
SUBSTITUTE HOUSE BILL 2150

State of Washington

62nd Legislature

2012 Regular Session

By House Ways & Means (originally sponsored by Representatives Pettigrew, Hunter, and Kenney; by request of Department of Social and Health Services)

READ FIRST TIME 01/27/12.

1 AN ACT Relating to generating revenue from community residential
2 service businesses; amending RCW 82.16.010, 82.16.020, and 35.21.710;
3 reenacting and amending RCW 82.16.010 and 82.16.020; adding a new
4 section to chapter 71A.12 RCW; creating a new section; providing an
5 effective date; providing a contingent effective date; providing a
6 contingent expiration date; and declaring an emergency.

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

8 **Sec. 1.** RCW 82.16.010 and 2010 c 106 s 224 are each amended to
9 read as follows:

10 For the purposes of this chapter, unless otherwise required by the
11 context:

12 (1) "Express business" means the business of carrying property for
13 public hire on the line of any common carrier operated in this state,
14 when such common carrier is not owned or leased by the person engaging
15 in such business.

16 (2) "Gas distribution business" means the business of operating a
17 plant or system for the production or distribution for hire or sale of
18 gas, whether manufactured or natural.

1 (3) "Gross income" means the value proceeding or accruing from the
2 performance of the particular public service or transportation business
3 involved, including operations incidental thereto, but without any
4 deduction on account of the cost of the commodity furnished or sold,
5 the cost of materials used, labor costs, interest, discount, delivery
6 costs, taxes, or any other expense whatsoever paid or accrued and
7 without any deduction on account of losses.

8 (4) "Light and power business" means the business of operating a
9 plant or system for the generation, production or distribution of
10 electrical energy for hire or sale and/or for the wheeling of
11 electricity for others.

12 (5) "Log transportation business" means the business of
13 transporting logs by truck, except when such transportation meets the
14 definition of urban transportation business or occurs exclusively upon
15 private roads.

16 (6) "Motor transportation business" means the business (except
17 urban transportation business) of operating any motor propelled vehicle
18 by which persons or property of others are conveyed for hire, and
19 includes, but is not limited to, the operation of any motor propelled
20 vehicle as an auto transportation company (except urban transportation
21 business), common carrier, or contract carrier as defined by RCW
22 81.68.010 and 81.80.010. However, "motor transportation business" does
23 not mean or include: (a) A log transportation business; or (b) the
24 transportation of logs or other forest products exclusively upon
25 private roads or private highways.

26 (7)(a) "Public service business" means any of the businesses
27 defined in subsections (1), (2), (4), (6), (8), (9), (10), (12), and
28 (13) of this section or any business subject to control by the state,
29 or having the powers of eminent domain and the duties incident thereto,
30 or any business hereafter declared by the legislature to be of a public
31 service nature, except telephone business and low-level radioactive
32 waste site operating companies as redefined in RCW 81.04.010. It
33 includes, among others, without limiting the scope hereof: Airplane
34 transportation, boom, dock, ferry, pipe line, toll bridge, toll logging
35 road, water transportation and wharf businesses.

36 (b) The definitions in this subsection (7)(b) apply throughout this
37 subsection (7).

1 (i) "Competitive telephone service" has the same meaning as in RCW
2 82.04.065.

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

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

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

24 (8) "Railroad business" means the business of operating any
25 railroad, by whatever power operated, for public use in the conveyance
26 of persons or property for hire. It (~~shall~~) may not, however,
27 include any business herein defined as an urban transportation
28 business.

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

35 (10) "Telegraph business" means the business of affording
36 telegraphic communication for hire.

37 (11) "Tugboat business" means the business of operating tugboats,

1 towboats, wharf boats or similar vessels in the towing or pushing of
2 vessels, barges or rafts for hire.

3 (12) "Urban transportation business" means the business of
4 operating any vehicle for public use in the conveyance of persons or
5 property for hire, insofar as (a) operating entirely within the
6 corporate limits of any city or town, or within five miles of the
7 corporate limits thereof, or (b) operating entirely within and between
8 cities and towns whose corporate limits are not more than five miles
9 apart or within five miles of the corporate limits of either thereof.
10 Included herein, but without limiting the scope hereof, is the business
11 of operating passenger vehicles of every type and also the business of
12 operating cartage, pickup, or delivery services, including in such
13 services the collection and distribution of property arriving from or
14 destined to a point within or without the state, whether or not such
15 collection or distribution be made by the person performing a local or
16 interstate line-haul of such property.

17 (13) "Water distribution business" means the business of operating
18 a plant or system for the distribution of water for hire or sale.

19 (14) The meaning attributed, in chapter 82.04 RCW, to the term "tax
20 year," "person," "value proceeding or accruing," "business," "engaging
21 in business," "in this state," "within this state," "cash discount" and
22 "successor" applies equally in the provisions of this chapter.

23 (15) "Community residential service business" means a business
24 that:

25 (a) Is licensed or certified by the department of social and health
26 services to provide to individuals who have a developmental disability
27 as defined in RCW 71A.10.020(4):

28 (i) Group home services;

29 (ii) Group training home services;

30 (iii) Supported living services; or

31 (iv) Voluntary placement services provided in a licensed staff
32 residential facility for children; and

33 (b) Has a contract with the division of developmental disabilities
34 to provide the services identified in (a) of this subsection.

35 **Sec. 2.** RCW 82.16.010 and 2009 c 535 s 1110 are each reenacted and
36 amended to read as follows:

1 For the purposes of this chapter, unless otherwise required by the
2 context:

3 (1) "Express business" means the business of carrying property for
4 public hire on the line of any common carrier operated in this state,
5 when such common carrier is not owned or leased by the person engaging
6 in such business.

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

10 (3) "Gross income" means the value proceeding or accruing from the
11 performance of the particular public service or transportation business
12 involved, including operations incidental thereto, but without any
13 deduction on account of the cost of the commodity furnished or sold,
14 the cost of materials used, labor costs, interest, discount, delivery
15 costs, taxes, or any other expense whatsoever paid or accrued and
16 without any deduction on account of losses.

17 (4) "Light and power business" means the business of operating a
18 plant or system for the generation, production or distribution of
19 electrical energy for hire or sale and/or for the wheeling of
20 electricity for others.

21 (5) "Motor transportation business" means the business (except
22 urban transportation business) of operating any motor propelled vehicle
23 by which persons or property of others are conveyed for hire, and
24 includes, but is not limited to, the operation of any motor propelled
25 vehicle as an auto transportation company (except urban transportation
26 business), common carrier, or contract carrier as defined by RCW
27 81.68.010 and 81.80.010. However, "motor transportation business" does
28 not mean or include the transportation of logs or other forest products
29 exclusively upon private roads or private highways.

30 (6)(a) "Public service business" means any of the businesses
31 defined in subsections (1), (2), (4), (5), (7), (8), (9), (11), and
32 (12) of this section or any business subject to control by the state,
33 or having the powers of eminent domain and the duties incident thereto,
34 or any business hereafter declared by the legislature to be of a public
35 service nature, except telephone business and low-level radioactive
36 waste site operating companies as redefined in RCW 81.04.010. It
37 includes, among others, without limiting the scope hereof: Airplane

1 transportation, boom, dock, ferry, pipe line, toll bridge, toll logging
2 road, water transportation and wharf businesses.

3 (b) The definitions in this subsection (6)(b) apply throughout this
4 subsection (6).

5 (i) "Competitive telephone service" has the same meaning as in RCW
6 82.04.065.

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

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

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

28 (7) "Railroad business" means the business of operating any
29 railroad, by whatever power operated, for public use in the conveyance
30 of persons or property for hire. It (~~shall~~) may not, however,
31 include any business herein defined as an urban transportation
32 business.

33 (8) "Railroad car business" means the business of operating stock
34 cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank
35 cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any
36 other kinds of cars used for transportation of property or persons upon
37 the line of any railroad operated in this state when such railroad is
38 not owned or leased by the person engaging in such business.

1 (9) "Telegraph business" means the business of affording
2 telegraphic communication for hire.

3 (10) "Tugboat business" means the business of operating tugboats,
4 towboats, wharf boats or similar vessels in the towing or pushing of
5 vessels, barges or rafts for hire.

6 (11) "Urban transportation business" means the business of
7 operating any vehicle for public use in the conveyance of persons or
8 property for hire, insofar as (a) operating entirely within the
9 corporate limits of any city or town, or within five miles of the
10 corporate limits thereof, or (b) operating entirely within and between
11 cities and towns whose corporate limits are not more than five miles
12 apart or within five miles of the corporate limits of either thereof.
13 Included herein, but without limiting the scope hereof, is the business
14 of operating passenger vehicles of every type and also the business of
15 operating cartage, pickup, or delivery services, including in such
16 services the collection and distribution of property arriving from or
17 destined to a point within or without the state, whether or not such
18 collection or distribution be made by the person performing a local or
19 interstate line-haul of such property.

20 (12) "Water distribution business" means the business of operating
21 a plant or system for the distribution of water for hire or sale.

22 (13) The meaning attributed, in chapter 82.04 RCW, to the term "tax
23 year," "person," "value proceeding or accruing," "business," "engaging
24 in business," "in this state," "within this state," "cash discount" and
25 "successor" (~~shall apply~~) applies equally in the provisions of this
26 chapter.

27 (14) "Community residential service business" means a business
28 that:

29 (a) Is licensed or certified by the department of social and health
30 services to provide to individuals who have a developmental disability
31 as defined in RCW 71A.10.020(4):

32 (i) Group home services;

33 (ii) Group training home services;

34 (iii) Supported living services; or

35 (iv) Voluntary placement services provided in a licensed staff
36 residential facility for children; and

37 (b) Has a contract with the division of developmental disabilities
38 to provide the services identified in (a) of this subsection.

1 **Sec. 3.** RCW 82.16.020 and 2011 1st sp.s. c 48 s 7032 are each
2 reenacted and amended to read as follows:

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

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

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

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

13 (d) Urban transportation business: Six-tenths of one percent;

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

16 (f) Motor transportation, railroad, railroad car, and tugboat
17 businesses, and all public service businesses other than ones mentioned
18 above: One and eight-tenths of one percent;

19 (g) Water distribution business: Four and seven-tenths percent;

20 (h) Log transportation business: One and twenty-eight one-
21 hundredths percent;

22 (i) Community residential service business: Four and seven-tenths
23 percent.

24 (2) An additional tax is imposed equal to the rate specified in RCW
25 82.02.030 multiplied by the tax payable under subsection (1) of this
26 section.

27 (3) Twenty percent of the moneys collected under subsection (1) of
28 this section on water distribution businesses and sixty percent of the
29 moneys collected under subsection (1) of this section on sewerage
30 collection businesses shall be deposited in the public works assistance
31 account created in RCW 43.155.050(~~(:—PROVIDED, That)~~). However,
32 during the fiscal year 2011, twenty percent of the moneys collected
33 under subsection (1) of this section on water distribution businesses
34 and sixty percent of the moneys collected under subsection (1) of this
35 section on sewerage collection businesses must be deposited in the
36 general fund for general purpose expenditures.

37 (4)(a) One hundred percent of the moneys collected under subsection

1 (1)(i) of this section must be deposited in the developmental
2 disabilities community residential investment account created in
3 section 5 of this act.

4 (b) The tax imposed under subsection (1)(i) of this section shall
5 be administered as provided in RCW 82.16.080.

6 (5) The tax imposed under subsection (1)(i) of this section is
7 subject to the contingency in section 10 of this act.

8 **Sec. 4.** RCW 82.16.020 and 2011 1st sp.s. c 48 s 7033 are each
9 amended to read as follows:

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

26 (g) Water distribution business: Four and seven-tenths percent;

27 (h) Community residential service business: Four and seven-tenths
28 percent.

29 (2) An additional tax is imposed equal to the rate specified in RCW
30 82.02.030 multiplied by the tax payable under subsection (1) of this
31 section.

32 (3) Twenty percent of the moneys collected under subsection (1) of
33 this section on water distribution businesses and sixty percent of the
34 moneys collected under subsection (1) of this section on sewerage
35 collection businesses shall be deposited in the public works assistance
36 account created in RCW 43.155.050(~~(:—PROVIDED, That)~~). However,
37 during the fiscal year 2011, twenty percent of the moneys collected

1 under subsection (1) of this section on water distribution businesses
2 and sixty percent of the moneys collected under subsection (1) of this
3 section on sewerage collection businesses must be deposited in the
4 general fund for general purpose expenditures.

5 (4)(a) One hundred percent of the moneys collected under subsection
6 (1)(h) of this section must be deposited in the developmental
7 disabilities community residential investment account created in
8 section 5 of this act.

9 (b) The tax imposed under subsection (1)(h) of this section shall
10 be administered as provided in RCW 82.16.080.

11 (5) The tax imposed under subsection (1)(h) of this section is
12 subject to the contingency in section 10 of this act.

13 NEW SECTION. Sec. 5. A new section is added to chapter 71A.12 RCW
14 to read as follows:

15 (1) The developmental disabilities community residential investment
16 account is created in the state treasury. Moneys in the account may be
17 spent only after appropriation. Expenditures from the account may only
18 be used for payments to community residential service businesses.

19 (2) Payment rates established by the department for community
20 residential service businesses must include the cost of all taxes
21 imposed on community residential service businesses under Title 82 RCW.

22 Sec. 6. RCW 35.21.710 and 2002 c 179 s 1 are each amended to read
23 as follows:

24 (1) Any city which imposes a license fee or tax upon business
25 activities consisting of the making of retail sales of tangible
26 personal property which are measured by gross receipts or gross income
27 from such sales, (~~shall~~) must impose such tax at a single uniform
28 rate upon all such business activities. The taxing authority granted
29 to cities for taxes upon business activities measured by gross receipts
30 or gross income from sales (~~shall~~) may not exceed a rate of .0020;
31 except that any city with an adopted ordinance at a higher rate, as of
32 January 1, 1982, (~~shall be~~) is limited to a maximum increase of ten
33 percent of the January 1982 rate, not to exceed an annual incremental
34 increase of two percent of current rate(~~÷ PROVIDED, That~~)). However,
35 any adopted ordinance which classifies according to different types of
36 business or services (~~shall be~~) is subject to both the ten percent

1 and the two percent annual incremental increase limitation on each tax
2 rate(~~(: PROVIDED FURTHER, That)~~); and all surtaxes on business and
3 occupation classifications in effect as of January 1, 1982, (~~shall~~)
4 must expire no later than December 31, 1982, or by expiration date
5 established by local ordinance. Cities (~~which~~) that impose a license
6 fee or tax upon business activities consisting of the making of retail
7 sales of tangible personal property, which are measured by gross
8 receipts or gross income from such sales (~~shall be~~), are required to
9 submit an annual report to the state auditor identifying the rate
10 established and the revenues received from each fee or tax. This
11 section (~~shall~~) does not apply to any business activities subject to
12 the tax imposed by chapter 82.16 RCW, except community residential
13 service businesses.

14 (2) For purposes of this section, the providing to consumers of
15 competitive telephone service, as defined in RCW 82.04.065, or the
16 providing of payphone service, (~~shall be~~) is subject to tax at the
17 same rate as business activities consisting of the making of retail
18 sales of tangible personal property.

19 (3) As used in this section, "payphone service" means making
20 telephone service available to the public on a fee-per-call basis,
21 independent of any other commercial transaction, for the purpose of
22 making telephone calls, when the telephone can only be activated by
23 inserting coins, calling collect, using a calling card or credit card,
24 or dialing a toll-free number, and the provider of the service owns or
25 leases the telephone equipment but does not own the telephone line
26 providing the service to that equipment and has no affiliation with the
27 owner of the telephone line.

28 NEW SECTION. **Sec. 7.** By June 30, 2016, the joint legislative
29 audit and review committee, in consultation with the department of
30 social and health services and the department of revenue, must conduct
31 a review of the taxes imposed by this act on community residential
32 service businesses. In this review, the committee must consult with a
33 broad range of interested stakeholders. The review must consider
34 issues including benefits of the tax, compliance with the tax, any
35 determinations by the centers for medicaid and medicare services
36 regarding the tax, administrative costs, other administrative issues,
37 and other issues deemed appropriate. The committee must report to the

1 legislature on its findings and any recommendations related to the
2 taxes imposed in this act and related services funded by these taxes by
3 December 1, 2016.

4 NEW SECTION. **Sec. 8.** Sections 2 and 4 of this act take effect
5 June 30, 2013.

6 NEW SECTION. **Sec. 9.** Sections 1 and 3 of this act expire the
7 earlier of June 30, 2013, or the date on which the contingency in
8 section 10 of this act occurs.

9 NEW SECTION. **Sec. 10.** (1) This act does not take effect or it
10 expires, as applicable, and the tax under section 3 or 4 of this act
11 ceases to be imposed if, and to the extent that, an appellate court or
12 the centers for medicare and medicaid services make a final
13 determination that any element of this act may not be validly
14 implemented, including that federal matching funds do not apply to the
15 tax imposed under section 3 or 4 of this act. If the contingency in
16 this section occurs, any moneys remaining in the fund created in
17 section 5 of this act must be refunded to taxpayers in proportion to
18 the amounts paid by such taxpayers.

19 (2) If the contingency in subsection (1) of this section occurs,
20 the department of social and health services must provide written
21 notice to the department of revenue, affected parties, the chief clerk
22 of the house of representatives, the secretary of the senate, the
23 office of the code reviser, the office of financial management, and
24 others as deemed appropriate by the department of social and health
25 services of the date on which the contingency occurred.

26 NEW SECTION. **Sec. 11.** Except for sections 2 and 4 of this act,
27 this act is necessary for the immediate preservation of the public
28 peace, health, or safety, or support of the state government and its
29 existing public institutions, and takes effect immediately.

--- END ---