

HOUSE BILL REPORT

HB 2965

*As Reported By House Committee on:
Revenue*

Title: An act relating to contractor registration requirements.

Brief Description: Modifying contractor registration requirements.

Sponsor(s): Representative Wang.

Brief History:

Reported by House Committee on:
Revenue, February 27, 1992, DPS.

**HOUSE COMMITTEE ON
REVENUE**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 11 members: Representatives Wang, Chair; Fraser, Vice Chair; Brumsickle, Ranking Minority Member; Wynne, Assistant Ranking Minority Member; Appelwick; Belcher; Day; J. Kohl; Leonard; Rust; and Silver.

Minority Report: *Do not pass.* Signed by 3 members: Representatives Carlson; Morris; and Morton.

Staff: Robert Longman (786-7139).

Background:

The state retail sales tax is imposed at a rate of 6.5 percent on sales of most articles of tangible personal property and certain services. The use tax is imposed at the same rate on the use of articles of tangible personal property when the sale or acquisition has not been subject to sales tax. The use tax commonly applies to purchases made from out-of-state firms.

Local governments may impose sales and use taxes on the same base as the state at the following rates:

Counties/cities	up to 1.0 percent
Transit districts	up to 0.6 percent
High capacity transportation	up to 1.0 percent

Criminal justice 0.1 percent
(Only Clark, King, Pierce, Snohomish, Spokane, and
Thurston counties may impose 0.1 percent for criminal
justice. These counties may then levy only 0.9 percent of
the high capacity transportation tax.)

Maximum local rate 2.6 percent

In the construction industry, sales tax treatment varies depending on whether the builder is a "speculative builder," who builds on his or her own land, or a "custom builder," who builds on the land of another.

When a speculative builder purchases materials or hires subcontractors, the builder pays sales tax on the materials and payments to subcontractors. When a speculative builder sells a completed project, it is a sale of real estate. Thus, the retail sales tax does not apply to a sale by a speculative builder. Instead, the real estate excise tax is imposed on the total selling price, including land and structures.

When a custom builder purchases materials or hires subcontractors, the builder does not pay sales tax and provides the retailer or subcontractor with a certificate stating that the builder will resell the materials or service (a "resale certificate"). The builder then collects sales tax from the customer on the final construction contract, including sales tax on the materials and the subcontractor costs. For a custom builder, the sales tax applies to total construction costs, including materials, labor, fees paid by the builder, and other services provided by the builder as part of the construction contract.

Audits by the Department of Revenue reveal that some contractors are avoiding payment of sales and use taxes on materials and services used in construction projects. Sales tax avoidance occurs when builders purchase materials or subcontractor services under a resale certificate knowing the materials or services will be used in a speculative construction job. Or, the materials and services may be purchased entirely for personal use.

The Department of Revenue may later audit the builder and discover overdue tax, but there may not be sufficient assets to recover all of the tax, or the builder may be out of business. Many builders may be escaping audit entirely.

Building contractors are required to register with the Department of Labor and Industries.

Summary of Substitute Bill: Each building contractor registering with the Department of Labor and Industries for the first time will receive a package of information from the Department of Revenue concerning state tax laws and reporting requirements. The applicant will be required to sign a statement acknowledging receipt of the information and that he or she will be responsible for reviewing the information. The Department of Labor and Industries will forward copies of the statements to the Department of Revenue.

If a tax warrant is issued against a building contractor, the contractor must attend a tax education seminar sponsored or approved by the Department of Revenue.

The Department of Revenue will submit a report on construction industry tax compliance issues to the Legislature by December 15, 1993.

Substitute Bill Compared to Original Bill: The original bill required all contractors, electricians, and plumbers to attend tax education seminars at the time of original registration and once every four years.

Fiscal Note: Requested February 27, 1992.

Effective Date of Substitute Bill: The bill takes effect July 1, 1992.

Testimony For: There are recognized tax compliance problems in the construction industry. The substitute bill will help by providing tax information to new contractors and requiring tax education seminars only for those contractors who are having compliance problems.

Testimony Against: Section 2 of the substitute bill unfairly singles out contractors for tax education seminar requirements. There are other industries with compliance problems. If tax education requirements are needed, they should apply to all persons with compliance problems.

Witnesses: Rick Slunaker, Association of General Contractors of Washington; and Doug Bohlke, United Subcontractors (both supported the proposed substitute). Mark Triplett, Building Industry Association of Washington (concerns with section 2). Claire Hesselholt and John Pittman, Department of Revenue (neutral).