

HOUSE BILL REPORT

ESSB 5251

As Passed House:

April 7, 2021

Title: An act relating to modifying tax and revenue laws in a manner that is not estimated to affect state or local tax collections, by easing compliance burdens for taxpayers, clarifying ambiguities, making technical corrections, and providing administrative efficiencies.

Brief Description: Modifying tax and revenue laws in a manner that is not estimated to affect state or local tax collections, by easing compliance burdens for taxpayers, clarifying ambiguities, making technical corrections, and providing administrative efficiencies.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Schoesler, Brown, Dozier, Gildon, Honeyford, King and Rolfes).

Brief History:

Committee Activity:

Finance: 3/11/21, 3/25/21 [DP].

Floor Activity:

Passed House: 4/7/21, 97-0.

Brief Summary of Engrossed Substitute Bill

- Makes technical corrections, statutory clarifications, and administrative changes to the state tax and licensing codes.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 17 members: Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Chase, Chopp, Harris-Talley, Morgan, Orwall, Ramel, Springer, Stokesbary, Thai, Vick, Wylie and Young.

Staff: Tracey O'Brien (786-7152).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Periodically, technical revisions to the Revised Code of Washington (RCW) may be required for multiple reasons. Sections of the RCW may be repealed, recodified, or amended in a way changing their internal or statutory numbering or terminology. The language in these sections, as well as references to these sections in other provisions of the RCW, then becomes incorrect. Statutes may become obsolete with the passage of time, evolution of technology, improvement of administrative processes, or adoption of state or federal legislation. Administrative agencies occasionally suggest statutory revisions for the purpose of increasing clarity or improving administration.

Summary of Bill:

The bill makes a variety of administrative changes, technical corrections, and statutory clarifications.

Administrative Changes.

The following administrative amendments are made:

- changes the due date of the public utility district (PUD) privilege tax by providing an additional month for PUDs to report and pay the tax, and allows for monthly distributions of PUD privilege tax receipts to local governments;
- amends the statute imposing a business and occupation (B&O) tax surcharge to provide funds for the Forest and Fish Support Account so the various time periods for suspension of the surcharge all end on the last day of a fiscal year; and
- changes the frequency of distributions of local leasehold excise tax from bimonthly to monthly, which aligns with the distribution frequency for local sales and use taxes.

Technical Corrections.

The following technical corrections are made:

- updates out-of-date references to school district "maintenance and operation special levies" with "enrichment levies";
- eliminates one of two provisions that trigger the repayment of a portion of taxes saved by claiming the preferential B&O tax rate for manufacturing semiconductor materials;
- removes an erroneous reference to the term "referrer" that no longer exists after the passage of legislation in 2019;
- updates the definition of "biofuel" for the purpose of the sales tax exemption for hog fuel by removing an outdated definition obtained by way of a cross reference to a statute that no longer exists;
- eliminates obsolete statutory language authorizing an amnesty program for personal property tax penalties for assessment years prior to 2012;
- repeals a duplicate vapor products tax credit statute; and
- makes other technical corrections necessary to update cross references or conform to relevant statutes.

Statutory Clarifications.

The following updates are made in order to provide clarity to various provisions:

- clarifies that the term "services rendered in respect to" applies to both the B&O tax and the sales tax;
- clarifies that when an out-of-state business re-establishes nexus with Washington for B&O tax purposes after the beginning of a calendar year, the taxpayer is liable for the B&O tax beginning on the date that the business reestablished nexus, rather than for the entire calendar year;
- clarifies recent changes to the preferential B&O tax rate for travel agents and tour operators in that the thresholds for obtaining the preferential tax rate is based on the taxpayer's taxable income for the prior calendar year from its travel agent or tour operator business activities;
- amends the statute imposing the B&O tax on royalties to clarify that the tax rate is 1.5 percent;
- clarifies that the effective date of the sales tax exemption for certain clean alternative fuel and electric vehicles is August 1, 2019;
- amends a local sales and use tax exemption for qualifying commercial office space projects to clarify the exemption applies to the local sales and use taxes imposed by the city that approved the project for a refund and for any other local taxing authorities that have agreed to allow their sales and use taxes to be refunded, and requires such cities to notify the Department of Revenue (DOR) within 60 days of project approval;
- clarifies that taxpayers need not report employee benefit information on the annual tax performance report;
- clarifies that the automatic 10-year expiration date for new tax preferences applies to a local tax preference that is a companion to a state tax preference;
- modifies the definition of "inflation" for purposes of calculating school district enrichment levies to allow the county assessor to timely certify the tax roll to the county treasurer; and
- clarifies that inflation adjustment to the income thresholds for the senior citizen and disabled persons property tax exemption will be modified by the seasonally adjusted Consumer Price Index for All Urban Consumers (CPI-U).

Disclosure of Confidential Taxpayer Information.

The DOR may disclose otherwise confidential taxpayer information in the following limited circumstances:

- in response to a federal grand jury subpoena, or a subpoena issued by a United States attorney; or
- in response to a request for the tax information of a defunct or insolvent entity by an individual against whom the DOR has made an assessment for the entity's unpaid trust fund taxes.

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 legislation makes much needed changes to the tax code to ensure the fair and efficient collection of taxes. Ambiguities are addressed, conflicting dates are resolved, and administrative changes are made. This is done without an impact to state or local tax revenues.

(Opposed) None.

Persons Testifying: Tommy Gantz, Association of Washington Business; and Michael Bailey, Department of Revenue.

Persons Signed In To Testify But Not Testifying: None.