

SENATE BILL REPORT

SB 5945

As of May 9, 2011

Title: An act relating to modifying excise tax laws to provide funding for essential government services.

Brief Description: Modifying excise tax laws to provide funding for essential government services.

Sponsors: Senators Rockefeller, Prentice, Eide, Kohl-Welles, Harper, Nelson, White, Ranker, Kline, Murray, Chase, Fraser, Conway, Keiser, Shin and Regala.

Brief History:

Committee Activity: Ways & Means: 5/04/11.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dianne Criswell (786-7433)

Background: Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Revenues are deposited in the state General Fund. A business may have more than one B&O tax rate, depending on the types of activities conducted. There are a number of different rates.

Investment Income of Nonfinancial Firms. Nonfinancial businesses are allowed a B&O tax deduction for income related to investments, dividends from the capital account by a parent from its subsidiary entities, and interest from loans between subsidiary and parent entities.

Deduction of Interest Received from First Mortgages. Current law allows a deduction from service B&O tax for financial institutions on interest earned on loans and securities secured by first mortgages on non-transient residential property.

Incremental Adjustment of Preferential B&O Rates. The general B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.8 percent for professional and personal services, and activities not classified elsewhere until June 30, 2013 (0.3 percent rate surcharge expires and the B&O rate for service and other category is 1.5 percent thereafter).

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.

Over time, and for a variety of policy reasons, the Legislature has enacted preferential/lower B&O tax rates for certain activities, including the following:

- Manufacturing semiconductor materials
- Manufacturing/processing semiconductor materials
- Certified aircraft repair firms
- Manufacturers of flour and oil
- Manufacturers of alternative fuels
- Processors of dry peas
- Processors of meat
- Travel agents
- Charter and freight brokers
- Stevedoring
- Insurance agents
- Manufacturers of commercial aircraft
- Manufacturers of timber & wood products
- Services for salmon canners
- Newspapers
- Radioactive waste cleanup
- Resellers of prescription drugs
- International Investment Management
- Aerospace product development
- Child care
- Treatment of chemical dependency
- Royalty income
- Adult boarding homes
- Aluminum smelting
- Manufacturing solar energy systems

Summary of Bill: Nonfinancial businesses may deduct no more than \$250,000 per year for income related to investments.

The deduction for interest income derived from first lien residential mortgages is unavailable to financial businesses which are located in ten or more states.

All preferential B&O rates are increased by 25 percent of the incremental difference between the general and preferential rates. The incremental difference equals the generally applicable B&O tax rate minus the preferential rate.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: Takes effect upon voter approval at the next general election of the referendum bill SB 5944.

Staff Summary of Public Testimony: PRO: As we are voting for an all-cuts budget, it has become clear beyond doubt that the notion of shared sacrifice is not as inclusive as it could be. Tax breaks for special interests, which either exempt large chunks of economic activity from any taxation, or allow payment of less than the general manufacturing or service tax rate, continue without limitation at a time when all other recipients of state funding or state services are making sacrifices. Tax expenditures should be making the same kind of sacrifice. This bill would let the voters decide this on merits. It is our responsibility to look at special tax breaks given to a selected few in order to share the sacrifice. Tax exemptions do not provide an inherently greater benefit than these other public expenditures for education, physical and mental health care, criminal justice, and environmental protection. In tough times, we should share the sacrifice. Voters should be allowed to decide: cut tax preferences or public services. The modification of tax breaks may cost jobs, but budget cuts cost jobs too. It is important to put money back into the budget, especially for federal matching programs. State programs create jobs. The voters should be allowed to decide this. We cannot solve the problems we have with cuts alone. Tax breaks are spending. We should allow an open debate on the reduction of all aspects of the budget. Health and Human services have been repeatedly reduced over the last and current biennia. We should take a balanced and equitable approach to addressing tax preferences. These are responsible proposals and help us move forward. We ought to add a requirement that a net benefit to the state be calculated. Then, if the business claiming the preference failed to meet the net benefit, the state could recover the value of the tax preference. If the taxpayer does not deliver on its promise, then there should be no benefit to them. We all need to share and contribute to the cuts, so that there are no disproportionate effects. This would lead to a more moral budget. Glasses and hearing aids for some make independent living possible. Do we want to be a country who helps all people or just those whose businesses depend on tax breaks? Reduction in hours of care impacts our citizens, both those receiving services and those employed as caregivers. We have to find the money somewhere for our seniors and disabled. Schools do not have safe transportation for sports any longer. The loss of money is affecting student learning. Students need structural support to succeed. Please help students succeed by supporting this measure. Unions have worked hard to represent employees during difficult economic times. Giving up some tax deals is little to ask compared to what we are asking others to sacrifice, especially those the least able to handle those sacrifices. We have choices. The faith community is extending resources to those who have fallen on hard times. We are doing our part, but we cannot do it all. Wall Street banks do not deserve more consideration than our citizens. There is a disconnect between dreams of the student and the funding needed to achieve those dreams. Low-income and first generation students are struggling to get access to a higher education. This bill allows us to gain access to a source of revenue by closing tax loopholes. The burden should be balanced by closing some of the tax preferences provided to taxpayers. Tax breaks are a form of spending, and it should be the same process to reduce tax breaks as it is to reduce the budget. Let the people decide through a referendum.

CON: The ports are concerned about the impact of the increased taxes on freight hauling and stevedoring. Our state benefits from international trade. Large amounts of freight come through Washington ports as a discretionary decision; such freight could go through other routes. Washington is in competition with other port jurisdictions. Keep critical aspects on our state's economy operating and our products competitive. A loss in cargo equals a loss of jobs and revenue. Retailers are hurting from this recession and are making sacrifices. We

recently received a windfall from the tax amnesty program. This is not the time to increase taxes. Washington has more than 500 tax exemptions to create or retain jobs in Washington State and were approved by both chambers and by the Governor. The uncertain economy is a bad time to consider removing exemptions. We need jobs. Tax exemptions work. Recently, forest products allowed certain tax preferences because the timber industry is struggling. There are a variety of pressures, and this bill would make this worse.

OTHER: Polysilicon manufacturers are looking to site new facilities, and the Moses Lake location is the only Washington proposed site. Silicon manufacturing has been growing and would like to continue to expand our business. This has been a good investment by the state. Please, do not put our competitiveness at a disadvantage. This sends a bad message at a bad time.

Persons Testifying: PRO: Senator Rockefeller, prime sponsor; Ingrid McDonald, AARP; Gerry Reilly, Eldercare Alliance; Nick Federici, Protecting our Economic Future Coalition; Hannah Lidman, League of Education Supporters; Laurie Lippold, Children's Home Society; Ramona Hattendorf, Washington State Parent Teacher Association; Senator Chase; Emily Rogers, Self Advocates in Leadership; Shawn Lathram, Washington State Developmental Disability Council; Pamela McLarty, Nicki Johnsson, Robin Hobbs, Eric Wisenborn, Jim Lehman, SEIU; Donna Obermeyer, Isabell Johnsson, citizens; Alice Walt, Exec. Director of Washington State Churches; Mike Bogetay, WA Student Association; Sam Marrow, Friends Committee on Washington Public Policy.

CON: Eric Johnson, Washington Public Ports Association; Don Meyer, Commissioner, Port of Tacoma; Mark Johnson, Washington Retail Association; Scott Dilley, Washington Farm Bureau; Gary Chandler, Association of Washington Business; Tim Boyd, Boise Cascade.

OTHER: Al Aldridge, Sharon Palmerton, REC Silicon.