

# SENATE BILL REPORT

## SB 5445

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As of February 11, 2021

**Title:** An act relating to creating a business and occupation tax deduction for interest earned on public funds.

**Brief Description:** Creating a business and occupation tax deduction for interest earned on public funds.

**Sponsors:** Senators Holy and Liias.

**Brief History:**

**Committee Activity:** Business, Financial Services & Trade: 2/11/21.

**Brief Summary of Bill**

- Creates a business and occupation tax deduction for financial institutions that qualify as public depositories on investment and interest income derived from the public funds held in deposit.

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### SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

**Staff:** Kellee Gunn (786-7429)

**Background:** Public Depository and Public Funds. A public depository is a financial institution approved by the Washington Public Deposit Protection Commission (commission) to hold public deposits. The commission is administered through the office of the Washington State Treasurer and is comprised of the state treasurer, Governor, and Lieutenant Governor. It ensures public funds deposited in approved financial institutions are protected if a financial institution becomes insolvent.

Public funds are moneys under the control of a treasurer, the state treasurer or other custodian, held for the benefit of the state or any of its political subdivisions including moneys held as trustee.

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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.*

Business and Occupation Tax. The state business and occupation (B&O) tax is a gross receipts tax. It is measured on the value of products, gross proceeds of sale, or gross income of the business. The B&O tax rate varies by business classification. Though public entities are exempt from paying B&O tax, investment earnings derived from the governmental funds deposited are subject to the tax through the financial institution.

Several deductions for the B&O tax are available to certain entities under state law.

**Summary of Bill:** Interest or other investment earnings derived from public funds may be deducted from the measure of tax amounts received by a public depository in computing the B&O tax. These deductions do not apply to credit unions.

This is not subject to the statutory requirements for a tax preference performance statement, a review by the Joint Legislative Audit and Review Committee, and a ten-year expiration.

**Appropriation:** None.

**Fiscal Note:** Requested on February 9, 2021.

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

**Effective Date:** The bill takes effect on October 1, 2021.

**Staff Summary of Public Testimony:** PRO: Public funds in financial institutions are getting double-taxed. We tax our citizens and those funds go to the state or local government. Those public entities contract with the banking sector to receive those funds. When we pay our tax bill, we are using public funds to pay the cost of doing the business with the bank. This cost includes the B&O tax. This tax diverts funds from local use, to the coffers of the state. These funds would be more efficiently used by local governments. This issue has been around for a while. In 2010, the law was modified to allow credit unions to accept some funds, and then a cap was removed for certain counties. The different policies between counties is an issue, as well as the different tax treatment between credit unions and banks. Beneficiaries of this policy are local governments and municipalities, not banks. There are three tiers of PDPC protection. The first line of defense for public deposits is the FIDC, the second is collateral, and the third is a pledge by all the entities belonging to the PDPC to ensure taxpayers are made whole in the case of insolvency. There is another bill before the legislature right now that would allow credit unions to take on more risk. This effects all PDPC financial institutions. This bill offsets that risk for public depositories with the other bill.

**Persons Testifying:** PRO: Senator Jeff Holy, Prime Sponsor; Trent House, Washington Bankers Association; Brad Tower, Community Bankers of Washington.

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