

HOUSE BILL REPORT

ESHB 3116

As Amended by the Senate

Title: An act relating to modifying tax exemptions for blood banks, bone or tissue banks, and comprehensive cancer centers.

Brief Description: Modifying tax exemptions for qualifying blood banks, tissue banks, and blood and tissue banks.

Sponsors: By House Committee on Finance (originally sponsored by Representatives Murray, Cairnes, Sehlin, Sommers, McIntire, Lovick, Hatfield, Kenney, Morrell and Santos).

Brief History:

Committee Activity:

Finance: 2/3/04, 2/10/04 [DPS].

Floor Activity:

Passed House: 2/14/04, 95-0.

Senate Amended.

Passed Senate: 3/4/04, 48-0.

Brief Summary of Engrossed Substitute Bill

- Reenacts tax exemptions for nonprofit blood, bone, and tissue banks that were invalidated in court.
- Provides definitions of eligible blood, bone, and tissue banks.
- Applies these changes retroactively to the date of the previous enactment, July 1, 1995.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives McIntire, Chair; Hunter, Vice Chair; Cairnes, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Ahern, Conway, Morris, Roach and Santos.

Staff: Bob Longman (786-7139).

Background:

As a general rule, nonprofit organizations are subject to state and local taxes unless there is a specific statutory exemption. Exemption from federal income tax does not automatically provide exemption from state and local taxes. Washington does provide tax exemptions for several types of nonprofit organizations, including blood, bone, and tissue banks. These banks are exempt from business and occupation taxes, retail sales and use taxes, and property taxes.

In 1995, the Legislature expanded the property tax exemption for blood banks to include leased property and to include bone and tissue banks. In addition, 1) a business and occupation (B&O) tax exemption was provided for income of nonprofit blood, bone, or tissue banks to the extent that it was exempt from federal income tax, and 2) a sales and use tax exemption was provided for nonprofit blood, bone, or tissue banks for the purchase or use of medical supplies, chemicals, or specialized materials. The sales and use tax exemption did not apply to construction materials, office equipment, building equipment, administrative supplies or vehicles.

In 1999, a question arose as to whether the Fred Hutchinson Cancer Research Center qualified as a blood, bone, and tissue bank for purposes of the tax exemptions. Litigation ensued. In 2003, the Thurston County Superior Court ruled that the extension of the exemptions to bone and tissue banks in 1995 was beyond the title of the bill, that the exemptions only applied to nonprofit blood banks, and that the Fred Hutchinson Cancer Research Center was not a nonprofit blood bank.

Summary of Engrossed Substitute Bill:

Existing B&O tax, sales and use tax, and property tax exemptions for nonprofit blood, bone, and tissue banks are reenacted. Definitions and qualification requirements are revised. The entities must be exempt from federal income tax as nonprofit organizations and registered under federal law. Comprehensive cancer centers are not eligible for exemption as blood, bone, or tissue banks.

These changes are applied retroactively to the date of the previous enactment, July 1, 1995.

EFFECT OF SENATE AMENDMENT(S):

The senate amendment expands the definition of tissue bank to include more than just eye tissue. Bone tissue, ligament tissue and similar musculoskeletal tissues, skin tissue, and heart valve tissue is included. The senate amendment deletes the retroactive effect clause.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: In court, the Department of Revenue argued that comprehensive cancer centers were not exempt under the 1995 act. The court ruled that cancer centers were not exempt, but went on to invalidate the exemptions for bone and tissue banks as well. This result was not expected by any of the parties. This bill is needed to restore the exemptions approved by the Legislature in 1995. The bill provides improved definitions which should help resolve future question about the scope of the exemptions.

Testimony Against: None.

Persons Testifying: (In support) Julie Sexton, Department of Revenue; Randy Main and Mike Ryherd, Fred Hutchinson Cancer Center; Susie Tracy, Washington State Medical Association; and George Masirodonato, Lane, Powell, Spears, Lubersky LLP.

Persons Signed In To Testify But Not Testifying: None.