

SENATE BILL REPORT

SB 5528

As Reported By Senate Committee On:
Ways & Means, February 24, 1999

Title: An act relating to the meaning of the phrase "services rendered in respect to constructing" for purposes of the business and occupation and sales and use taxes.

Brief Description: Clarifying the phrase "services rendered in respect to constructing" for business and occupation tax purposes.

Sponsors: Senators Loveland, Horn and Winsley; by request of Department of Revenue.

Brief History:

Committee Activity: Ways & Means: 2/16/99, 2/24/99 [DPS].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5528 be substituted therefor, and the substitute bill do pass.

Signed by Senators Loveland, Chair; Bauer, Vice Chair; Brown, Vice Chair; Fairley, Honeyford, Kline, Kohl-Welles, Long, Rasmussen, Rossi, B. Sheldon, Snyder, Spanel, West, Winsley and Wojahn.

Staff: Terry Wilson (786-7433)

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

In general, building contractors charge sales tax on the full price of construction, including labor and materials, because the sales tax applies to materials used and labor and services rendered in respect to the constructing, altering, repairing, and improving of real or personal property for consumers.

"Services rendered in respect to" construction has not traditionally included design services, such as engineering and architectural services, and services provided to a contractor or consumer, such as design, accounting, legal, administrative, and support services that are not part of the construction contract. However, changes in business practices and recent administrative and court decisions have confused the issue.

Summary of Substitute Bill: "Services rendered in respect to" construction is defined to include only those services directly related to the construction that are performed by the contractor. Specifically excluded are design services, such as engineering and architectural services, and services provided to a contractor or the consumer, such as design, accounting,

legal, administrative, and support services that are performed separately. Contracts involving multiple activities are taxed according to the predominant nature of the contract.

Substitute Bill Compared to Original Bill: The original bill was not considered.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Recent decisions have cast a cloud over whether these services are subject to the sales tax. The intent of the bill is to maintain existing law and not to subject new services to the sales tax. This clarifies which services are subject to the services B&O tax rate rather than the retail rate.

Testimony Against: None.

Testified: PRO: Cliff Webster, Architects & Engineers Legislative Council; Claire Hesselholt, Tim Sekerak, DOR.