

HOUSE BILL REPORT

HB 1323

As Reported by House Committee On:
Finance

Title: An act relating to excise tax relief for certain limited purpose public corporations, commissions, and authorities.

Brief Description: Providing excise tax relief for certain limited purpose public corporations, commissions, and authorities.

Sponsors: Representatives McIntire, Pettigrew, Pedersen and Dunn.

Brief History:

Committee Activity:

Finance: 2/2/07, 2/7/07 [DPS].

Brief Summary of Substitute Bill

- Exempts certain amounts received by public development authorities from the business and occupation and retail sales and use taxes.

HOUSE COMMITTEE ON FINANCE

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

Staff: Jeff Mitchell (786-7139).

Background:

Retail Sales and Use Taxation. Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property and some services. Use taxes apply to the value of most tangible personal property and some services when used in state, if retail sales taxes were not collected when the property or services were acquired by the user. Use tax rates are the same as retail sales tax rates. The state tax rate is 6.5 percent. The local tax rates vary from 0.5 percent to

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2.4 percent, depending on the location. The average local tax rate is 2.0, for an average combined state and local tax rate of 8.5 percent.

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.

Public Development Authorities. Cities, towns, and counties may establish limited purpose public corporations, commissions, or authorities. These special purpose, quasi-municipal corporations have become known as public development authorities, or "PDAs". Public development authorities are typically created to administer and execute federal grants or programs, receive and administer private funds, goods, or services, for any lawful purpose, or perform any other lawful public purpose or public function.

Many local governments have established PDAs for a variety of public purposes. Some examples of PDAs are: the Pike Place Market, which is a city of Seattle PDA where the PDA essentially acts as the landlord to the market retail establishments; the Foss Waterway Development Authority, a PDA created by the city of Tacoma for the redevelopment of previously contaminated areas of Tacoma's Foss Waterway; and the Seattle Chinatown-International District Preservation and Development Authority, another PDA created by the city of Seattle to provide affordable housing, a Seattle Parks Department recreation center, a public library branch, and other services.

Public development authorities are exempt from property taxation, but in general are subject to B&O taxes for the provision of services and leasehold excise taxes on leases of property to private entities. Some of the services that PDAs provide may also be subject to sales and use tax.

Summary of Substitute Bill:

The B&O and retail sales and use tax exemptions are provided for sales of tangible personal property and services by a PDA to a: (1) limited liability company, if the PDA is the managing member; (2) limited partnership, if the PDA is a general partner; or (3) single asset entity required under a governmental housing assistance program, if the entity is controlled, directly or indirectly, by the PDA.

Substitute Bill Compared to Original Bill:

The substitute bill clarifies that tangible personal property is also exempt from B&O and retail sales and use tax. Technical changes are made to the sales and use tax exemptions to make the language more uniform with the B&O exemption.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

Public development authorities are often created to address affordable housing. Public development authorities don't have taxing authority. Public development authorities are subject to state and local laws and are subject to audit by the state auditor. There are two reasons why a PDA would use an affiliate: the federal low-income housing tax credit; and the federal rent subsidy through Housing and Urban Development. It is important for us not to go to the state or city for operating funds. Every little bit of savings makes a big difference to our tenants. Money saved can be put aside for our next project. In addition to the farmers' market and fish market, the same PDA overseeing the Pike Place Market also provides affordable housing for low-income seniors. Any tax on fees for services that we provide has to come out of the operating budget.

The Pike Place Market was chartered in 1973. There are 350 units. A majority of the tenants are low-income individuals. The Seattle China-Town International District Preservation and Development Authority was created in 1975. It has 500 units, with approximately 300 we developed. Our tenants speak a diversity of languages. A majority of our tenants are very low-income tenants. Rent ranges from \$200 to \$800 per month. The Capitol Hill Housing PDA was created in 1976. There are 39 buildings with 1,000 units and substantial retail space.

Persons Testifying:

(In support) Chuck Weinstock, Capitol Hill Housing; Sue Taoka, Seattle Chinatown International District Preservation and Development Authority; and Carol Binder, Pike Place Market.

(Opposed) None.

Persons Signed In To Testify But Not Testifying: None.