

SENATE BILL REPORT

E2SHB 1597

As Reported by Senate Committee On:
Ways & Means, March 1, 2010

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: 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.

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

Brief History: Passed House: 2/16/10, 98-0.

Committee Activity: Ways & Means: 2/22/10, 3/01/10 [DP].

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; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hewitt, Hobbs, Honeyford, Keiser, Kline, Kohl-Welles, McDermott, Murray, Oemig, Parlette, Pridemore, Rockefeller and Schoesler.

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

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extensions, filing requirements, and the entities which report back to the Legislature on the specific tax incentive program.

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 part 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.

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

DOR is authorized to disclose:

- tax information to the Streamlined Sales Tax Governing Board and member states for purposes of conducting sales tax audits, and auditing certified service providers, or certified automated systems providers;
- tax information to a person whom the DOR has asserted liability against under the estate tax;
- limited real estate excise tax (REET) information to filed REET affidavits; and
- names of taxpayers with unpaid tax warrants (by removing the current \$5,000 threshold).

Part Two – Clarifications. This section makes substantive changes and clarifies several drafting ambiguities and statutory references. Substantive changes include:

- expanding the B&O tax exemption for fundraising sales to include public libraries;
- allowing nonresidents to use a uniform streamline sales tax agreement exemption certificate to qualify for sales tax exemption;
- changing the diesel fuel exemption for farmers from nonhighway uses to agricultural purposes;
- allowing utility-owned community solar electrical projects to participate in public utility tax credits for renewable energy system cost recovery;
- requiring enhanced food fish taxpayers to file returns electronically;
- allowing sellers of advertising and promotional direct mail to source in-state sales to the place the mail was delivered or the location of the printer; and
- changing the responsibility to administer any local fuel taxes from the Department of Licensing to 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 pre-empt 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.

Part Three – 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 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 of the low-income property tax deferral program by the Joint Legislative Audit and Review Committee, and makes the reporting consistent with the review of tax preferences schedule, and eliminates the requirement for county assessors to furnish the State Auditor with an abstract of the tax rolls. The bill makes two reference dates to federal law the same within the senior property tax relief law and allows the DOR to update the reference by rule in a way that is consistent with the purpose.

The bill extends the time period for exemption renewal under the senior property tax relief program from four to six years. It also allows recovery of back taxes for up to five years if an exemption was based on erroneous information. The special assessments eligible for deferral under the low-income property tax deferral program are limited to those that are listed on the annual property tax statement.

In addition, the substitute 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 substitute bill provides a property tax exemption for property leased to a county hospital, and defines child day care center for property tax exemptions.

Part Four – 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: The bill takes effect July 1, 2010, except section 212 which reinstates prior law that specifically lists the item subject to retail sales tax takes effect January 1, 2011, and section 236 which reinstates prior law relating to the estate tax and takes effect January 1, 2014.

Staff Summary of Public Testimony: PRO: This provides important updates to the tax code to ease administration for businesses and government. One specific benefit it provides is similar tax treatment for in-state direct mail businesses as is provided currently to out-of-state firms in the direct mail business.

Persons Testifying: PRO: Drew Shirk, DOR.