

# HOUSE BILL REPORT

## HB 2150

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### As Reported by House Committee On: Ways & Means

**Title:** An act relating to generating revenue from community residential service businesses.

**Brief Description:** Generating revenue from community residential service businesses.

**Sponsors:** Representatives Pettigrew, Hunter and Kenney; by request of Department of Social and Health Services.

#### **Brief History:**

##### **Committee Activity:**

Ways & Means: 1/11/12, 1/25/12 [DPS].

#### **Brief Summary of Substitute Bill**

- Adds community residential service businesses to the public utility tax at a rate of 5.029 percent.
- Places revenue into an account to provide for vendor rates and oversight of community residential service businesses.

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### HOUSE COMMITTEE ON WAYS & MEANS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Carlyle, Cody, Dickerson, Haigh, Hudgins, Hunt, Kagi, Ormsby, Pettigrew, Seaquist, Springer and Sullivan.

**Minority Report:** Do not pass. Signed by 11 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Chandler, Haler, Hinkle, Parker, Ross, Schmick and Wilcox.

**Staff:** Carma Matti-Jackson (786-7140) and Rick Peterson (786-7150).

#### **Background:**

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*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.*

The business and occupation (B&O) tax is Washington's major business tax. The tax is imposed on the gross receipts of business activities conducted within the state. Revenues are deposited into the State General Fund. Depending on the types of activities conducted, a business may have more than one B&O tax rate. Firms that provide services are generally taxed at a rate of 1.8 percent.

The state public utility tax (PUT) applies to a variety of public and privately-owned utilities. The PUT is applied to the gross receipts of the business. The tax rate depends on the business classification. Classifications include distribution of water (5.029 percent), generation/distribution of electrical power (3.873 percent), telegraph, distribution of natural gas, and collection of sewerage (3.852 percent), urban transportation and watercraft vessels (0.642 percent), hauling of logs (1.3696 percent), and railroads and motor transportation (1.926 percent).

Neither the PUT nor the B&O tax permits deductions for the costs of doing business, such as payments for raw materials and wages of employees. A number of exemptions, credits, deductions, and other preferences have been enacted for specific types of business activities under the PUT and the B&O tax statutes. For example, B&O taxpayers with annual taxable activity under \$28,000 and PUT taxpayers with annual taxable activity under \$24,000 do not have to file tax returns. Businesses that pay the PUT are exempt from the B&O tax on the same activity.

The B&O tax provides a deduction of government payments made to nonprofit businesses that provide health care services and therapeutic, diagnostic, rehabilitative, or restorative services for the care of the sick, aged, or for persons with a physical, emotional, or developmental disability. The PUT does not have a similar exemption.

Community residential service businesses provide habilitation, instruction, and support to persons with developmental disabilities. Support may vary from a few hours per month up to 24 hours per day of one-to-one support. Clients pay for their own rent, food, and other personal expenses.

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### **Summary of Substitute Bill:**

Community residential service businesses are added to the public utility tax (PUT) at a rate of 5.029 percent.

A community residential service business is a business that is licensed or certified by the Department of Social and Health Services (DSHS) to provide services to individuals who have a developmental disability. The business must also have a contract with the Division of Developmental Disabilities within the DSHS to provide group home services, group training home services, supported living services, or voluntary placement services.

All of the revenue from the tax on community residential service businesses is deposited into the new Developmental Disabilities Community Residential Investment Account (Account).

Money in the Account must be used for payments to community residential service businesses. The Department of Revenue (DOR) must administer the tax.

The new tax ends if federal matching funds are not available. Existing rate caps on local B&O taxes on community residential service businesses are retained.

The Joint Legislative Audit and Review Committee (JLARC) is directed to conduct a review of the new tax. The review will consider the benefits of the tax, compliance with the tax, and determinations by the Centers for Medicaid and Medicare Services related to the tax, administrative costs, other administrative issues, and other appropriate issues. The JLARC will consult with interested stakeholders, the DSHS, and the DOR. The report is due by December 1, 2016.

**Substitute Bill Compared to Original Bill:**

The substitute bill requires the Department of Revenue to administer the public utility tax on community residential businesses instead of the Department of Social and Health Services (DSHS).

A provision in the original bill that allowed funding from the Account to be used by the DSHS for oversight of community residential businesses is removed.

Contingency language is consolidated into one section of the substitute bill and clarifying language is added that terminates the tax if an "appellate court" determines provisions of the bill may not be validly implemented.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on January 26, 2012.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect immediately, except for section 2 and 4, which reinstate prior laws relating to public utility taxes after a scheduled expiration, and which take effect June 30, 2013.

**Staff Summary of Public Testimony:**

(In support) This will help generate revenue to be used for payments to community residential service providers by bringing additional federal matching funds into the system. It also helps offset some of the rate cuts to services for people with developmental disabilities. For the past two years vendors have been taking reductions and we cannot sustain any more devastating cuts. In fact, several providers have ceased operations. High staff turnover due to low payment rates has a negative impact on clients and terrible behaviors result. Staff turnover hovers around 44 percent. Community residential services are a core function of government to care for people with intellectual and developmental disabilities and they should be supported. We need to respect the difficult work that community residential staff do. Our providers are operating on less funding now than they

did in 2007, yet costs are higher. We have had to make difficult changes including benefits to employees. The reductions in the Governor's budget would require providers to pay workers below minimum wage. An amendment is needed that would begin to address the issue that King County pays higher wages than Snohomish County which contributes to higher turnover rates in Snohomish County.

(Opposed) None.

**Persons Testifying:** Mary Anne Lindeblad, Department of Social and Health Services; Scott Livengood, Community Residential Services Association; Mimi Preedy; Diana Stadden, The Arc of Washington State; Les Parker, Creative Living ResCare; Janet Michaelson, Sunrise Services; and Cheryl Borden and Sandra Miller, SL Start and Associates and Aacres Washington.

**Persons Signed In To Testify But Not Testifying:** None.