

SENATE BILL REPORT

EHB 2959

As Reported by Senate Committee On:
Trade & Economic Development, February 26, 2016
Ways & Means, February 29, 2016

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

Committee Activity: Trade & Economic Development: 2/24/16, 2/26/16 [DPA-WM, DNP].
Ways & Means: 2/29/16, 2/29/16 [DPA(TRED), w/oRec].

SENATE COMMITTEE ON TRADE & ECONOMIC DEVELOPMENT

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators Brown, Chair; Braun, Vice Chair; Angel and Ericksen.

Minority Report: Do not pass.
Signed by Senators Chase, Ranking Minority Member; McCoy.

Staff: Jeff Olsen (786-7428)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Trade & Economic Development.
Signed by Senators Braun, Vice Chair; Dammeier, Vice Chair; Honeyford, Vice Chair, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Ranking Minority Member, Operating; Bailey, Becker, Brown, Hasegawa, O'Ban, Padden, Parlette, Rolfes, Schoesler and Warnick.

Minority Report: That it be referred without recommendation.
Signed by Senators Conway, Darneille, Nelson and Pedersen.

Staff: Juliana Roe (786-7438)

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.

Background: City Business and Occupation Taxes. Similar to the state Business and Occupation (B&O) tax, 43 of Washington's cities levy a local B&O tax on the gross receipts of a business. Types of local B&O tax classes include manufacturing, wholesaling, retailing, and services. Effective April 20, 1982, the Legislature set the maximum tax rate that can be imposed 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.

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 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 cities require a city business license. 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 (DOR) 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.

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. FileLocal began operations in 2016 as a joint effort to collect local B&O taxes and conduct business licensing functions with a one-stop online system.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Amendments): A task force consisting of DOR, local governments, and business partners is established to develop options for centralizing and simplifying local B&O tax and business licensing. 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 Washington cities or towns that impose a local B&O tax and has a population greater than 100,000; one representative from Washington cities or towns that impose 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, who will act as chair of the task force.

The task force must evaluate and prepare legislation by January 1, 2017 for:

- options to coordinate administration of local B&O taxes;
- options for centralized administration of local B&O taxes for those cities and towns that desire to participate in a state-provided alternative;
- options for all cities and towns to partner with the state Business Licensing Service; and
- implementing data sharing and establishing a seamless state and local user interface for those cities and towns participating in FileLocal.

The task force must also prepare a report that 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.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: Yes.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Trade & Economic Development): PRO: The bill is the result of a work study session discussing how the state can help small businesses be more successful. The goal is to develop options, including coordination and centralization, to simplify the local tax and business license options for small businesses. While there are disagreements on how best to proceed, the task force would allow stakeholders to discuss issues, including nexus and apportionment. Approximately 41 cities impose a local B&O tax, and currently only four are coordinating. Small businesses must comply with many different local tax and business license requirements with little resources, so it is important to evaluate options to simplify the process.

CON: The task force is the first step in the state taking control of local B&O taxes. Centralizing B&O taxes could result in significant revenue losses to cities. Legislation is not needed to make progress on this issue. FileLocal is successful and growing. Systems can be designed to work together to allow data sharing while maintaining local control.

Persons Testifying (Trade & Economic Development): PRO: Representative Lytton, prime sponsor; Ron Bueing, AWB, Pricewaterhousecoopers; Eric Lohnes, Association of Washington Business; Mark Johnson, Washington Retail Association; Patrick Connor, NFIB/Washington.

CON: Glen Lee, City of Seattle; Jamie Carnell, FileLocal; Lucy Liu, City of Bellevue.

Persons Signed In To Testify But Not Testifying: No one.

Staff Summary of Public Testimony (Ways & Means): PRO: This bill sets up a task force to look at important licensing and tax issues. The task force is made up of a good mixture of people. There is the possibility for agencies to request legislation be provided.

Calls frequently come in with regard to licensing and B&O taxes with concerns about the fact that they are becoming more cumbersome. This bill is a small step to help the Legislature improve business in this state.

CON: Cities would like to look at streamlining because they are aware that there is currently no perfect system. However, there is concern that the bill prescribes what the outcome will be - the centralization of local B&O taxes. It seems strange to have the outcome set forth at the beginning before studying the issue. There is support for a study and report on these issues, but not legislation. FileLocal already has a good system started, with more cities likely to come online.

OTHER: It would be better to look for efficiencies and how cities can better coordinate efforts, than to come up with legislation.

Persons Testifying (Ways & Means): PRO: Patrick Connor, NFIB/Washington; Eric Lohnes, Association of Washington Business; Mark Johnson, WA Retail Assn.

CON: Randy Lewis, City of Tacoma; Jamie Carnell, City of Seattle.

OTHER: David Williams, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: No one.