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INITIATIVE 1107: A RESPONSE TO LAST MINUTE TAX INCREASES

BRIEFLY

I-1107 would repeal taxes on bottled water, pop, candy, and certain processed foods that were hastily enacted at the end of the 2010 special session.

Initiative 1107 would repeal tax increases on certain food and beverage products. The increases were part of a package of revenue bills enacted by the legislature on the last day of the 2010 special session.

Food Related Taxes Increased by Legislature

In April, the legislature extended the sales tax to prepared food, soft drinks, bottled water, candy and dietary supplements. Lawmakers also imposed a tax on carbonated beverages of 2 cents per 12 ounces. The taxes on pop and bottled water would sunset July 1, 2013, absent legislative action. The others are permanent.

Additionally, the legislature narrowed tax preferences provided to processors of perishable meat products and fruit and vegetable manufacturers. These provisions were in response to a 2005 court case (*Agrilink Foods, Inc. v. Department of Revenue*), in which the state Supreme Court held that “the preferential business and occupation tax rate on the slaughtering, breaking, and/or processing of perishable meat products applied to the processing of perishable meat products into nonperishable finished products, such as canned food.” Legislators also expressed concern that the ruling could be extended to fruit and vegetable products, specifying that such nonperishable products would be subject to the higher Business and Occupation tax rate (0.484% instead of 0.138%).

These food related tax increases were included in a tax bill, 2ESSB 6143, that increased a number of other taxes as well. The Legislative Evaluation and Accountability Program Committee (LEAP) estimated that the food related provisions would contribute \$100.7 million of the \$671.3 million in additional revenues provided by the bill over the 2009–2011 biennium.

2ESSB 6143, Highlighted Provisions

New Revenue, Dollars in Millions

	2009-2011
Sales Tax Applied to Candy and Gum with B&O Credit for Jobs	30.5
Agrilink	4.1
Pop Tax Increase Exempting Bottlers Under \$10 million in Sales	33.5
Sales Tax Applied to Bottled Water	32.6
All Other Provisions	570.6

Repealing Some of Those Increases

I-1107 would repeal the changes the legislature made due to the *Agrilink* case, thereby allowing a broader group of foods made from agricultural products to qualify for the preferential tax rate.

The initiative would also repeal the tax increases on bottled water and candy, as well as the tax on carbonated beverages.

One impetus for I-1107, as stated in the intent section of the initiative, is that “the process the legislature used to increase taxes on food and beverages did not provide adequate public input on or scrutiny of the proposed tax increases.” That’s an understatement. Lawmakers passed the tax hikes the day they were unveiled without a public hearing.

Clearly, legislators did not scrutinize the soda tax carefully. By exempting soda bottlers with under \$10 million in sales, lawmakers intended to protect Washington’s soda bottling industry. After the bill was passed, however, it was discovered that most small bottlers would not qualify.

The Office of Financial Management estimates that I-1107 would reduce state general fund revenues by \$352 million over five years and local revenues by \$83 million over five years.

Interaction with Referendum 52

Although the tax on bottled water is only in effect through June 30, 2013, Referendum 52 (another item for the voters to consider in November) would make it permanent. If I-1107 passes, the bottled water tax would be repealed, regardless of what happens with Referendum 52.

I-1107	
State and Local Revenue, Dollars in Millions	
	<u>2011</u>
Sales Tax on Candy	(20.761)
Food Processors B&O Tax	(1.932)
Excise Tax on Carbonated Beverages	(23.064)
Sales Tax on Bottled Water	(21.676)

Discussion

During the legislative session, the business community warned lawmakers against increasing taxes in this economic climate. The state economy continues to struggle and unemployment remains uncomfortably high.

Opponents of the initiative say these are taxes on non-essentials (and some of them only temporary). Supporters wanted the legislature to solve its budget problem without raising taxes. And, they argue, the state ought not be imposing higher taxes on some foodstuffs than others.

The behind-the-scenes development of the last-minute tax package violated important principles of transparency and public engagement in fiscal policy. The public would have been better served had lawmakers devoted their energies to closing the gap without new revenues.

I-1107 is an unsurprising response to the tax increases and the process by which they were enacted. Simply, it represents an opportunity for voters to do what they urged lawmakers to do last spring: Reject a tax increase.

References

Legislative Evaluation & Accountability Program Committee. Legislative Budget Notes: 2010 Supplemental with Revised 2009-2011 Biennium Numbers. <http://leap.leg.wa.gov/leap/budget/lbns/2010partiii.pdf>

Office of Financial Management. Fiscal Impacts for Initiative 1107. <http://www.ofm.wa.gov/initiatives/2010/1107.pdf>