

HOUSE BILL REPORT

HB 1575

As Reported by House Committee On:
Finance

Title: An act relating to the taxation of physical fitness services.

Brief Description: Modifying the taxation of physical fitness services.

Sponsors: Representatives Quall, Cairnes, Morris, O'Brien, Roach, Reardon, Grant, Woods, Linville, Pflug, Hatfield, Carrell, Eickmeyer, Bush, Gombosky, Miloscia, Ruderman, Fromhold, Wood, Lovick, Delvin, Haigh, Hurst, Edmonds, Schoesler, Simpson, Lambert, Cooper, Lantz, Rockefeller, Esser, Barlean, Cox, Sehlin and Van Luven.

Brief History:

Committee Activity:

Finance: 2/6/02, 2/11/02 [DPS].

Brief Summary of Substitute Bill

- Exempts physical fitness services from retail sales and use taxes, and are reclassified under the business and occupation tax as service activities, effective July 1, 2002.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Gombosky, Chair; Berkey, Vice Chair; Cairnes, Ranking Minority Member; Morris, Nixon, Orcutt, Roach, Santos, Van Luven and Veloria.

Minority Report: Do not pass. Signed by 1 member: Representative Conway.

Staff: Mark Matteson (786-7145).

Background:

The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The tax base includes goods and certain services, including

physical fitness services. The tax is levied at a 6.5 percent rate by the state. Cities and counties may levy a local tax at a rate up to a maximum of 3.1 percent. Currently, local rates levied range from 0.5 percent to 2.3 percent. Sales tax is paid by the purchaser and collected by the seller.

The use tax is imposed on items used in the state that were not subject to the retail sales tax, and includes purchases made in other states and purchases from sellers who do not collect Washington sales tax. The state and local rates are the same as those imposed under the retail sales tax. Use tax is paid directly to the Department of Revenue.

The business and occupation (B&O) tax is imposed on the gross receipts of business activities conducted within the state without any deduction for the costs of doing business. Different tax rates apply for various classifications of business activities and firms may be subject to one or more rate, depending upon the sources of income. The tax rate is 0.471 percent for the activities of firms defined as retailing, which includes physical fitness services. Firms engaged in service activities generally, are subject to a 1.5 percent B&O rate.

All retail goods and services are included in the tax base for the retail B&O classification and for retail sales and use taxes, unless specifically exempted. In 1981 the Legislature provided several tax breaks to nonprofit youth organizations, including a B&O deduction for membership fees and dues paid for the use of organizations' recreational facilities, as well as a sales tax exemption for amusement and recreation services. In 1993 the Legislature extended the state and local retail sales tax base to certain services, including physical fitness services. This change imposed state and local retail sales and use taxes on charges made for such services, and reduced the B&O tax rate for businesses providing physical fitness services from 1.5 percent to 0.471 percent. In 1994 certain personal services, including physical fitness services, provided by nonprofit youth organizations and governmental agencies, were exempted from retail sales taxes.

The effect of the various legislative changes since 1981 means that nonprofit youth organizations that provide physical fitness services pay no B&O taxes and are not required to collect sales taxes on their services. However, other organizations that provide physical fitness services must collect retail sales taxes and must pay retail B&O taxes on the provision of those services.

Physical fitness services are activities where the primary focus is exercise and include exercise classes, provision of exercise equipment, and provision of personal trainers. Physical fitness services do not include instructional lessons, such as those for tennis, golf, martial arts, and other activities where the primary focus is instruction. Physical fitness services are also different than amusement and recreation services, which include activities like golf, basketball, racquet ball, and swimming as well as the provision of associated facilities.

Summary of Substitute Bill:

Physical fitness services are exempted from the retail sales and use taxes. For the B&O tax, physical fitness services are reclassified from retail activities to service activities, resulting in a change in the B&O tax rate from 0.471 percent to 1.5 percent.

The bill is effective on July 1, 2005 and applies to physical fitness services rendered after that date.

Substitute Bill Compared to Original Bill:

Makes the bill effective July 1, 2005 and provides that the bill applies to physical fitness services rendered on or after July 1, 2005.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill means doing the right thing. In 1993 when times weren't so good, we imposed the sales tax on a number of types of businesses, including physical fitness services. They went along with it, based on the pledge that when times got better we would reduce taxes. We had a handshake with the industry. Yet to this day we have not honored our word. To the industry's credit, we have worked a deal on the effective date of this bill, pushing it to 2005. It's time to do the honorable thing.

Not all health clubs are the country clubs or hard-body places you see in the media. Health clubs are used by all types of people. In 1996 the Surgeon General outlined the importance of fitness. There are over half a million people who belong to health clubs in Washington State and pay sales taxes on their participation. This includes seniors and families. This bill is really a consumer relief bill. Our earnestness in this effort is demonstrated by our willingness to have our business and occupation tax rates increased to their old levels prior to 1993.

This levels the playing field with the nonprofits. People that attend nonprofit organizations do not pay taxes.

Testimony Against: None.

Testified: Representative Quall, prime sponsor; and Scott Gilreath, Washington Health

and Fitness Club Association.