

SENATE BILL REPORT

EHB 2270

As Reported By Senate Committee On:
Ways & Means, April 1, 2005

Title: An act relating to excise tax relief for public development authorities.

Brief Description: Exempting payment for certain services provided by public development authorities from business and occupation taxation.

Sponsors: Representatives McIntire and Murray.

Brief History: Passed House: 3/15/05, 60-36.

Committee Activity: Ways & Means: 3/31/05, 4/1/05 [DP].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Prentice, Chair; Doumit, Vice Chair; Fraser, Vice Chair; Zarelli, Ranking Minority Member; Fairley, Hewitt, Kohl-Welles, Parlette, Pflug, Pridemore, Rasmussen, Regala, Rockefeller and Schoesler.

Staff: Dean Carlson (786-7305)

Background: Business and occupation tax. Washington's major business tax is the business and occupation (B&O) tax. The 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. The tax is imposed on the gross receipts from all business activities conducted within the state. Revenues are deposited in the State General Fund. A business may have more than one B&O tax rate, depending on the types of activities conducted. The tax rate for most types of businesses that provide services is 1.5 percent.

The B&O tax does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. Nonetheless, there are many exemptions for specific types of business activities and certain deductions and credits permitted under the B&O tax statutes. An example is the exemption for municipal corporations with respect to grants received from the state or federal government.

Public development authorities. Public development authorities (PDAs) are authorized to improve the administration of authorized federal grants or programs, to improve governmental efficiency and services, and to improve the general living conditions in the urban areas of the state. The PDA legislation was initially enacted to authorize counties, cities, and towns a mechanism to participate in and implement federally-assisted programs, including revenue sharing, without creating potential conflict with respect to constitutional restrictions regarding the lending of credit.

Many local governments have established public corporations for a variety of public purposes, such as the implementation of community and affordable housing programs.

PDA's are provided immunity from property taxation, but in general are subject to leasehold excise taxes on leases of property to private entities. Amounts received by PDA's from non-governmental entities for the provision of services, depending on how the PDA is organized, may be taxable under the B&O tax.

Summary of Bill: An exemption from the B&O tax is provided for amounts received by a PDA for providing services to a limited liability company, if the PDA is the sole managing members; a limited partnership, if the PDA is the sole general partner; or a single asset entity required under a governmental housing assistance program, if the entity is controlled by the PDA.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: Public Development Authorities have to organize as partnerships to receive funds from the Federal Low Income Housing program and as single asset corporations to receive funds from Housing and Urban Development. An auditor has indicated that services performed by a Public Development Authority for these organizations may be subject to the business and occupation tax.

Testimony Against: None.

Who Testified: PRO: Representative Jim McIntire, prime sponsor.