
SENATE BILL 5911

State of Washington

61st Legislature

2009 Regular Session

By Senators Pridemore, Rockefeller, and Kline

Read first time 02/06/09. Referred to Committee on Ways & Means.

1 AN ACT Relating to adopting the recommendations of the citizen
2 commission for performance measurement of tax preferences; amending RCW
3 82.04.330, 82.04.410, 82.16.010, 82.16.020, 82.04.4282, and 82.16.050;
4 creating a new section; repealing RCW 82.04.350, 82.08.0261, and
5 82.08.0257; providing an effective date; and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Part I.**
8 **Income Limit for Business and Occupation**
9 **Tax Exemptions for Agricultural Products**

10 **Sec. 101.** RCW 82.04.330 and 2001 c 118 s 3 are each amended to
11 read as follows:

12 This chapter (~~shall~~) does not apply to amounts under two hundred
13 thousand dollars derived by any farmer that sells any agricultural
14 product at wholesale or to any farmer who grows, raises, or produces
15 agricultural products owned by others, such as custom feed operations.
16 This exemption (~~shall~~) does not apply to any person selling such
17 products at retail or to any person selling manufactured substances or
18 articles.

1 This chapter (~~shall~~) also does not apply to any persons who
2 participate in the federal conservation reserve program or its
3 successor administered by the United States department of agriculture
4 with respect to land enrolled in that program.

5 **Sec. 102.** RCW 82.04.410 and 1967 ex.s. c 149 s 15 are each amended
6 to read as follows:

7 This chapter (~~shall~~) does not apply to amounts under two hundred
8 thousand dollars derived by persons engaged in the production and sale
9 of hatching eggs or poultry for use in the production for sale of
10 poultry or poultry products.

11 **Part II.**

12 **Public Utility Tax--Removing Urban Category**

13 **Sec. 201.** RCW 82.16.010 and 2007 c 6 s 1023 are each amended to
14 read as follows:

15 For the purposes of this chapter, unless otherwise required by the
16 context:

17 (1) "Railroad business" means the business of operating any
18 railroad, by whatever power operated, for public use in the conveyance
19 of persons or property for hire. It (~~shall~~) does not, however,
20 include any business herein defined as (~~an urban~~) a transportation
21 business.

22 (2) "Express business" means the business of carrying property for
23 public hire on the line of any common carrier operated in this state,
24 when such common carrier is not owned or leased by the person engaging
25 in such business.

26 (3) "Railroad car business" means the business of operating stock
27 cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank
28 cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any
29 other kinds of cars used for transportation of property or persons upon
30 the line of any railroad operated in this state when such railroad is
31 not owned or leased by the person engaging in such business.

32 (4) "Water distribution business" means the business of operating
33 a plant or system for the distribution of water for hire or sale.

34 (5) "Light and power business" means the business of operating a

1 plant or system for the generation, production or distribution of
2 electrical energy for hire or sale and/or for the wheeling of
3 electricity for others.

4 (6) "Telegraph business" means the business of affording
5 telegraphic communication for hire.

6 (7) "Gas distribution business" means the business of operating a
7 plant or system for the production or distribution for hire or sale of
8 gas, whether manufactured or natural.

9 (8) "~~(Motor)~~ Transportation business" means the business
10 (~~(except urban transportation business)~~) of operating any motor
11 propelled vehicle by which persons or property of others are conveyed
12 for hire, and includes, but is not limited to, the operation of any
13 motor propelled vehicle as an auto transportation company (~~(except~~
14 ~~urban transportation business)~~), common carrier or contract carrier as
15 defined by RCW 81.68.010 and 81.80.010(~~(:—PROVIDED, That)~~). However,
16 "~~(motor)~~ transportation business" (~~(shall)~~) does not mean or include
17 the transportation of logs or other forest products exclusively upon
18 private roads or private highways.

19 (~~(9) "Urban")~~ "Transportation business" also means the business of
20 operating any vehicle for public use in the conveyance of persons or
21 property for hire(~~(, insofar as (a) operating entirely within the~~
22 ~~corporate limits of any city or town, or within five miles of the~~
23 ~~corporate limits thereof, or (b) operating entirely within and between~~
24 ~~cities and towns whose corporate limits are not more than five miles~~
25 ~~apart or within five miles of the corporate limits of either thereof)~~).
26 Included herein, but without limiting the scope hereof, is the business
27 of operating passenger vehicles of every type and also the business of
28 operating cartage, pickup, or delivery services, including in such
29 services the collection and distribution of property arriving from or
30 destined to a point within or without the state, whether or not such
31 collection or distribution be made by the person performing a local or
32 interstate line-haul of such property.

33 (~~(10)~~) (9)(a) "Public service business" means any of the
34 businesses defined in subsections (1), (2), (3), (4), (5), (6), (7),
35 and (8)(~~(, and (9))~~) of this section or any business subject to control
36 by the state, or having the powers of eminent domain and the duties
37 incident thereto, or any business hereafter declared by the legislature
38 to be of a public service nature, except telephone business and low-

1 level radioactive waste site operating companies as redefined in RCW
2 81.04.010. It includes, among others, without limiting the scope
3 hereof: Airplane transportation, boom, dock, ferry, pipe line, toll
4 bridge, toll logging road, water transportation and wharf businesses.

5 (b) The definitions in this subsection (~~((+10+))~~) (9)(b) apply
6 throughout this subsection (~~((+10+))~~) (9).

7 (i) "Competitive telephone service" has the same meaning as in RCW
8 82.04.065.

9 (ii) "Network telephone service" means the providing by any person
10 of access to a telephone network, telephone network switching service,
11 toll service, or coin telephone services, or the providing of
12 telephonic, video, data, or similar communication or transmission for
13 hire, via a telephone network, toll line or channel, cable, microwave,
14 or similar communication or transmission system. "Network telephone
15 service" includes the provision of transmission to and from the site of
16 an internet provider via a telephone network, toll line or channel,
17 cable, microwave, or similar communication or transmission system.
18 "Network telephone service" does not include the providing of
19 competitive telephone service, the providing of cable television
20 service, the providing of broadcast services by radio or television
21 stations, nor the provision of internet service as defined in RCW
22 82.04.297, including the reception of dial-in connection, provided at
23 the site of the internet service provider.

24 (iii) "Telephone business" means the business of providing network
25 telephone service. It includes cooperative or farmer line telephone
26 companies or associations operating an exchange.

27 (iv) "Telephone service" means competitive telephone service or
28 network telephone service, or both, as defined in (b)(i) and (ii) of
29 this subsection.

30 (~~((+11+))~~) (10) "Tugboat business" means the business of operating
31 tugboats, towboats, wharf boats or similar vessels in the towing or
32 pushing of vessels, barges or rafts for hire.

33 (~~((+12+))~~) (11) "Gross income" means the value proceeding or accruing
34 from the performance of the particular public service or transportation
35 business involved, including operations incidental thereto, but without
36 any deduction on account of the cost of the commodity furnished or
37 sold, the cost of materials used, labor costs, interest, discount,

1 delivery costs, taxes, or any other expense whatsoever paid or accrued
2 and without any deduction on account of losses.

3 ~~((+13))~~ (12) The meaning attributed, in chapter 82.04 RCW, to the
4 term "tax year," "person," "value proceeding or accruing," "business,"
5 "engaging in business," "in this state," "within this state," "cash
6 discount" and "successor" shall apply equally in the provisions of this
7 chapter.

8 **Sec. 202.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to
9 read as follows:

10 (1) There is levied and there shall be collected from every person
11 a tax for the act or privilege of engaging within this state in any one
12 or more of the businesses herein mentioned. The tax shall be equal to
13 the gross income of the business, multiplied by the rate set out after
14 the business, as follows:

15 (a) Express, sewerage collection, and telegraph businesses: Three
16 and six-tenths percent;

17 (b) Light and power business: Three and sixty-two one-hundredths
18 percent;

19 (c) Gas distribution business: Three and six-tenths percent;

20 (d) ~~((Urban transportation business: Six tenths of one percent;~~

21 ~~(e) Vessels under sixty five feet in length, except tugboats,
22 operating upon the waters within the state: Six tenths of one percent;~~

23 ~~(f) Motor))~~ Transportation, railroad, railroad car, and tugboat
24 businesses, and all public service businesses other than ones mentioned
25 above: One and ~~((eight tenths))~~ seventy-five hundredths of one
26 percent;

27 ~~((+g))~~ (e) Water distribution business: Four and seven-tenths
28 percent.

29 (2) An additional tax is imposed on the act or privilege of
30 engaging within this state in any one or more of the businesses
31 mentioned in subsection (1)(a) through (c), and (e) of this section
32 equal to the rate specified in RCW 82.02.030 multiplied by the tax
33 payable under subsection (1) of this section.

34 (3) Twenty percent of the moneys collected under subsection (1) of
35 this section on water distribution businesses and sixty percent of the
36 moneys collected under subsection (1) of this section on sewerage

1 collection businesses shall be deposited in the public works assistance
2 account created in RCW 43.155.050.

3 **Part III.**

4 **Membership Dues and Fees**

5 **Sec. 301.** RCW 82.04.4282 and 1994 c 124 s 3 are each amended to
6 read as follows:

7 In computing tax there may be deducted from the measure of tax
8 amounts derived from bona fide (1) dues and initiation fees paid to
9 nonprofit organizations exempt from the federal income tax under Title
10 26 U.S.C. Sec. 501(c)(3), (c)(4), (c)(5), (c)(6), (c)(8), (c)(10), or
11 (c)(19) of the federal internal revenue code, as amended as of January
12 1, 2009, (2) (~~dues, (3)~~) contributions, (~~(4)~~) (3) donations,
13 (~~(5)~~) (4) tuition fees, (~~(6)~~) (5) charges made by a nonprofit trade
14 or professional organization for attending or occupying space at a
15 trade show, convention, or educational seminar sponsored by the
16 nonprofit trade or professional organization, which trade show,
17 convention, or educational seminar is not open to the general public,
18 (~~(7)~~) (6) charges made for operation of privately operated
19 kindergartens, and (~~(8)~~) (7) endowment funds. This section shall not
20 be construed to exempt any person, association, or society from tax
21 liability upon selling tangible personal property or upon providing
22 facilities or services for which a special charge is made to members or
23 others. If dues are in exchange for any significant amount of goods or
24 services rendered by the recipient thereof to members without any
25 additional charge to the member, or if the dues are graduated upon the
26 amount of goods or services rendered, the value of such goods or
27 services shall not be considered as a deduction under this section.

28 **Part IV.**

29 **Public Utility Tax Deduction for Irrigation**

30 **Sec. 401.** RCW 82.16.050 and 2007 c 330 s 1 are each amended to
31 read as follows:

32 In computing tax there may be deducted from the gross income the
33 following items:

1 (1) Amounts derived by municipally owned or operated public service
2 businesses, directly from taxes levied for the support or maintenance
3 thereof. This subsection may not be construed to exempt service
4 charges which are spread on the property tax rolls and collected as
5 taxes;

6 (2) Amounts derived from the sale of commodities to persons in the
7 same public service business as the seller, for resale as such within
8 this state. This deduction is allowed only with respect to water
9 distribution, gas distribution or other public service businesses which
10 furnish water, gas or any other commodity in the performance of public
11 service businesses;

12 (3) Amounts actually paid by a taxpayer to another person taxable
13 under this chapter as the latter's portion of the consideration due for
14 services furnished jointly by both, if the total amount has been
15 credited to and appears in the gross income reported for tax by the
16 former;

17 (4) The amount of cash discount actually taken by the purchaser or
18 customer;

19 (5) The amount of bad debts, as that term is used in 26 U.S.C. Sec.
20 166, as amended or renumbered as of January 1, 2003, on which tax was
21 previously paid under this chapter;

22 (6) Amounts derived from business which the state is prohibited
23 from taxing under the Constitution of this state or the Constitution or
24 laws of the United States;

25 (7) Amounts derived from the distribution of water through an
26 irrigation system, for (~~(irrigation)~~) agricultural purposes;

27 (8) Amounts derived from the transportation of commodities from
28 points of origin in this state to final destination outside this state,
29 or from points of origin outside this state to final destination in
30 this state, with respect to which the carrier grants to the shipper the
31 privilege of stopping the shipment in transit at some point in this
32 state for the purpose of storing, manufacturing, milling, or other
33 processing, and thereafter forwards the same commodity, or its
34 equivalent, in the same or converted form, under a through freight rate
35 from point of origin to final destination;

36 (9) Amounts derived from the transportation of commodities from
37 points of origin in the state to an export elevator, wharf, dock or
38 ship side on tidewater or its navigable tributaries to be forwarded,

1 without intervening transportation, by vessel, in their original form,
2 to interstate or foreign destinations. No deduction is allowed under
3 this subsection when the point of origin and the point of delivery to
4 the export elevator, wharf, dock, or ship side are located within the
5 corporate limits of the same city or town;

6 (10) Amounts derived from the transportation of agricultural
7 commodities, not including manufactured substances or articles, from
8 points of origin in the state to interim storage facilities in this
9 state for transshipment, without intervening transportation, to an
10 export elevator, wharf, dock, or ship side on tidewater or its
11 navigable tributaries to be forwarded, without intervening
12 transportation, by vessel, in their original form, to interstate or
13 foreign destinations. If agricultural commodities are transshipped
14 from interim storage facilities in this state to storage facilities at
15 a port on tidewater or its navigable tributaries, the same agricultural
16 commodity dealer must operate both the interim storage facilities and
17 the storage facilities at the port.

18 (a) The deduction under this subsection is available only when the
19 person claiming the deduction obtains a certificate from the
20 agricultural commodity dealer operating the interim storage facilities,
21 in a form and manner prescribed by the department, certifying that:

22 (i) More than ninety-six percent of all of the type of agricultural
23 commodity delivered by the person claiming the deduction under this
24 subsection and delivered by all other persons to the dealer's interim
25 storage facilities during the preceding calendar year was shipped by
26 vessel in original form to interstate or foreign destinations; and

27 (ii) Any of the agricultural commodity that is transshipped to
28 ports on tidewater or its navigable tributaries will be received at
29 storage facilities operated by the same agricultural commodity dealer
30 and will be shipped from such facilities, without intervening
31 transportation, by vessel, in their original form, to interstate or
32 foreign destinations.

33 (b) As used in this subsection, "agricultural commodity" has the
34 same meaning as agricultural product in RCW 82.04.213;

35 (11) Amounts derived from the production, sale, or transfer of
36 electrical energy for resale within or outside the state or for
37 consumption outside the state;

1 (12) Amounts derived from the distribution of water by a nonprofit
2 water association and used for capital improvements by that nonprofit
3 water association;

4 (13) Amounts paid by a sewerage collection business taxable under
5 RCW 82.16.020(1)(a) to a person taxable under chapter 82.04 RCW for the
6 treatment or disposal of sewage;

7 (14) Amounts derived from fees or charges imposed on persons for
8 transit services provided by a public transportation agency. For the
9 purposes of this subsection, "public transportation agency" means a
10 municipality, as defined in RCW 35.58.272, and urban public
11 transportation systems, as defined in RCW 47.04.082. Public
12 transportation agencies shall spend an amount equal to the reduction in
13 tax provided by this tax deduction solely to adjust routes to improve
14 access for citizens using food banks and senior citizen services or to
15 extend or add new routes to assist low-income citizens and seniors.

16 **Part V.**

17 **Tax Exemption Repeals**

18 NEW SECTION. **Sec. 501.** The following acts or parts of acts are
19 each repealed:

20 (1) RCW 82.04.350 (Exemptions--Racing) and 2005 c 369 s 7 & 1961 c
21 15 s 82.04.350;

22 (2) RCW 82.08.0261 (Exemptions--Sales of personal property for use
23 connected with private or common carriers in interstate or foreign
24 commerce) and 1980 c 37 s 28; and

25 (3) RCW 82.08.0257 (Exemptions--Auction sales of tangible personal
26 property used in farming) and 1980 c 37 s 25.

27 **Part V.**

28 **Miscellaneous Provisions**

29 NEW SECTION. **Sec. 501.** Part headings used in this act are not any
30 part of the law.

31 NEW SECTION. **Sec. 502.** Sections 201 and 202 of this act are
32 necessary for the immediate preservation of the public peace, health,

1 or safety, or support of the state government and its existing public
2 institutions, and take effect July 1, 2009.

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