

SENATE BILL REPORT

ESB 5800

As Passed Senate, February 15, 2022

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

Sponsors: Senators Schoesler, Padden and Rolfes.

Brief History:

Committee Activity: Ways & Means: 1/25/22, 1/27/22 [DP].

Floor Activity: Passed Senate: 2/15/22, 49-0.

Brief Summary of Engrossed Bill

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

SENATE COMMITTEE ON WAYS & MEANS

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; Schoesler, Assistant Ranking Member, Capital; Honeyford, Ranking Minority Member, Capital; Billig, Braun, Carlyle, Conway, Dhingra, Gildon, Hasegawa, Keiser, Mullet, Muzzall, Pedersen, Van De Wege, Wagoner, Warnick and Wellman.

Staff: Alia Kennedy (786-7405)

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 Sections of the RCW may be repealed, recodified, or amended in a way changing their internal or statutory numbering or terminology.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 increasing clarity or improving administration.

Summary of Engrossed Bill: The following administrative changes, technical corrections, and statutory clarifications are made:

- modifies how airport operators handle excess funds from the public auction of an abandoned aircraft, as follows:
 - excess aircraft funds must be deposited by the Department of Revenue (DOR) into the aeronautics account—excess funds are currently deposited into an account that no longer exists; and
 - DOR must hold excess funds for one year from the date of sale of an aircraft, rather than one year from the date of receipt;
- allows DOR to disclose licensing information to a peace officer for business license review, investigation, or enforcement —current law requires a search warrant, subpoena, or other court order to disclose such information, unless the disclosure is related to a criminal tax or license enforcement issue.
- removes the requirement that DOR report annually to the Legislature regarding the state's compliance with the Streamlined Sales and Use Tax Agreement (SSUTA), and instead requires DOR only report in years immediately following any year in which legislation is required to keep the state in compliance with the SSUTA;
- clarifies several definitions, such as adding “advanced computing” to the definition of “marketplace facilitator” and replacing the term “online marketplace” with “marketplace facilitator” and making the changes retroactive effective January 1, 2020;
- revises the reporting period for taxpayers claiming the retail sales tax exemption for aircraft maintenance repair to October 1, 2020, through September 30, 2021, to align with Employment Security Department procedures;
- modifies the square footage requirement for warehouseers, third-party warehouseers, and retail distribution centers who claim a sales and use tax exemption on the construction and materials related to such facilities:
 - the change clarifies that the tax exemption only applies to mixed use warehouses, which means that warehouse is used for both a qualifying and non-qualifying activity;
 - at least 200,000 square feet of the warehouse must be devoted exclusively to a qualifying activity, which includes the storage of goods sold at wholesale, storage of goods owned by another person, or the storage of goods for sale at retail outlets;
- provides that tax preference performance review and automatic expiration provisions

- do not apply to the retail sale of marijuana, usable marijuana, marijuana concentrates, and marijuana-infused products that are covered by tribal agreements;
- revises the farmworker housing use tax exemption statute to align with the sales tax exemption statute in requiring 50 percent of the housing units in the development must be used as farmworker housing to qualify for the exemption;
 - allows DOR to disclose any return or tax information to a member of a marital community who is named on a tax warrant issued by DOR;
 - revises the annual report requirement for tax preferences to clarify when an annual tax performance report must be filed for deferred taxes and clarifies that the deferred tax repayment schedule is the deferred tax amount divided by the number of years;
 - removes an erroneous legal citation under the contingent semiconductor microchip fabrication facility siting and operation tax incentive statute;
 - expires credits related to the rural employer business and occupation tax credit program for business accounts that are closed, and provides that DOR need not monitor, track, or account for unused credits that exist on accounts for defunct businesses; and
 - allows DOR to lower both state school levy rates on a pro-rata basis in the event the combined rate limit is exceeded—a method for pro-rationing was not included when the legislation was enacted in 2017.

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; Section 4 of this act applies retroactively to January 1, 2020.

Staff Summary of Public Testimony: PRO: This bill is an annual tradition and is meant to be a revenue neutral, non-partisan, clean up of the tax and licensing code. The bill contains a number of minor changes and clarifications for the purpose of increasing administrative efficiency. The cost is minimal.

OTHER: Overall, there is support for this bill but there are a number of sections that are not technical corrections and will have a substantive impact.

Persons Testifying: PRO: Senator Mark Schoesler, Prime Sponsor; Steve Ewing, Department of Revenue; Jack Brumbaugh, Department of Revenue.

OTHER: Tommy Gantz, Association of Washington Business.

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