
Finance Committee

HB 2330

Brief Description: Concerning the tax on cleaning up radioactive waste and other byproducts of weapons production and nuclear research and development.

Sponsors: Representatives Grant, Hankins, Haler and Wood.

Brief Summary of Bill

- Allows services that support the performance of cleaning up radioactive waste for the federal government, in addition to services that are integral and necessary to the direct performance of such cleanup, to qualify for the special excise treatment provided to persons engaging in the cleanup activities.

Hearing Date: 3/5/07

Staff: Mark Matteson (786-7145).

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 tax rate for retail businesses is 0.471 percent.

Retail Sales and Use Taxes. The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The use tax applies if retail sales tax has not been collected. Both the state and local governments impose sales and use taxes; the state rate is 6.5 percent and the average local rate is about 2 percent statewide. Sales taxes are collected by the seller from the buyer at the time of sale. Use tax is remitted directly to the Department of Revenue (DOR). State revenues are deposited to the State General Fund.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Excise Taxation of Federal Government Contractors; Radioactive Waste Cleanup. In general, building contractors charge sales tax on the full price of construction, including labor and materials, because the constructing, altering, repairing, and improving of real or personal property for consumers is subject to sales tax. Construction for the federal government is exempt from tax because federal law requires it. However, state law defines the contractor as the consumer in constructing, repairing, decorating, or improving structures for the federal government and, therefore, the contractor pays sales tax on materials purchased and use tax on materials used in the construction whether or not the materials are incorporated into the structure.

In addition, federal government contractors are subject to a preferential B&O tax rate of 0.484 percent.

The Hanford Nuclear Reservation was the site of the production of nuclear fuel for several decades, beginning in late 1944. Production of fuel by government contractors was subject to the B&O tax under the manufacturing rate, and sales to the U.S. subject to the B&O retailing rate. The contractor was allowed to take a credit against B&O retailing liability for any manufacturing taxes paid.

Since nuclear fuel production at Hanford terminated in the 1960s, much of the focus has been on the cleaning up of spent nuclear fuel assemblies. The United States Department of Energy (USDOE), Office of Environmental Management includes in its annual budget amounts provided for the purpose of managing the environmental cleanup at Hanford.

In 1996, the Legislature enacted provisions providing preferential excise tax treatment to persons that provided services of cleaning up radioactive waste and other byproducts of weapons production at the Hanford Nuclear Reservation. Persons providing such services are deemed consumers and must pay sales and use tax on materials acquired during the construction contract. In addition, a special B&O tax rate of 0.471 percent applies.

The specific services that are affected by the 1996 legislation include:

- handling, storing, treating, immobilizing, stabilizing, or disposing of radioactive waste, radioactive tank waste and capsules, nonradioactive hazardous solid and liquid wastes, or spent nuclear fuel;
- spent nuclear fuel conditioning;
- removal of contamination in soils and ground water;
- decontamination and decommissioning of facilities; and
- activities integral and necessary to the direct performance of cleanup.

In January 2005, the DOR revised its rule concerning the tax treatment of sales made to the federal government or from the federal government. The revised rule provided for the first time an interpretation of qualifications necessary for the preferential nuclear cleanup classification. To be "integral and necessary" to the direct performance of cleanup, an activity must (1) directly precede, be concurrent with, or directly follow one of the enumerated activities; and (2) be indispensable to one of the enumerated activities.

Summary of Bill:

It is the intent of the Legislature that persons providing support for environmental cleanup work at the Hanford Nuclear Reservation receive the same excise treatment as persons who produced

fuel at the facility in past years. It is the intent of the Legislature that activities funded by amounts provided by the USDOE environmental management budget for the purposes of the Hanford cleanup be taxed at the special 0.471 percent rate.

To qualify for the excise tax treatment provided for services relating to cleaning up radioactive waste and other byproducts of weapons production and nuclear research and development for the U.S., activities must support the performance of the cleanup, rather than being integral and necessary to the direct performance of the clean up. Additionally identified activities include information technology and computer support; services rendered in respect to infrastructure; and security, safety, and health services.

The bill is retroactive.

Appropriation: None.

Fiscal Note: Requested on March 3, 2007.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2007.