

SENATE BILL REPORT

ESHB 1521

As Reported by Senate Committee On:
Business, Financial Services & Trade, March 16, 2021
Ways & Means, March 27, 2021

Title: An act relating to supporting warehousing and manufacturing job centers.

Brief Description: Supporting warehousing and manufacturing job centers.

Sponsors: House Committee on Finance (originally sponsored by Representatives Entenman, Sullivan, Callan, Jacobsen, Taylor, Stokesbary, Gregerson and Ormsby).

Brief History: Passed House: 3/3/21, 97-0.

Committee Activity: Business, Financial Services & Trade: 3/11/21, 3/16/21 [DP-WM].
Ways & Means: 3/23/21, 3/27/21 [DP, DNP, w/oRec].

Brief Summary of Bill

- Creates the Manufacturing and Warehousing Job Centers Account.
- Provides for mitigation payments for the support of manufacturing and job centers in manufacturing and warehousing qualified local taxing districts negatively impacted by the Streamlined Sales and Use Tax Agreement.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

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

Signed by Senators Mullet, Chair; Hasegawa, Vice Chair; Dozier, Ranking Member; Brown, Frockt, Hobbs and Wilson, L.

Staff: Clinton McCarthy (786-7319)

SENATE COMMITTEE ON WAYS & MEANS

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.

Majority Report: Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Conway, Darneille, Dhingra, Gildon, Hasegawa, Hunt, Keiser, Liias, Rivers, Van De Wege, Wagoner, Warnick and Wellman.

Minority Report: Do not pass.

Signed by Senators Honeyford, Assistant Ranking Member, Capital; Pedersen.

Minority Report: That it be referred without recommendation.

Signed by Senators Schoesler, Assistant Ranking Member, Capital; Braun, Carlyle and Muzzall.

Staff: Jeffrey Mitchell (786-7438)

Background: Retail Sales and Use Tax. 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 product, or service, then use tax applies to the value of the property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent. Local sales and use tax rates vary from 0.5 percent to 3.9 percent, depending on the location.

Nexus. Nexus is required before a taxing jurisdiction can impose taxes on an entity. In the case of retail sales taxes, nexus is necessary in determining whether an out-of-state business selling products into a state is liable for collecting retail sales taxes for that state. As the result of a United States Supreme Court decision, Washington adopted requirements imposing retail sales tax collection requirements, as well as business and occupation tax obligations, on out-of-state sellers.

Streamlined Sales and Use Tax Agreement. In 2007, legislation was enacted fully adopting the Streamlined Sales and Use Tax Agreement (SSUTA).

The SSUTA includes provisions for determining where a sale is deemed to occur for local sales and use tax purposes. As part of the legislation, the Streamlined Sales and Use Tax Mitigation Account was created to mitigate the effect of the change in sourcing rules to negatively impacted local jurisdictions. Each July 1st, the state treasurer must transfer an amount determined by the Department of Revenue (DOR) to fully mitigate negatively impacted local jurisdictions. DOR determines each local jurisdiction's annual losses. Distributions are made quarterly representing one-fourth of a jurisdiction's annual loss, less voluntary compliance revenue from the previous quarter.

In 2017, the Legislature repealed local mitigation payments, effective October 1, 2019. Until that time, payments must be adjusted to reflect the impact of marketplace fairness on

local tax revenues and will be made only to cities, counties, and public facilities districts. Selected jurisdictions may have qualified for mitigation payments under the 2019-2021 omnibus operating budget.

Engrossed House Bill 1948. During the 2020 session, the Legislature passed EHB 1948. Under EHB 1948, qualified local taxing districts negatively impacted by the SSUTA receive annual mitigation payments each July 1st. To qualify, a local taxing district must be a city and have received a mitigation payment of at least \$150,000 in calendar year 2018 from the Streamlined Sales and Use Tax Mitigation Account (mitigation account). In addition, the taxing district must continue to have local sales tax revenue loss due to the sourcing provisions in the SSUTA.

Beginning July 1, 2020, DOR must calculate each qualified taxing district's annual loss. The annual loss is calculated by comparing at least 12 months of tax return data from before and after July 1, 2008. Each quarter, distributions are made from the Warehousing and Manufacturing Jobs Center Account (account) created in this act. Distributions from the account will be an amount equal to one-fourth of the taxing district's annual loss. DOR will reduce this amount by the voluntary compliance revenue and marketplace fairness revenue.

On April 3, 2020, the Governor fully vetoed EHB 1948. In the veto statement, the Governor cited dramatically changed circumstances resulting from the COVID-19 pandemic since the Legislature's approval of the 2020 supplemental operating budget.

Summary of Bill: Qualified local taxing districts negatively impacted by the SSUTA may receive annual mitigation payments each July 1st. To qualify, a local taxing district must be a city and have received a quarterly streamlined sales tax mitigation payment of at least \$60,000 on June 30, 2020.

Beginning July 1, 2021, DOR must provide each qualified local taxing district a quarterly mitigation payment equal to the payment provided to that taxing district on June 30, 2020. Beginning July 1, 2022, the amount of the quarterly mitigation payments must be reduced by 20 percent from the previous year's payment that same quarter for each qualified local taxing district.

The quarterly distribution must be made from the account. Expenditures from the account may be used only for mitigating the negative fiscal impacts to local taxing jurisdictions as the result of sourcing changes from the SSUTA.

Payments end July 1, 2026.

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 (Business, Financial Services & Trade): PRO: The Governor vetoed SHB 1948 after the 2020 session in error. Diverse communities have been negatively impacted by this shift. Wealthy cities saw a big increase to revenue by changing the point of sale. Kent is home to the fourth largest warehousing center in the United States. They have lost over \$3 million per year after the changes were made to the sales tax distributions. These communities depend on this revenue to fund parks and roads. This is a fundamental fairness and equity issue. Our warehouses provide an enormous benefit to the ports. This investment is good for the overall health of the state's economy. There is an unusually large amount of freight traffic on the roads near warehouses and prematurely age infrastructure. The proposed legislation will be of great assistance. We all rely on the supply chains based on the warehouses in Washington State.

Persons Testifying (Business, Financial Services & Trade): PRO: Representative Debra Entenman, Prime Sponsor; Dana Ralph, City of Kent; Mary Lou Pauly, City of Issaquah; Carolyn Logue, South Sound Chamber of Commerce Legislative Coalition; Allan Ekberg, mayor, City of Tukwila; Nancy Backus, City of Auburn; Bill Pugh, mayor, City of Sumner; Briahna Murray, contract lobbyist for Cities of Kent and Issaquah.

Persons Signed In To Testify But Not Testifying (Business, Financial Services & Trade): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: The city of Kent is the home of the fourth largest warehousing distribution center in the country and generates one-eighth of the state's GDP and we are the city most impacted by the elimination of streamlined sales tax mitigation payments. Since 2008, the state's tax structure has left the city of Kent behind because we are located near the ports and have a higher proportion of manufacturing and distribution jobs. The mitigation payments were an effort to address that inequity. We have learned how important the distribution system is with COVID-19 and everyone shopping from home. Every resident of the city will receive reduced services if the payments are not restored, which means fewer and lower quality parks and less street maintenance among other things. Many of the jurisdictions that originally qualified for mitigation have been made whole because of increased online shopping; however, cities with strong manufacturing job centers continue to struggle. A similar bill passed last year but was vetoed due to the financial uncertainty surrounding the pandemic. The payments in this bill are a flat rate, which is easier for DOR to administer. Payments are also reduced over time. This bill is about fundamental fairness and equity between communities like ours where our warehousing and distribution centers provide a substantial benefit to the rest of the state. When this funding was eliminated last year through the Governor's veto, we had to reduce services and make adjustments to basic infrastructure and community assets that contribute to a high quality of life. It has been a very successful model for Washington

to have warehousing and distribution centers close to world class ports. We could previously rely on sales tax revenues. More recently, we have counted on mitigation payments. This bill gives us a transition period to prepare for a diversified future. The ability of our ports to provide economic prosperity for the state of Washington depends on the supply chain, including communities that are willing to host warehousing and distribution centers. Maintaining the infrastructure of these facilities puts a burden on these small communities and it is unfair to ask these small communities to shoulder the cost of a regional economic engine. These manufacturing and distribution hubs cannot suddenly become retail centers and therefore need the financial support provided in this bill.

Persons Testifying (Ways & Means): PRO: Dana Ralph, Mayor, City of Kent; Mary Lou Pauly, City of Issaquah; Allan Ekberg, Mayor, City of Tukwila; Nancy Backus, City of Auburn; Kim Roscoe, Mayor, City of Fife; Sean Eagan, The Northwest Seaport Alliance; Bill Pugh, Mayor, City of Sumner; Carolyn Logue, South Sound Chamber of Commerce Legislative Coalition; Briahna Murray, Cities of Kent and Issaquah.

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