

# HOUSE BILL REPORT

## EHB 2959

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### As Passed Legislature

**Title:** An act relating to local business tax and licensing simplification.

**Brief Description:** Concerning local business tax and licensing simplification.

**Sponsors:** Representatives Lytton, Nealey and Ormsby.

#### **Brief History:**

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

Finance: 2/2/16, 2/5/16 [DP].

##### **Floor Activity:**

Passed House: 2/16/16, 93-4.

Senate Amended.

Passed Senate: 3/4/16, 43-6.

House Concurred.

Passed House: 3/8/16, 96-0.

Passed Legislature.

#### **Brief Summary of Engrossed Bill**

- Establishing a Department of Revenue led task force to evaluate and recommend legislation and options to continue simplifying the administration of local business taxes and licensing.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass. Signed by 15 members: Representatives Lytton, Chair; Robinson, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Frame, Manweller, Pollet, Reykdal, Ryu, Springer, Stokesbary, Vick, Wilcox and Wylie.

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

#### **Background:**

City Business and Occupation Taxes.

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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.*

Local Business and Occupation Taxes (B&O) are levied at a percentage rate on the gross receipts of a business, less some deductions. Businesses are put in different classes such as manufacturing, wholesaling, retailing, and services. Within each class, the rate must be the same, but it may differ among classes. Effective April 20, 1982, the Legislature set the maximum tax rate that can be imposed by a city's legislative body at 0.2 percent (0.002), but grandfathered in any higher rates that existed on January 1, 1982. All ordinances that impose this tax for the first time or raise rates must provide for a referendum procedure. Any city may levy a rate higher than 0.2 percent, if it is approved by a majority of the voters. Forty-three of Washington's 281 cities levy this tax.

In 2003 the Legislature passed a bill that required the Association of Washington Cities (AWC) to convene a committee to develop a model ordinance that would be adopted by all cities imposing a B&O tax no later than December 31, 2004. The Legislature was concerned about the lack of uniformity of the local B&O tax ordinances and about allegations that some business income was subject to multiple taxation. The legislation required that the model ordinance have certain mandatory provisions: a system of credits that prevent multiple taxation of the same income; a gross receipts threshold for small businesses; tax reporting frequency requirements; and provisions for penalties and interest, refunds, and deductions comparable with state law. Beginning January 1, 2008, cities that levied a B&O tax had to allow for allocation and apportionment of taxes between cities.

#### City Business Licensing.

Approximately, 212 of Washington's 281 cities require a business license for any business conducting business activities within the city. Fees associated with the business license vary from flat rate charges to fees based on some combination of employee count, square footage occupied, or business type. For cities imposing a local B&O tax, business licensing fees and filing requirements are separate and in addition to local B&O taxes.

#### Administration of Local B&O Tax and Local Business Licensing.

Unlike local sales and use taxes, local B&O taxes are administered exclusively at the local level.

In 1977 the Legislature created the Master License Service to streamline business licensing and renewal. The program transferred to the Department of Revenue on July 1, 2011. The Master License Service was renamed to the Business Licensing Service to better reflect the program's purpose: the Business Licensing Service is the clearinghouse for business licensing and partners with 10 state agencies and facilitates the issuance of local business licenses on behalf of approximately 70 cities. Agency programs and municipalities retain full regulatory control over their registration and compliance requirements.

The cities of Seattle, Tacoma, Bellevue, and Everett have been working together since 2010 to simplify the process of local business licensing and B&O tax filing. In 2014 these cities signed an interlocal agreement to establish a "one-stop" system for tax payment and business license application filing to make it easier and more efficient for businesses to apply for local business licenses and file local taxes, while the cities retain local control over local licensing and tax collection functions and policies. This joint effort to create an Internet website application gateway where tax collection and business licensing functions can be collectively administered, and where businesses operating in multiple cities can use a one-stop system for

tax payment or local business license application filing, began operations in 2016 and is known as FileLocal.

**Summary of Engrossed Bill:**

The bill contains legislative findings stating that despite the significant improvements to local business tax and licensing administration over the past 15 years, legislative action is still required in several areas. More specifically, the bill directs the Department of Revenue to lead a task force during the 2016 interim to evaluate the following: (a) options to coordinate administration of local B&O taxes; (b) options for centralized administration of local B&O taxes for those cities and towns that desire to participate in a state-provided alternative; (c) options for all cities and towns to partner with the state Business Licensing Service; and (d) ways to implement data sharing and establishing a seamless state and local user interface for those cities and towns participating in FileLocal. By January 1, 2017, the task force must prepare a report that assesses these options and includes additional options to improve the administration of local B&O tax and licensing that are not included in the bill and an examination of the differences in apportionment and nexus between state and local B&O taxes and how these differences impact cities and taxpayers.

The task force consists of the following nine members: two representatives from the Association of Washington Business; one representative of the National Federation of Independent Business; one representative of the AWC; one representative from a Washington city or town that imposes a local B&O tax and has a population greater than 100,000; one representative from a Washington city or town that imposes a B&O tax and has a population of less than 100,000 persons; one representative from FileLocal; one representative from the Washington Retail Association; and one representative from the Department of Revenue, who will act as chair of the task force.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This bill was drafted for small businesses, recognizing their cry for help. Small businesses are struggling. This is an attempt to address what has been going on for several years now. Small businesses are the engine of our communities and the Legislature needs to help make them successful. This is a great next step for an optional state-wide portal. This is a good government and good streamlining bill. A lot of progress has been made on this issue but a lot of progress is still required. We support a state-centralized system, but recognize that there are different ways to approach this. Businesses struggle enough with state-level taxes, but city taxes can also be very complicated. The state and cities have different tax classifications, different nexus standards, and different apportionment methods. This bill gives a voice to all the parties involved: small cities, large cities, the Department of Revenue, and businesses. The Legislature might want to consider including the public utility

tax. This is a thoughtful bill. It does a good job surveying the landscape. The January 1, 2017, is a very aggressive deadline. This bill tracks well with where small business taxpayers would like to go.

(Opposed) None.

(Other) Seattle, Bellevue, Everett, and Tacoma account for 90 percent of all B&O taxes. The B&O taxes, like other local revenue streams, are locally developed, locally imposed, and locally administered. These revenue streams can be tailored to local needs. The B&O taxes represent one-third of revenues for Tacoma. Local control over the tax is very important. Residents can bring tax policy questions to the council. FileLocal was built without legislative action because it makes good sense. We believe that the portion of the bill that would have the Department of Revenue look at ways to have a seamless interface with FileLocal is the best use of resources and this should be the focus of the bill. Local control and collection of B&O taxes is very important. Cities have taken steps to streamline, modernize, and mitigate impacts of business taxes on businesses. A study bill that could ultimately lead to legislation that undermines local revenues is problematic when local governments are struggling to pay for basic services. We urge you to amend the bill to look at a nonlegislative option. Cities involved with FileLocal have invested a lot of time and money in FileLocal. There is a non legislative solution and would be happy to work with the Department of Revenue. We do not think a study is necessary.

**Persons Testifying:** (In support) Eric Lohnes, Association of Washington Business; Patrick Connor, National Federation of Independent Business; and Darcy Kooiker, Ryan.

(Other) Ryan Mello, Tacoma City Councilmember; Jamie Carnell, FileLocal Program Manager; and Adrienne Thompson, Professional & Technical Employees Local 17;

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