

HOUSE BILL REPORT

HB 2167

As Reported by House Committee On:
Finance

Title: An act relating to tax revenue.

Brief Description: Relating to tax revenue.

Sponsors: Representative Tarleton.

Brief History:

Committee Activity:

Finance: 4/26/19 [DPS].

Brief Summary of Substitute Bill

- Imposes an additional 1.2 percent business and occupation tax on specified financial institutions.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Tarleton, Chair; Walen, Vice Chair; Chapman, Macri, Morris, Orwall, Springer and Wylie.

Minority Report: Do not pass. Signed by 4 members: Representatives Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member; Stokesbary and Vick.

Staff: Richelle Geiger (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. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss.

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.

A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for services and for activities not classified elsewhere. Financial institutions are subject to the 1.5 percent service and other B&O tax rate.

Summary of Substitute Bill:

Beginning on January 1, 2020, an additional B&O tax is imposed on specified financial institutions. The tax is equal to the taxpayer's gross taxable service and other income multiplied by 1.2 percent.

A specified financial institution is a financial institution that is a member of a consolidated financial institution group that reported on its consolidated financial statement for the previous calendar year annual net income of at least \$1 billion, not including net income attributable to noncontrolling interests, as the terms "net income" and "noncontrolling interest" are used in the consolidated financial statement. If financial institutions are no longer required to file consolidated financial statements, "specified financial institution" means any person that was subject to the additional tax in this section in at least two of the previous four calendar years. The Department of Revenue (DOR) must notify the fiscal committees of the Legislature if financial institutions are no longer required to file consolidated financial statements.

The DOR may require a taxpayer believed to be a specified financial institution to disclose whether it is a member of a consolidated financial institution group and, if so, to identify all other members of its consolidated financial institution group. A person failing to comply with this requirement is deemed to have intended to evade tax payable under this section and is subject to the statutory penalty on any tax due under this section by the taxpayer and any financial institution affiliated with the taxpayer.

Revenue generated from the additional B&O tax on specified financial institutions must be deposited in the State General Fund.

Substitute Bill Compared to Original Bill:

Beginning on January 1, 2020, an additional B&O tax is imposed on specified financial institutions. The tax is equal to the taxpayer's gross taxable service and other income multiplied by 1.2 percent.

A specified financial institution is a financial institution that is a member of a consolidated financial institution group that reported on its consolidated financial statement for the previous calendar year annual net income of at least \$1 billion, not including net income attributable to noncontrolling interests, as the terms "net income" and "noncontrolling interest" are used in the consolidated financial statement. If financial institutions are no longer required to file consolidated financial statements, "specified financial institution" means any person that was subject to the additional tax in this section in at least two of the

previous four calendar years. The DOR must notify the fiscal committees of the Legislature if financial institutions are no longer required to file consolidated financial statements.

The DOR may require a taxpayer believed to be a specified financial institution to disclose whether it is a member of a consolidated financial institution group and, if so, to identify all other members of its consolidated financial institution group. A person failing to comply with this requirement is deemed to have intended to evade tax payable under this section and is subject to the statutory penalty on any tax due under this section by the taxpayer and any financial institution affiliated with the taxpayer.

Revenue generated from the additional B&O tax on specified financial institutions must be deposited in the State General Fund.

Appropriation: None.

Fiscal Note: Requested on April 26, 2019.

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) None.

(Opposed) There are significant issues with the public process around this bill. The bill language was released hours before the hearing, and the public did not receive adequate time to review the language. A fiscal note is needed in order to understand the impact of the bill.

Banking is complicated. In order to avoid unanticipated externalities, the Legislature should take more time to deliberate on this policy and do their due diligence.

This is a doubling of the existing tax rate for this industry and will have a significant impact. The banking community has direct competitors that do not owe state or local taxes. Currently, Washington has about the fifth highest tax burden on banks in the country. If this bill passes, it will move us to one of the highest tax burdens in the country.

Banks are strong supporters of communities across the state. They pay strong wages to employees and are charitable, both with their time and treasure. They also pay significant amounts of taxes already.

Persons Testifying: Trent House, Washington Bankers Association; and Clay Hill, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.