

# HOUSE BILL REPORT

## HB 1919

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### As Reported By House Committee On:

Finance

**Title:** An act relating to repealing the sales taxation of certain services enacted in 1993.

**Brief Description:** Repealing the sales taxation of certain services enacted in 1993.

**Sponsors:** Representatives B. Thomas, Thompson, Robertson, Linville, Wensman and Morris.

### Brief History:

#### Committee Activity:

Finance: 2/26/97, 3/7/97 [DPS].

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives B. Thomas, Chairman; Carrell, Vice Chairman; Mulliken, Vice Chairman; Boldt; Morris; Pennington; Schoesler and Van Luven.

**Minority Report:** Do not pass. Signed by 6 members: Representatives Dunshee, Ranking Minority Member; Dickerson, Assistant Ranking Minority Member; Butler; Conway; Kastama and Mason.

**Staff:** Linda Brooks (786-7153).

**Background:** The sales tax is imposed on retail sales of most items of tangible personal property and some services. Use tax is imposed on the use of an item in this state, when the acquisition of the item or service has not been subject to sales tax. The combined state and local sales and use tax rate is between 7 and 8.6 percent, depending on location.

In 1993, the Legislature extended state and local retail sales taxes to sales of certain services, including massage services; landscape maintenance and horticultural services other than horticultural services provided to farmers; coin-operated laundry facilities in apartment houses, hotels, trailer camps, and tourist camps; service charges associated with tickets to professional sporting events; guided tours and guided charters; physical fitness services; tanning salon services; tattoo parlor services; steam

bath services; Turkish bath services; escort services; and dating services. These services were added to the list of services that were already subject to sales tax, which were construction, repair, automobile parking and storage, telephone services, some recreation and amusement services, and services provided by abstract, title insurance, escrow, and credit bureau businesses.

Many types of services remain exempt from sales tax. Major exemption categories include medical, legal, accounting, engineering, motion pictures, veterinary, cable television, and beauty and barber services.

In 1995, legislation was enacted that repealed the sales taxation of massage services.

In 1996, the Legislature removed guided tours and guided charters from the definition of retail sale in response to a ruling by the U.S. Supreme Court on an Oklahoma case involving the taxation of guided tours. Guided tours and guided charters are not subject to sales and use tax, but day trips for sightseeing purposes are subject to sales and use tax.

The retail sales tax and the business and occupation (B&O) tax use the same definition of retail sale. The B&O tax is Washington's major business tax. This tax is imposed on the gross receipts of business activities conducted within the state. There are several different rates under the B&O tax. The B&O rate for retailing is 0.471 percent. After a temporary surtax expires on July 1, 1997, the B&O rate applicable to these services if they are not classed as retail sales will be 1.75 percent.

Initiative 601, approved by the voters in November 1993, requires a two-thirds vote of each house of the Legislature for an action that raises state revenue, plus a vote of the people if state expenditures, including the new revenue, will exceed the limit provided in the initiative. If a service is removed from the definition of retail sale, the resulting increase in the B&O tax rate might be considered an action that raises state revenue under the initiative.

**Summary of Substitute Bill:** The 1993 extension of sales taxes to services is partially repealed. The following services will no longer be subject to sales tax: landscape maintenance and horticultural services; coin-operated laundry facilities in apartment houses, hotels, trailer camps, and tourist camps; service charges associated with tickets to professional sporting events; physical fitness services; and tanning salon services. As a result of repealing the sales tax, the B&O tax rate for providers of these services is increased from 0.471 percent (retailing rate) to 1.75 percent (service rate).

The 1993 extension of sales taxes to the following services is not repealed: tattoo parlor services; steam bath services; Turkish bath services; escort services; and dating

services. Since sales tax is not repealed on these services, the B&O tax rate for providers of these services remains at 0.471 percent (retailing rate).

**Substitute Bill Compared to Original Bill:** The original bill proposed to eliminate the sales tax on all services made subject to the retail sales tax in 1993. The substitute bill eliminates the sales tax on most of these services but retains sales tax on the following services: tattoo parlors, Turkish and steam baths, and dating and escort services.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect on July 1, 1997.

**Testimony For:** The Legislature needs to roll back all of the tax increases that it passed in 1993. When services such as landscaping or physical fitness club memberships suddenly became subject to sales tax in 1993, there was a tremendous impact on businesses. For example, some apartment complexes that used to contract for landscaping services decided to bring the services in-house rather than pay an extra 8 percent in sales tax. Likewise, many of the services subjected to sales tax for the first time in 1993 are very price-sensitive industries. The imposition of the sales tax had immediate effect of an 8 percent price increase, and some customers simply decided to quit buying a service such as an athletic club membership as a result of the price hike.

Repeal of the sales tax will mean that these service businesses pay a higher business and occupation tax rate. Customers pay sales taxes, but businesses have to pay business and occupation taxes on their gross receipts. Since the incidence of a sales tax is on the customer, one might think that a business owner would prefer a tax package consisting of a sales tax and a lower business and occupation tax over a tax package with no sales tax but a higher business and occupation tax. However, the business and occupation tax credit for small businesses means that some service businesses pay no business and occupation tax, so the business and occupation tax rate is not a consideration for all businesses. Also, some larger businesses prefer to pay a higher business and occupation tax rate, if customers are very sensitive to the price of their services.

**Testimony Against:** None.

**Testified:** (Pro) Representative Thomas; Paul Brunnchrist, Washington Association of Landscape Professionals; George Eusterman, Northwest Athletic Club; Doug Newhart and Patty Vanderbroek, Washington Apartment Association; Carolyn Logue, National

Federation of Independent Businesses; and Gary Smith, Independent Business Association.