

SENATE BILL REPORT

SHB 1597

As Reported by Senate Committee On:
Ways & Means, March 18, 2009

Title: An act relating to improving the administration of state and local tax programs without impacting tax collections by providing greater consistency in numerous tax incentive programs, revising provisions relating to the confidentiality and disclosure of tax information, and amending statutes to improve clarity and consistency, eliminate obsolete provisions, and simplify administration.

Brief Description: Concerning the administration of state and local tax programs.

Sponsors: House Committee on Finance (originally sponsored by Representatives Springer and Hunter; by request of Department of Revenue).

Brief History: Passed House: 3/10/09, 59-37.

Committee Activity: Ways & Means: 3/18/09 [DP, w/oRec].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley, Hobbs, Keiser, Kline, Kohl-Welles, McDermott, Murray, Regala and Rockefeller.

Minority Report: That it be referred without recommendation.

Signed by Senators Zarelli, Ranking Minority Member; Brandland, Carrell, Hewitt, Parlette and Pflug.

Staff: Dianne Criswell (786-7433)

Background: Accountability Reports and Surveys. Businesses claiming certain tax incentives must provide data on annual accountability reports or surveys filed with the Department of Revenue (DOR). In general, accountability reports and surveys require information about employment and economic activities related to the tax incentives. While there are many similarities between the surveys and reports, there are also inconsistencies, including differences in the information reported, penalties for failure to file, due dates, filing extensions, filing requirements, and the entities which report back to the Legislature on the specific tax incentive program.

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.

Confidential Taxpayer Information. 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 may not be disclosed to the public without the taxpayer's permission or other statutory authorization.

Property Tax. All real and personal property in Washington State is subject to property tax, unless a specific exemption is provided by law. In general, the property tax is administered on a local level by county assessors, who assess property for tax purposes, and county treasurers, who are responsible for collection of the property tax. However, DOR is responsible for the general supervision and control over the administration of property tax.

Technical Corrections and Clarifications. Legislation frequently includes statutory references to link new laws or amendments to existing definitions or related statutory provisions. If changes are subsequently made to these statutes, the references may become incorrect. Also when statutes include provisions tied to expiration dates, they may later become obsolete for purposes of any statutory references. Agencies which administer statutes with incorrect or obsolete references often suggest statutory revisions for the purpose of increasing clarity or improving administration.

Summary of Bill: The summary below highlights the effect of each section of the bill. In addition to these changes, technical corrections are made to various provisions related to excise, estate, and property tax laws. These changes include:

- correcting drafting errors, structural problems such as RCW strings that are not in numeric order, inaccurate references to terms that have been changed, and inaccurate cross-references;
- adding or modifying language to clarify statutory provisions; and
- repealing several obsolete provisions of code.

Tax Incentive Accountability. Tax incentive accountability amends various tax incentive statutes that require recipients to file an annual survey or an annual report with the DOR and creates a uniform annual survey and uniform annual report. References are deleted to all existing annual report and annual survey statutes, which are repealed and replaced with the uniform annual report and annual survey requirement.

Confidentiality. Various statutes are modified that relate to confidentiality of tax information.

The DOR is authorized to disclose:

- tax information to the Streamlined Sales Tax Governing Board for official board purposes;
- tax information to a person whom the DOR has asserted liability against under the estate tax;
- tax information in a contractor bond action;
- limited real estate excise tax (REET) information to filed REET affidavits;
- tax information to the federal Alcohol and Tobacco Tax and Trade Bureau of the U.S. Department of the Treasury; and

- names of taxpayers with unpaid tax warrants (by removing the current \$5,000 threshold).

Miscellaneous changes to tax returns and tax information include:

- adding the estate tax to the list of confidential tax returns; and
- authorizing cities to make taxpayer information for municipal business and occupation (B&O) taxes confidential.

Clarifications. This section makes substantive changes and clarifies several drafting ambiguities and statutory references, which may lead to taxpayer confusion.

Substantive changes include:

- expanding the B&O tax exemption for fundraising sales to include public libraries; and
- changing the responsibility to administer any local fuel taxes from the Department of Licensing to the DOR.

The section clarifies:

- that vending-machine sales of soft drinks and dietary supplements are taxed on 100 percent of the gross sales;
- the estate tax deduction for property used for farming by eliminating redundant language about tangible personal property in unrelated subsections;
- that the motor vehicle fuel tax and the special fuel tax do not preempt other state taxes, such as the B&O tax, on the business of manufacturing, selling, or distributing motor vehicle fuel; and
- that sellers are not required to collect use tax from purchasers on sales that are exempt from sales tax but not use tax.

Property Tax. Various property tax statutes are modified that deal with or affect administering the property tax laws of the state. The bill allows the DOR to convert informal appeals before the State Board of Tax Appeals to formal appeals, and allows the transfer of property to a surviving domestic partner without triggering the higher farm income thresholds in the farm and agricultural current use program. The bill eliminates duplicate audits by the Joint Legislative Audit and Review Committee, makes the reporting consistent with the review of tax preferences schedule for the low-income property tax deferral program, and eliminates the requirement for county assessors to furnish the State Auditor with an abstract of the tax rolls.

In addition, the bill removes the requirement that the county legislative authority levy taxes "at its October session," making it consistent with another law that states counties have until November 30 to certify their levy to the county assessor, and repeals language that adjusts the 1 percent limit calculation for a now unused tax increment financing law. Finally, the bill extends the property tax exemption for property leased to a county hospital, defines child day care center for property tax exemptions, conforms the law to the 2007 change that eliminated the February 15 date, and allows property taxes to be paid as soon as the county treasurer has completed the tax roll for the current year's collection.

Miscellaneous. This section amends several miscellaneous provisions such as severability clauses, application date clauses, effective and expiration dates, and codification directions.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (on companion SB 5569): PRO: The bill provides uniform accountability data requirements by creating two new sections, while repealing or amending the 17 statutes that currently impose the accountability data requirements. Also, the bill updates and clarifies taxpayer confidentiality provisions. It allows DOR to seek formal property tax appeals when the agency is a party to the appeal. Further, it makes necessary technical corrections and other clarifications.

Persons Testifying: PRO: Senator Hobbs, prime sponsor; Drew Shirk, Mark Mullin, DOR.