

CITY OF SEATTLE
ORDINANCE _____
COUNCIL BILL 118138

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3
4 AN ORDINANCE relating to taxation for transportation purposes; imposing an employee hours
5 tax; increasing the commercial parking tax; adding a new Chapter 5.38 to Title 5 of the
6 Seattle Municipal Code; and amending sections in Chapters 5.30, 5.55, 5.35, and 3.02.

7 WHEREAS, statewide voter approved tax cut initiatives, a prolonged recession, and declined
8 sales tax revenues, combined with failed efforts to provide funding relief at state and
9 regional levels, have led King County Metro Transit ("Metro") to propose significant
transit service cuts in Seattle; and

10 WHEREAS, since the economic downturn in 2008 and the resulting reduction in sales and use
11 tax collections, Metro has experienced funding shortfalls that threatened to substantially
12 reduce available services; and

13 WHEREAS, since 2009, Metro has cut costs, improved operational efficiency, tapped reserve
14 funds, deferred scheduled maintenance that would have preserved reliability, found new
15 revenue sources, and raised passenger fares four times in four years, with a fifth fare
increase planned for 2015; and

16 WHEREAS, Metro and local officials also sought different local funding authority from the state
legislature; and

17 WHEREAS, in 2011, the Metropolitan King County Council passed a two-year congestion
18 reduction charge to help bridge Metro's funding gap and maintain service while the state
19 legislature considered transportation funding options; and

20 WHEREAS, the two-year congestion reduction charge expires in June 2014; and

21 WHEREAS, in June 2013, the state legislature failed to act on a proposed transportation package
22 that would have provided additional funding for Metro, along with many other
transportation improvements; and

23 WHEREAS, following the state legislature's failure to address the Metro funding gap, Metro
24 announced that it was facing a shortfall of about \$75 million per year beginning mid-
25 2014, and that in the absence of additional funding, it would be forced to cut up to
26 550,000 hours of bus service by the end of 2015; and

1 WHEREAS, in an attempt to avoid service cuts, the Metropolitan King County Council voted to
2 introduce a ballot measure, Proposition 1, to fund Metro's shortfall via a one-tenth of one
3 percent sales and use tax increase in King County and a sixty dollar vehicle fee on all
4 vehicles within the county; and

5 WHEREAS, in April 2014, the ballot measure failed by a vote of King County residents, despite
6 support from a large majority of voters in the City of Seattle; and

7 WHEREAS, the Seattle Transportation Benefit District is considering a November 2014 ballot
8 measure to provide transit funding in the City of Seattle via a one-tenth of one percent
9 sales and use tax increase in the City of Seattle and a sixty dollar vehicle fee on all
10 vehicles within the city; and

11 WHEREAS, the City of Seattle and the Transportation District entered into an interlocal
12 agreement in 2011 delineating roles and responsibilities and coordinating efforts to
13 pursue each municipal corporation's individual, joint and mutual rights and obligations
14 related to transportation needs of the City of Seattle; and

15 WHEREAS, the Transportation District intends to enter into an interlocal agreement with the
16 City of Seattle to govern the respective functions of the two entities, including execution
17 and administration of service purchase agreements with Metro Transit, regional
18 partnership agreements, ongoing assessment of countywide transit service allocations,
19 administration of the low-income rebate programs along with other functions necessary
20 to implement this proposition consistent with the intent of voters; and

21 WHEREAS, the City of Seattle has that ability to implement an employee hours tax and raise the
22 commercial parking tax, which are less regressive taxes than the sales tax, and could
23 replace the need for sales tax in the Seattle Transportation Benefit District proposal; and

24 WHEREAS, the proceeds of the employee head tax and commercial parking tax herein imposed
25 shall be used to purchase King County transit service that benefits the City of Seattle;
26 NOW, THEREFORE,

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

28 Section 1. A new Chapter 5.38, "Employee Hours Tax," is added to Title 5 of the Seattle
Municipal Code as follows:

5.38.010 Administrative Provisions.

1 All of the provisions contained in Chapter 5.55 of the Seattle Municipal Code shall have
2 full force and application with respect to taxes imposed under the provisions of this chapter
3 except as may be expressly stated to the contrary herein.

4 **5.38.020 Definitions.**

5 The definitions contained in Chapter 5.30 of the Seattle Municipal Code shall be fully
6 applicable to this chapter except as may be expressly stated to the contrary in this section. The
7 following additional definitions shall apply throughout this Chapter 5.38:

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

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

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

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

20 **5.38.030 Tax Imposed-Measure of the Tax.**

21 A. An employee hours tax is levied upon and shall be collected from every person for the
22 act or privilege of engaging in business activities within the City. The tax shall be measured by
23 the number of employee hours of work conducted with the City during the calendar year. The
24 employee hours tax is imposed effective January 1, 2015.

1 B. The amount of the tax shall be equal to the employee hours worked within the City
2 during the calendar year, multiplied by the rate of \$0.009375 per hour worked. The employee
3 hours worked are the total hours compensated by the business, excluding vacation, sick leave and
4 other paid leave hours. If an employee works within and outside the City, it will be the
5 responsibility of the business to calculate and report the number of hours worked within the City.

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

8 1. Calculation of FTEs. The number of FTE employees for the calendar year is
9 (i) the number of a business' full time employees for the calendar year, plus (ii) the sum of the
10 hours worked by part-time employees in the calendar year divided by 1,920 hours.

11 2. Tax. Any fractional FTE remaining after the determination of FTE employees
12 under SMC 5.38.030 C1 shall be rounded up to the nearest whole number. Once the number of
13 FTE employees is thus determined, that number shall be multiplied by \$18 to determine the
14 annual employee hours tax. Once the FTE alternative method is used, it must be used for all
15 future reporting periods, unless a change is approved by the Director.

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

18 E. The tax applies to employee hours worked or FTEs inside the City regardless of
19 whether the place of business is located within or outside of the City.

20 F. Temporary employment agencies. The business entity that directly pays a person for
21 temporary work is responsible for paying the employee tax, regardless of who is considered the
22 persons employer for other purposes.

23 **5.38.040 Employee hours tax -When due.**

24 The employee hours tax shall be reported and paid on an annual calendar year basis, at
25 the same time as the fourth quarter or annual tax return is due in accordance with SMC 5.55.040,

1 and on forms as prescribed by the Director. Persons discontinuing their business activities in
2 Seattle shall report and pay the tax at the same time as their final business tax return is due.

3 **5.38.050 Exemptions from the employee hours tax.**

4 A. The following are exempt from the employee hour tax:

5 1. Any business having annual worldwide gross income of \$100,000 or less.

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

8 (a) Insurance businesses and their agents as defined by RCW 48.01.050 and
9 48.17.010, respectively, and whose total revenue is exempt from the business
10 license tax per SMC 5.45.

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

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

15 (d) Federal, state, local government agencies and subdivisions.

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

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

20 **5.38.060 Tax In Addition To Other License Fees Or Taxes.**

21 The tax imposed herein shall be in addition to any license fee or tax imposed or levied
22 under any other law, statute or ordinance whether imposed or levied by the City, State or other
23 governmental entity or political subdivision.

24 **5.38.070 Use Of Revenues.**

1 The proceeds of the tax imposed herein shall be used for transportation purposes in
2 accordance with RCW 82.80.070. To the extent permitted by applicable law the City may issue
3 bonds, notes, or other evidences of indebtedness payable wholly or in part from the parking tax
4 and may pledge and may apply such tax to the payment of principal of, interest on, and premium
5 (if any) on such bonds, notes, or other evidences of indebtedness and to the payment of costs
6 associated with them.

7 **5.38.080 Receipts To Transportation Fund.**

8 All receipts from the employee hour tax shall be placed in and segregated within the
9 Transportation Fund. These receipts may be temporarily deposited or invested in such manner as
10 may be lawful for the investment of City money and interest and other earnings shall be
11 deposited in the Transportation Fund.

12
13 Section 2. Section 5.30.010 of the Seattle Municipal Code, which was last amended by
14 Ordinance 123063, is amended as follows:

15 **5.30.010 Definition provisions.**

16 The definitions contained in this chapter shall apply to the following chapters of the
17 Seattle Municipal Code: Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking
18 Taxes), ~~5.37~~ 5.38 (Employee Hours Taxes), 5.40 (Admission Taxes), 5.45 (Business License
19 Taxes), 5.46 (Square Footage Business Tax), 5.48 (Utility Taxes), 5.52 (Gambling Taxes), and
20 5.55 (Administrative Provisions) unless expressly provided for otherwise therein, and shall also
21 apply to other chapters and sections of the Seattle Municipal Code in the manner and to the
22 extent expressly indicated in each chapter or section. Words in the singular number shall include
23 the plural and the plural shall include the singular. Words in one gender shall include both
24 genders.

1 Section 3. Section 5.55.010 of the Seattle Municipal Code, which was last amended by
2 Ordinance 123063, is amended as follows:

3 **5.55.010 Application of chapter stated.**

4 Unless expressly stated to the contrary in each chapter, the provisions of this chapter shall
5 apply with respect to the licenses and taxes imposed under this chapter and SMC Chapters 5.32
6 (Amusement Devices), 5.35 (Commercial Parking Taxes), ~~5.37~~ 5.38 (Employee Hours Taxes),
7 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Business Tax), 5.48
8 (Utility Tax), and 5.52 (Gambling Tax) and under other titles, chapters and sections in such
9 manner and to such extent as indicated in each such title, chapter or section.

10
11 Section 4. Subsection 5.55.040 A of the Seattle Municipal Code, which section was last
12 amended by Ordinance 123063, is amended as follows:

13 A. Other than any annual license fee or registration fee assessed under this chapter, the
14 tax imposed by SMC Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax),
15 5.38 (Employee Hour Taxes), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square
16 Footage Business Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax), shall be due and payable in
17 quarterly installments. The Director may use his or her discretion to assign businesses to a
18 monthly or annual reporting period depending on the tax amount owing or type of tax. Taxes
19 imposed by SMC Section 5.52.030 A2 and B2 for punchboards and pulltabs shall be due and
20 payable in monthly installments. Tax returns and payments are due on or before the last day of
21 the next month following the end of the assigned reporting period covered by the return.

22
23 Section 5. Subsection 5.55.060 A of the Seattle Municipal Code, which section was last
24 amended by Ordinance 123361, is amended as follows:

1 A. Every person liable for any fee or tax imposed by this chapter, Chapters 5.32, 5.35,
2 5.38, 5.40, 5.45, 5.46, 5.48, and 5.52 shall keep and preserve, for a period of five years after
3 filing a tax return, such records as may be necessary to determine the amount of any fee or tax
4 for which the person may be liable; which records shall include copies of all federal income tax
5 and state tax returns and reports made by the person. All books, records, papers, invoices, ticket
6 stubs, vendor lists, gambling games and payout information, inventories, stocks of merchandise,
7 and other data, including federal income tax and state tax returns, and reports needed to
8 determine the accuracy of any taxes due, shall be open for inspection or examination at any time
9 by the Director or a duly authorized agent. Every person's business premises shall be open for
10 inspection or examination by the Director or a duly authorized agent.

11
12 Section 6. Subsection 5.55.150 E of the Seattle Municipal Code, which section was last
13 amended by Ordinance 123899, is amended as follows:

14 E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, interest or
15 penalty due either by affirming, reversing or modifying an action of the Director. Reversal or
16 modification is proper if the Director's assessment or refund denial violates the terms of this
17 Chapter 5.55, or Chapters 5.30, 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.45, 5.46, 5.48, or 5.52.

18
19 Section 7. Section 5.55.165 of the Seattle Municipal Code, which was last amended by
20 Ordinance 123361, is amended as follows:

21 **5.55.165 Director of Finance and Administrative Services to make rules.**

22 The Director of Finance and Administrative Services shall have the power and it shall be
23 his or her duty, from time to time, to adopt, publish and enforce rules and regulations not
24 inconsistent with this chapter, SMC Chapters 5.30, 5.32, 5.35, 5.38, 5.40, 5.45, 5.46, 5.48, 5.52

1 or with law for the purpose of carrying out the provisions of such chapters, and it shall be
2 unlawful to violate or fail to comply with, any such rule or regulation.

3
4 Section 8. Subsections 5.55.220 A and B of the Seattle Municipal Code, which section
5 was last amended by Ordinance 122764, are amended as follows:

6 A. It shall be unlawful for any person subject to the provisions of this chapter, or SMC
7 Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.46, 5.45, 5.48 and 5.52:

- 8 1. To violate or fail to comply with any of the provisions of this chapter, SMC
9 Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.45, 5.46, 5.48 and 5.52, or any lawful rule
10 or regulation adopted by the Director;
- 11 2. To make or manufacture any license required by this chapter except upon
12 authority of the Director;
- 13 3. To make any false statement on any license, application or tax return;
- 14 4. To aid or abet any person in any attempt to evade payment of a license fee or tax;
- 15 5. To refuse admission to the Director to inspect the premises and/or records as
16 required by this chapter, or to otherwise interfere with the Director in the
17 performance of duties imposed by SMC Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40,
18 5.45, 5.46, 5.48 and 5.52;
- 19 6. To fail to appear or testify in response to a subpoena issued pursuant to SMC
20 Section 3.02.120 in any proceeding to determine compliance with this chapter and
21 SMC Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.45, 5.46, 5.48 and 5.52;
- 22 7. To testify falsely in any investigation, audit or proceeding conducted pursuant to
23 this chapter;

1 8. To continue to engage in any business activity, profession, trade or occupation
2 after the revocation of or during a period of suspension of a business license
3 issued under SMC Section 5.55.030; or

4 9. In any manner, to hinder or delay the City or any of its officers in carrying out the
5 provisions of this chapter or SMC Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.45, 5.46,
6 5.48 and 5.52.

7 B. Each violation of or failure to comply with the provisions of this chapter, or SMC
8 Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.45, 5.46, 5.48 or 5.52 shall constitute a separate offense.
9 Except as provided in subsection C, any person who commits an act defined in subsection A of
10 this section is guilty of a gross misdemeanor, punishable in accordance with SMC Section
11 12A.02.070. The provisions of Chapters 12A.02 and 12A.04 of the Seattle Municipal Code apply
12 to the offenses defined in subsection A of this section, except that liability is absolute and none
13 of the mental states described in SMC Section 12A.04.030 need be proved.

14
15 Section 9. Subsection 5.55.230 A of the Seattle Municipal Code, which section was last
16 amended by Ordinance 123899, is amended as follows:

17 A. The Director, or his or her designee, has the power and authority to refuse to issue,
18 revoke or refuse to renew any business license or amusement device license issued under the
19 provisions of this chapter. The Director, or his or her designee, shall notify such applicant or
20 licensee in writing by certified mail of the refusal to issue, revocation of, or refusal to renew, his
21 or her license and on what grounds such a decision was based. The Director may refuse to issue,
22 revoke or refuse to renew any license issued under this chapter on one or more of the following
23 grounds:

- 24 1. The license was procured by fraud or false representation of fact.
25 2. The licensee has failed to comply with any provisions of this chapter.

- 1 3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35, ~~5.37~~
2 5.38, 5.40, 5.45, 5.46, 5.48, or 5.52.
- 3 4. The licensee is in default in any payment of any license fee or tax under Title 5 or
4 Title 6.
- 5 5. The property at which the business is located has been determined by a court to be
6 a chronic nuisance property as provided in Chapter 10.09.
- 7 6. The applicant or licensee has been convicted of theft under Section
8 12A.08.060.A.4 within the last ten years.
- 9 7. The applicant or licensee is a person subject within the last ten years to a court
10 order entering final judgment for violations of RCW 49.46, 49.48, or 49.52, and
11 the judgment was not satisfied within 30 days of the later of either:
 - 12 a. the expiration of the time for filing an appeal from the final judgment order
13 under the court rules in effect at the time of the final judgment order; or
 - 14 b. if a timely appeal is made, the date of the final resolution of that appeal and
15 any subsequent appeals resulting in final judicial affirmation of the findings of
16 violations of RCW 49.46, 49.48, or 49.52.
- 17 8. The applicant or licensee is a person subject within the last ten years to a final and
18 binding citation and notice of assessment from the Washington State Department
19 of Labor and Industries for violations of RCW 49.46, 49.48 or 49.52, and the
20 citation amount and penalties assessed therewith were not satisfied within 30 days
21 of the date the citation became final and binding.

22 The period of non-issuance, revocation or non-renewal shall be at least one year, and the
23 licensee or any person (as defined in Section 5.30.040.F) in which the licensee is a principal shall
24 not again be licensed during such period.

1 Section 10. Subsection 5.35.030 B of the Seattle Municipal Code, which section was last
2 amended by Ordinance 123396, is amended as follows:

3 B. The amount of the parking tax shall be equal to the parking fee multiplied by the
4 parking tax rate. Effective July 1, 2009, the parking tax rate is imposed at ten percent (0.10).
5 Effective January 1, 2011, the parking tax rate is imposed at 12.5 percent. Effective January 1,
6 2015, the parking tax rate is imposed at 17.5 percent.

7
8 Section 11. Severability. If any part, provision or section of this ordinance is held to be
9 void or unconstitutional, all other parts, provisions, and sections of this ordinance not expressly
10 so held to be void or unconstitutional shall continue in full force and effect.

11
12 Section 12. This ordinance shall take effect and be in force 30 days after its approval by
13 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
14 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

15
16 Passed by the City Council the ____ day of _____, 2014, and
17 signed by me in open session in authentication of its passage this
18 ____ day of _____, 2014.

19
20 _____
21 President _____ of the City Council

22
23 Approved by me this ____ day of _____, 2014.

Edward B. Murray, Mayor

Filed by me this ____ day of _____, 2014.

Monica Martinez Simmons, City Clerk

(Seal)

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FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Legislative	Calvin Chow/x4-4652	n/a

Legislation Title:

AN ORDINANCE relating to taxation for transportation purposes; imposing an employee hours tax; increasing the commercial parking tax; adding a new Chapter 5.38 to Title 5 of the Seattle Municipal Code; and amending sections in Chapters 5.30, 5.55, 5.35, and 3.02.

Summary of the Legislation:

This legislation levies an Employee Hours Tax of \$18 per employee and raises the Commercial Parking Tax by 5%. Revenues from these new taxes will be deposited in the Transportation Fund and used to purchase transit service for Seattle and offset planned King County Metro service cuts.

Background:

In April 2014, the King County Transportation Benefit District proposed a ballot measure to fund King County Metro with a one-tenth of one percent sales tax and a sixty dollar vehicle fee on all vehicles within the county. The ballot measure failed by a vote of King County residents, despite support from a large majority of voters in the City of Seattle. Following the failure of the county vote, the Seattle Transportation Benefit District (STBD) is considering a similar city-only measure for the November 2014 ballot.

Because the City of Seattle has additional forms of taxation authority available which are less regressive than the sales tax, this legislation proposes to implement an employee head tax and increase the commercial parking tax to replace the revenue which would otherwise be raised by the STBD sales tax.

Please check one of the following:

This legislation does not have any financial implications.

This legislation has financial implications.

Appropriations:

None.

Appropriations Notes:

This legislation does not provide appropriations. Future appropriation would be needed in the 2015-2016 Budget, or in supplemental budget actions.

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2014 Revenue	2015 Revenue
Transportation Fund (10310)	SDOT	Employee Hours Tax	\$0	\$7,000,000
Transportation Fund (10310)	SDOT	Commercial Parking Tax	\$0	\$13,000,000
TOTAL			\$0	\$20,000,000

Revenue/Reimbursement Notes:

Anticipated revenue from the Employee Hours Tax is based on an estimate of approximately 385,000 taxable FTEs within the City of Seattle. Anticipated revenue from the Commercial Parking Tax increase is based on current projections of the existing tax.

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact:

None.

Position Notes:

This legislation anticipates that these new taxes will be administered with existing resources.

Do positions sunset in the future?

N/A.

Spending/Cash Flow:

N/A.

Spending/Cash Flow Notes:

This legislation does not authorize spending. Future legislation is anticipated to authorize purchase of transit service hours with these revenues.

Other Implications:

- a) **Does the legislation have indirect financial implications, or long-term implications?**
 This legislation establishes new taxes.
- b) **What is the financial cost of not implementing the legislation?**
 Not implementing this legislation would eliminate a source of City of Seattle revenue which could be used to purchase transit service hours.
- c) **Does this legislation affect any departments besides the originating department?**
 This legislation impacts FAS, which would administer the new employee hours tax, and SDOT, which would receive funding from the proposed taxes and negotiate the purchase

of service hours from King County Metro. Appropriations for these departments will need to be approved in the 2015-2016 Budget or in a supplemental budget action.

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

The Seattle Transportation Benefit District (STBD) is considering a proposal to put a transit funding measure before Seattle voters, which would enact a 0.1 % sales tax and a \$60 vehicle license fee. This legislation provides alternative sources of revenue (utilizing City of Seattle taxing authority) to offset the STBD's proposed 0.1 % sales tax increase.

e) Is a public hearing required for this legislation?

No.

f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No.

g) Does this legislation affect a piece of property?

No.

h) Other Issues:

None.

List attachments to the fiscal note below:

None.