

SENATE BILL REPORT

SB 6440

As of January 31, 2008

Title: An act relating to providing tax information to the legislature.

Brief Description: Providing tax information to the legislature.

Sponsors: Senators Oemig, Kohl-Welles and Fairley.

Brief History:

Committee Activity: Ways & Means: 1/29/08.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dianne Criswell (786-7433)

Background: The Public Records Act requires that all state and local government agencies make

all public records available for public disclosure unless they fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted liberally and the exceptions narrowly in order to effectuate a general policy favoring disclosure.

A public record is any writing (including e-mail, disks, or tapes) that contains information related to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency, regardless of its physical form.

All public records must be disclosed unless they fall within a specific statutory exemption or prohibition. Personal information required of any taxpayer in connection with the assessment or collection of any tax is exempt if the disclosure of such information by employees of the Department of Revenue (DOR) is prohibited or would violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

The Secrecy Clause, RCW 82.32.330, is the law that prohibits DOR employees from disclosing excise tax returns or tax information about specific taxpayers to unauthorized persons. This law defines the circumstances under which documents may be disclosed and to whom. All tax information is confidential and not disclosable to the public, without the taxpayer's permission or other statutory authorization. An employee who releases confidential information to a person not entitled to the information is guilty of a misdemeanor and may be terminated from their current position and barred from public employment in the state for two years.

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.

Persons authorized to receive tax information for official purposes only include the Governor, Attorney General, or to any state agency, or to any committee or subcommittee of the Legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions.

Summary of Bill: Amends the excise tax Secrecy Clause by expressly authorizing members or staff, both committee staff or caucus staff, who are assigned to a committee or subcommittee of the Legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions to receive tax information from DOR.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: July 1, 2008.

Staff Summary of Public Testimony: CON: Members of the Association of Washington Business are very sensitive about disclosure of their personal information. There are a lot of reasons (political, financial, competition) that businesses do not want their private tax information available through the processes that this bill would allow. Aggregate information about business activities and tax information is available under current law.

OTHER: Our tax collection system is based on voluntary payment. This requires a high level of trust between the DOR and taxpayers. Thus, disclosure of taxpayer information is serious. Under current law, there are serious penalties for DOR employees who disclose confidential taxpayer information to unauthorized persons. Currently, DOR interprets the Secrecy Clause as authorizing disclosure of tax information for official purposes through the relevant legislative committee chair. Members must go through the chair to assure that the request for information is committee business. Nonpartisan committee staff can get this information, but caucus staff cannot without a taxpayer waiver.

Persons Testifying: CON: Amber Carter, Association of Washington Business.

OTHER: Gil Brewer, Department of Revenue.