

SENATE BILL REPORT

E2SSB 5199

As Passed Senate, March 31, 2023

Title: An act relating to tax relief for newspaper publishers.

Brief Description: Providing tax relief for newspaper publishers.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Mullet, Conway, Dozier, Holy, Keiser, Lovelett, Nguyen, Shewmake and Valdez; by request of Attorney General).

Brief History:

Committee Activity: Business, Financial Services, Gaming & Trade: 1/12/23, 1/26/23 [DPS-WM, w/oRec].

Ways & Means: 2/06/23, 2/20/23 [DP2S, DNP, w/oRec].

Floor Activity: Passed Senate: 3/31/23, 47-1.

Brief Summary of Engrossed Second Substitute Bill

- Replaces the current preferential business & occupation (B&O) tax rate of 0.35 percent for newspapers with a 10-year B&O tax exemption.
- Provides a 10-year B&O tax exemption for eligible digital content.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES, GAMING & TRADE

Majority Report: That Substitute Senate Bill No. 5199 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Stanford, Chair; Frame, Vice Chair; Dozier, Ranking Member; Boehnke, Hasegawa, Lovick, MacEwen and Mullet.

Minority Report: That it be referred without recommendation.

Signed by Senator Gildon.

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.

Staff: Clinton McCarthy (786-7319)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5199 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Hunt, Keiser, Nguyen, Saldaña, Torres, Wagoner and Wellman.

Minority Report: Do not pass.

Signed by Senator Schoesler, Ranking Member, Capital.

Minority Report: That it be referred without recommendation.

Signed by Senators Rivers, Assistant Ranking Member, Capital; Dhingra, Hasegawa, Muzzall, Pedersen and Van De Wege.

Staff: Jeffrey Mitchell (786-7438)

Background: Business and Occupation Tax. Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss. A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and depending on the size of the business as determined by gross income, either 1.5 or 1.75 percent for services and activities not classified elsewhere. Several preferential rates as well as increased rates or surcharges also apply to specific business activities.

Business and Occupation Taxation for Newspapers. Printing and publishing is subject to a preferential state B&O tax rate of 0.35 percent. This reduced rate applies to advertising and subscription revenue generated by print and digital newspapers. The preference is available to any business producing materials that meet the statutory definition of newspaper. It is not available for online newspapers that do not have a print version. The preferential tax rate expires July 1, 2024, at which point a tax rate of 0.484 percent will apply. Printing and publishing businesses must file an annual tax preference performance report with the Department of Revenue detailing wages and employment of the business as well as tax savings from the preferential tax rate.

Under current law, newspaper means:

- a publication issued regularly at stated intervals at least twice a month and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling,

- glue, or any other binding of any kind, including any supplement of a printed newspaper; and
- an electronic version of a printed newspaper that shares content with the printed newspaper; and is prominently identified by the same name as the printed newspaper or otherwise conspicuously indicates it is a complement to the printed newspaper.

Tax Preference Review Requirements. State law provides a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Legislation that establishes or expands a tax preference must include a tax preference performance statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics the Joint Legislative Audit and Review Committee (JLARC) can use to review the effectiveness of the preference in achieving its stated public policy objectives. Tax preferences must be reviewed by JLARC at least once every ten years, unless state statute requires otherwise. All new tax preferences automatically expire after ten years unless an alternative expiration date is provided or the tax preference is exempt from expiration. To assist the Legislature in its evaluation of economic development-related tax preferences, taxpayer beneficiaries are required to file annual tax preference performance reports detailing wages and employment of the taxpayer as well as tax savings from the tax preference.

Summary of Engrossed Second Substitute Bill: The preferential B&O tax rate of 0.35 percent for printing and publishing newspapers is replaced with a complete B&O tax exemption. Therefore, beginning January 1, 2024, a business is exempt on all amounts received from activities related to printing or publishing a newspaper.

The B&O tax exemption is extended to publishing eligible digital content if the person reported under the printing and publishing tax classification for the tax reporting period that covers January 1, 2008, for a printed version of the publication. Eligible digital content means a publication that is published at regularly stated intervals of at least once per month; features written content, the largest category of which, determined by word count, contains material that identifies the author or the original source of the materials; and is made available to readers exclusively in an electronic format.

In cases where a publisher charges a single, non-variable amount to advertise in, subscribe to, or access content in both a printed and electronic publication, the entire amount of the charge is exempt.

The exemption applies only to persons primarily engaged in printing a newspaper, publishing a newspaper, or publishing eligible digital content, or any combination of these activities.

The B&O tax exemption expires January 1, 2034.

A TPPS is included that states a specific public policy objective of protecting and supporting local journalism. JLARC is required to review the B&O tax deduction. If the review finds that exemption accomplishes its goal of supporting local journalism across the state, measured by retaining 75 percent of journalism jobs, local newspapers, and community-focused online news outlets based in Washington as of December 31, 2022, or if a review finds the tax exemption enables locally based journalism outlets to continue to exist when compared to states that did not provide similar tax incentives, then a legislative presumption is created that the 2034 expiration date should be extended.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill takes effect on January 1, 2024.

Staff Summary of Public Testimony on Original Bill (Business, Financial Services, Gaming & Trade): *The committee recommended a different version of the bill than what was heard.* PRO: The local news industry is having a very difficult time. The goal of the legislation is not to quintuple the size of the tax preference, we are trying to assist these companies. The rate will go up if the preference does expire next year, and we have to do something. Local journalism provides a unique and important role in our communities. Fact based information on local issues are very important. There has been a dramatic change in the last ten years. There are a lot more empty chairs than there used to be in newsrooms. Advocates want to bring the tax credit preference down to zero, and this step recognizes the urgency of the industry. Everything we hold dear is dependent on this industry. Local journalism is essential to our democracy, and it is extremely expensive to produce. This bill will save tens of thousands of dollars for the Columbian. The decline in advertising has led to the decline of many newspapers, such as the Tacoma News Tribune. Local newspapers are vital to our communities. They publish legal notices and let us know what is happening in our communities. Many communities are losing their newspapers. There are a lot of news deserts across the country. When newspapers go away, public participation goes way down. Employment is down over 30 percent over the years. No one covers any of the 17 school districts in Pierce County. No journalist is assigned to the press corps. We've upset the entire applecart of Democracy by allowing local journalism to go by the wayside. We should not tax something that is struggling to survive. Journalism needs a boost anywhere it can.

OTHER: The League of Women Voters completed a study on how the decline of journalism is having an impact on our democracy.

Persons Testifying (Business, Financial Services, Gaming & Trade): PRO: Senator Mark Mullet, Prime Sponsor; Ben Campbell, The Columbian Publishing Company; Joanne

Lisosky; John Lester, Publisher - Shelton-Mason County Journal; Bob Ferguson, WA State Attorney General's Office; Joyce Bruce, WA State Attorney General's Office; Don Nelson, Publisher, Methow Valley News; Andrew Villeneuve, Northwest Progressive Institute; Carol Rikerd; Rowland Thompson, Allied Daily Newspapers of Washington, Washington Newspaper Publishers Association; Scott Hunter, The Star newspaper.

OTHER: Dee Anne Finken, League of Women Voters of WA.

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

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: The fiscal note is much higher than anyone expected. The four-year outlook revenue impact should be between \$3.5 and \$4 million. Local journalism plays a vital role in a healthy democracy. Once people have context, they make more informed decisions. This may not save every newspaper in the state of Washington, but it would prevent taxation from being one of the reasons they do not survive.

Persons Testifying (Ways & Means): PRO: Senator Mark Mullet, Prime Sponsor; Rory Paine-Donovan, Attorney General's Office; JC Harris; Rowland Thompson, Allied Daily Newspapers of Washington, Washington Newspaper Publishers Association.

OTHER: Ian Doyle, Department of Revenue.

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