

# SENATE BILL REPORT

## SB 5251

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As Reported by Senate Committee On:  
Ways & Means, February 11, 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:** Senators Schoesler, Brown, Dozier, Gildon, Honeyford, King and Rolfes.

**Brief History:**

**Committee Activity:** Ways & Means: 1/25/21, 2/11/21 [DPS].

**Brief Summary of First Substitute Bill**

- Makes a number of administrative and technical clarifications to the state tax and licensing codes.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5251 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Schoesler, Assistant Ranking Member, Capital; Braun, Carlyle, Conway, Darneille, Dhingra, Gildon, Hasegawa, Hunt, Keiser, Lias, Mullet, Muzzall, Pedersen, Rivers, Van De Wege, Wagoner, Warnick and Wellman.

**Staff:** Alia Kennedy (786-7405)

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*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:** 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 Sections of the RCW may be repealed, recodified, or amended in a way changing their internal or statutory numbering or terminology.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 become 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 (First Substitute):** The following administrative changes, technical corrections, and statutory clarifications 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;
- updates out-of-date references to school district “maintenance and operation special levies” with “enrichment levies”;
- clarifies that the term “services rendered in respect to” applies to both the business and occupation (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 B&O tax beginning on the date that the business reestablished nexus, rather than for the entire calendar year;
- 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;
- 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 a 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;
- amends the statute imposing B&O tax on royalties to clarify that the tax rate is 1.5 percent;
- 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 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;
- 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 DOR within 60 days of project approval;
- 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;
  - 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;
  - eliminates obsolete statutory language authorizing an amnesty program for personal property tax penalties for assessment years prior to 2012;
  - 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;
  - 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);
  - repeals a duplicate vapor products tax credit statute; and
  - makes other technical corrections necessary to update cross references or conform to relevant statutes.

Place of First Use. The place of first use for use tax purposes is clarified such that for property that is movable under its own power, including aircraft, motor vehicles, and vessels, the place of first use is the place where the property is primarily hangered, moored, garaged, or otherwise kept.

General Savings Clause. A general savings clause is created for taxes administered by the Department of Revenue (DOR). This savings clause will:

- preserve DOR's ability to collect unpaid tax, penalty, and interest liability that accrued before the effective date of the repeal, expiration, or modification of a tax, unless the repealing legislation explicitly provides otherwise;
- preserve a taxpayer's ability to claim a tax preference or tax relief for tax liability accruing before the effective date of the repeal, expiration, or modification of the tax preference or tax relief statute; and
- prevent DOR from assessing use tax against a taxpayer solely by reason of the repeal or expiration of a use tax exemption, unless a contrary intention is clearly expressed in law.

Disclosure of Confidential Taxpayer Information. 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 DOR has made an assessment for the entity's collected by unpaid trust fund taxes.

**EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (First Substitute):**

- Removes an erroneous striking to a chapter reference.

**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 on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: This bill is not intended to impact state or local revenue collections. Each year the Department of Revenue does a thorough review of the tax code to identify technical corrections and ambiguities in the law. The intent is to make the tax code easier to understand and administer, increase transparency, and improve the efficiency of tax collection. This approach allows the Legislature to make all these changes in one bill rather than having to pass multiple pieces of legislation. Some sections of the bill are new policies and should be introduced in a new bill.

**Persons Testifying:** PRO: Senator Mark Schoesler, Prime Sponsor; Michael Bailey, Department of Revenue; Travis Yonker, Department of Revenue; Tommy Gantz, Association of Washington Businesses.

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