# HOUSE BILL REPORT
# HB 1689

**As Reported by House Committee On:**
Finance

**Title**: An act relating to taxes on in-state broadcasters.

**Brief Description**: Concerning taxes on in-state broadcasters.

**Sponsors**: Representatives Reykdal and Nealey.

**Brief History:**
**Committee Activity:**
Finance: 2/6/15, 2/25/15 [DPS].

**Brief Summary of Substitute Bill**

- Updates and clarifies provisions related to radio and television broadcasters.

## HOUSE COMMITTEE ON FINANCE

**Majority Report**: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Fitzgibbon, Manweller, Pollet, Reykdal, Robinson, Ryu, Springer, Stokesbary, Vick, Wilcox and Wylie.

**Staff**: Jeffrey Mitchell (786-7139).

**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. The tax is imposed on the gross receipts from all business activities conducted within the state. 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. The tax rate for most types of businesses that provide services is 1.5 percent.

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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.*

Radio and television broadcasters are subject to a tax rate of 0.484 percent on advertising income. However, the amount of advertising income subject to Washington B&O tax is reduced by the income derived from network, national, and regional advertising, which is essentially defined as advertising income from sponsors who sell goods or services in two or more states. Also, the portion of local advertising income that represents the out-of-state audience is excluded from the B&O tax.

Radio and television broadcasters calculate the income derived from network, national, and regional advertising in one of two ways: using a standard deduction based on the national average of network, national, and regional advertising reported by the federal communications commission (FCC) or the broadcaster itemizes the portion of revenue derived network, national, and regional advertising. The FCC stopped publishing the information necessary to calculate the standard deduction in 1981. The portion of local advertising income that represents the out-of-state audience is determined by looking at the signal strength contour and the portion of it that falls outside the state.

While not specifically addressed in statute, gross income derived from distribution or retransmission rights to radio or television programming by broadcasters is considered royalty income and subject to a tax rate of 0.484 percent.

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**Summary of Substitute Bill**:

The information used as the basis for determining the standard deduction, which represents income derived from network, national, and regional advertising, is updated by allowing the Department of Revenue (Department) to use information provided by the United States Census Bureau's Economic Census or some other informational source. The Department must update the standard deduction by September 30, 2015, and every five years thereafter.

Updated signal strength contours are provided for determining the portion of local advertising income that represents the out-of-state audience.

**Substitute Bill Compared to Original Bill**:

The substitute bill replaces the original bill language with a single, stand-alone section that updates the standard deduction and signal strength control calculations.

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**Appropriation**: None.

**Fiscal Note**: Available.

**Effective Date of Substitute Bill**: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony**:

(In support) The tax in this bill was included in the 2010 legislation that established economic nexus and single factor apportionment. Therefore, it is part of the forecast. This issue involves a confluence of tax policy and technology. There is an issue of how to apportion the standard deduction. This is the time to look at the appropriate taxation of this industry. The bill is really a technical corrections bill. A number of issues were raised when the Department went through the processing of revising its rule with respect to in-state broadcasters. There are a number of issues the Department cannot address because the Department is locked in by statutory provisions. For about 30 years, the broadcasters did not pay the B&O tax because of a court ruling. In 1967 the state reinstated the tax in a way that did not interfere with interstate commerce. This is the system that remains in place today. The data set referenced in statute is no longer available. This bill modernizes the data set. By updating the standard deduction, businesses will probably end up have a large local portion. The old standard deduction for national and regional advertising was 62 percent, currently it is probably around 50 percent. The Department determined that retransmission consent revenue should be treated as royalty income..

(Opposed) None.

**Persons Testifying**: Representative Reykdal, prime sponsor; and Mark Allen, Washington State Association of Broadcasters.

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