregated within ((in)) the Transportation Fund.

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

Passed by the City Council the 19th day of November, 2007, and signed by me in open session in authentication of its passage this 19th day of November, 2007.

NICK LICATA,

President of the City Council.

Approved by me this 26th day of November, 2007.

GREGORY J. NICKELS,

Mayor.

Filed by me this 26th day of November, 2007.

(Seal) JUDITH E. PIPPIN,

City Clerk.

Publication ordered by JUDITH PIPPIN, City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, November 28, 2007.

11/28(217687)

STATE OF WASHINGTON – KING COUNTY

--SS.

217887
CITY OF SEATTLE, CLERKS OFFICE

No.

Affidavit of Publication

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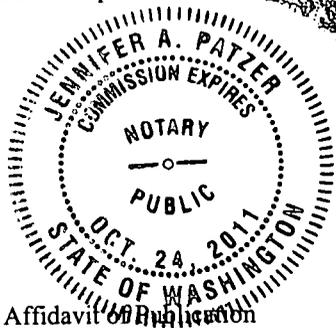
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Samuel Odusky

Subscribed and sworn to before me on

11/28/07

Jennifer A. Patzer

Notary public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 122561

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State of Washington, King County

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

Passed by the City Council the 19th day of November, 2007, and signed by me in open session in authentication of its passage this 19th day of November, 2007.

NICK LICATA,

President of the City Council.

Approved by me this 26th day of November, 2007.

GREGORY J. NICKELS,

Mayor.

Filed by me this 26th day of November, 2007.

(Seal) JUDITH E. PIPPIN,

City Clerk.

Publication ordered by JUDITH PIPPIN, City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, November 28, 2007.
11/28(217887)