

SENATE BILL REPORT

SB 6079

As of February 12, 2020

Title: An act relating to clarifying the scope of taxation on land development or management services.

Brief Description: Clarifying the scope of taxation on land development or management services.

Sponsors: Senators Mullet and Zeiger.

Brief History:

Committee Activity: Housing Stability & Affordability: 1/20/20, 2/03/20 [DP-WM].
Ways & Means: 2/10/20.

Brief Summary of Bill

- Excludes land development or management services from the list of construction-related services and activities subject to retail sales tax.

SENATE COMMITTEE ON HOUSING STABILITY & AFFORDABILITY

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Kuderer, Chair; Das, Vice Chair; Zeiger, Ranking Member; Fortunato, Assistant Ranking Member; Darneille, Saldaña and Warnick.

Staff: Jeff Olsen (786-7428)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jeffrey Mitchell (786-7438)

Background: Washington's major business tax is the business and occupation (B&O) tax. 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. 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 activities not classified elsewhere.

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.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes apply to the value when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent. Local sales and use tax rates vary depending on the location. Sales tax applies to services related to construction or repair of buildings. But, certain services are excluded from the retail sales tax related to construction including engineering, architectural, surveying, flagging, accounting, legal, consulting, and administrative services.

Summary of Bill: Land development or management is excluded from the list of services and activities subject to the retail sales tax, as applied to construction. Land development or management means site identification, zoning, permitting, and other preconstruction regulatory services provided to the consumer. This includes acting as an owner's representative during any design or construction period, including recommending a contractor, monitoring the budget and schedule, approving invoices, and interacting on behalf of the consumer with a person who controls the work.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony (Housing Stability & Affordability): PRO: There is sales tax on construction when building a house, but there has not been sales tax charged on certain construction services, such as land development and management. Over 20 years ago there were some questions on which services were exempt, and that led to legislation enacted in 1999 to clarify the law. Recently, questions have arose and the Department of Revenue is looking for clarity. If these services are taxed as a retail sale, costs for school districts and affordable housing projects, for example, would increase. This is not a tax exemption, it is clarifying current law regarding what services are taxed as a service and not a retail sale as it relates to construction.

Persons Testifying (Housing Stability & Affordability): PRO: Senator Mark Mullet, Prime Sponsor; Wesley Bergquist, OAC Services; Dave Kessler, Latitude Development, LLC; Dylan Doty, Latitude Development, LLC.

Persons Signed In To Testify But Not Testifying (Housing Stability & Affordability): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: This bill nips in the bud a problem to prevent a bigger problem from occurring. The law was clarified in 1999 and it needs to be clarified again. We have worked with the Department of Revenue for the last 18

months to make sure there would not be any impact to the state budget. We are not reinventing the wheel—just looking to clarify and provide certainty.

Persons Testifying (Ways & Means): PRO: Senator Mark Mullet, Prime Sponsor; Dylan Doty, Latitude Development, LLC.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.