HOUSE BILL NO. HB0172

Sales/use tax-removal of 4th cent.

Sponsored by: Representative(s) Miller and Senator(s) Case

A BILL

for

AN ACT relating to taxation and revenue; reducing the state sales and use tax rate as specified; providing for distribution of severance taxes as specified; amending related provisions; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 39-14-801(e)(intro), 39-15-104(a) and (b), 39-15-111(g) and by creating a new subsection (p), 39-15-303(b)(ii) through (iv), 39-15-306(b)(i) and (v), 39-16-104(b) and 39-16-111 by creating a new subsection (p) are amended to read:

39-14-801. Severance tax distributions; distribution account created; formula.

(e) Deposits into the account created by subsection (a) of this section shall be distributed as follows, subject to W.S. 39-15-111(p), 39-16-111(p) and subsections (b) through (d) of this section:

39-15-104. Taxation rate.

(a) Except as provided by W.S. 39-15-105 there is levied and shall be paid by the purchaser on all sales an excise tax of ~~three percent (3%)~~ two percent (2%) upon all events as provided by W.S. 39-15-103(a).

(b) ~~Effective July 1, 1993,~~ In addition to the sales tax under subsection (a) of this section, there is imposed an additional sales tax of one percent (1%) which shall be administered as if the sales tax rate under subsection (a) of this section was increased from ~~three percent (3%)~~ two percent (2%) to ~~four percent (4%)~~ three percent (3%). The revenue from these increases shall be distributed in the same manner as other sales tax revenue under those sections.

39-15-111. Distribution.

(g) If the tax imposed under W.S. 39-15-104(b) is reduced to one-half of one percent (.5%) under W.S. 39-15-104(d), on and after September 1 of the year in which the reduction occurs, the distributions to the state general fund under paragraph (b)(i) of this section shall be reduced ~~until June 30, 2004, from seventy and one-half percent (70.5%) to sixty-eight and one-half percent (68.5%) and thereafter~~ from sixty-nine percent (69%) to ~~sixty-five percent (65%)~~ sixty-two and eight-tenths percent (62.8%).

(p) The state treasurer shall prior to making distributions to the general fund pursuant to W.S. 39-14-801(e)(i), distribute monthly to local governments that amount of severance taxes necessary in order to maintain the amount of revenues to local governments that otherwise would have been distributed to local governments under W.S. 39-15-111 if the sales tax rate under W.S. 39-15-104(a) and (b) were four percent (4%) instead of three percent (3%). These distributions shall be made in the same proportion as distributions under W.S. 39-15-111(b)(iii).

39-15-303. Imposition.

(b) Taxpayer. The following shall apply:

(ii) Any subcontractor who contracts with a general or prime contractor is liable for sales taxes as a general or prime contractor. The general or prime contractor shall withhold ~~three percent (3%)~~ two percent (2%), plus the increased rate under W.S. 39-15-104(b) if the tax under that section is in effect, of the payments due a nonresident subcontractor arising out of the contract entered into between both contractors. The contractor shall withhold the payments until the subcontractor furnishes him with a certificate issued by the department showing all sales taxes accruing by reason of the contract between them have been paid. The department may demand the withholdings at any time to satisfy the sales tax liability of the subcontractor and any balance shall be released by the department to him. If a contractor fails to withhold payments or refuses to remit them upon demand by the department he is liable for any sales taxes due the state by the nonresident subcontractor. This paragraph shall not apply to any subcontractor hired to provide labor only to alter, construct, improve or repair real property;

(iii) To secure payment of sales taxes by nonresident prime contractors, each nonresident contractor shall file with the department of revenue a surety bond or legal security equal to ~~three percent (3%)~~ two percent (2%), plus the increased rate under W.S. 39-15-104(b) if the tax under that section is in effect, of the payments due under the contract or an amount determined by the department. The bond shall be conditioned upon the payment of all sales taxes which become due and payable to this state under the contract or in the real property development. This bond requirement does not apply for a nonresident contractor who has furnished a surety bond as provided by W.S. 39-15-306(b)(v);

(iv) Any nonresident prime contractor and any resident prime contractor who hires a nonresident subcontractor shall register any project with the department of revenue not less than fifteen (15) days following the start of a project pursuant to a contract. The nonresident prime contractor shall provide a properly executed bond as required by paragraph (iii) of this subsection, or a cash deposit of not less than ~~four percent (4%)~~ three percent (3%) of the total payments due under the contract. The cash deposit shall be refunded to the contractor upon the department's receipt of a properly executed surety bond or upon satisfactory completion of the project. Failure to register with the department within the time period required by this paragraph shall result in a penalty assessment of one percent (1%) of the total payments due under the contract.

39-15-306. Licenses; permits; bonding.

(b) Bonding. The following shall apply:

(i) To secure payment of sales taxes by nonresident prime contractors, each nonresident contractor shall file with the department of revenue a surety bond or legal security equal to ~~three percent (3%)~~ two percent (2%), plus the increased rate under W.S. 39-15-104(b) if the tax under that section is in effect, of the payments due under the contract or an amount determined by the department. The bond shall be conditioned upon the payment of all sales taxes which become due and payable to this state under the contract or in the real property development. This bond requirement does not apply for a nonresident contractor who has furnished a surety bond as provided by paragraph (v) of this subsection;

(v) Whenever a nonresident general or prime contractor or nonresident subcontractor furnishes a surety bond for the faithful performance of his contract or subcontract there is imposed an additional obligation upon the surety company to the state of Wyoming and the department as its agent that the nonresident contractor shall pay all sales taxes which become due in the performance of the contract. In the case of a nonresident general or prime contractor this additional obligation includes liability to pay the department all sales taxes which have not been paid to a licensed vendor or the department by the nonresident contractor. The nonresident general or prime contractor or his surety company is authorized to recover from the nonresident subcontractor the amount of sales taxes accruing with respect to purchases made by the nonresident subcontractor which were paid to the department by the nonresident contractor or the surety company, or an amount equal to the sales taxes so paid by the nonresident contractor may be withheld from payments made under the contract. The liability of the surety company under this section is limited to ~~three percent (3%)~~ two percent (2%), plus the increased rate under W.S. 39-16-104(b) if the tax under that section is in effect, of the contract price;

39-16-104. Taxation rate.

(b) ~~Effective July 1, 1993, ~~In addition to the use tax under subsection (a) of this section, there is imposed an additional use tax of one percent (1%) which shall be administered as if the use tax rates under subsection (a) of this section were increased from ~~three percent (3%) ~~two percent (2%) to ~~four percent (4%) ~~three percent (3%). The revenue from these increases shall be distributed in the same manner as other use tax revenue under that subsection.

39-16-111. Distribution.

(p) The state treasurer shall prior to making distributions to the general fund pursuant to W.S. 39-14-801(e)(i), distribute monthly to local governments that amount of severance taxes necessary in order to maintain the amount of revenues to local governments that otherwise would have been distributed to local governments under W.S. 39-16-111 if the use tax rate under W.S. 39-16-104(a) and (b) were four percent (4%) instead of three percent (3%). These distributions shall be made in the same proportion as distributions under W.S. 39-16-111(b)(iii).

Section 2. This act is effective July 1, 2006.

(END)