

SHB 3186 - H AMD 1491

By Representative Pettigrew

ADOPTED 03/10/2010

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 82.16.010 and 2009 c 535 s 1110 and 2009 c 469 s 701
4 are each reenacted and amended to read as follows:

5 For the purposes of this chapter, unless otherwise required by the
6 context:

7 (1) "Community residential service business" means the business of
8 providing habilitation, instruction, and support to clients who have a
9 disability meeting the definition of a developmental disability as
10 defined in RCW 71A.10.020(3). "Community residential services
11 business" also means a business that is licensed and/or certified by
12 the aging and disabilities services administration at the department of
13 social and health services to provide the services described in this
14 subsection.

15 (2) "Adult day health business" is the business of providing
16 personal care, meals, social activities, and skilled therapeutic
17 services at adult day health centers.

18 (3) "Express business" means the business of carrying property for
19 public hire on the line of any common carrier operated in this state,
20 when such common carrier is not owned or leased by the person engaging
21 in such business.

22 ((+2)) (4) "Gas distribution business" means the business of
23 operating a plant or system for the production or distribution for hire
24 or sale of gas, whether manufactured or natural.

25 ((+3)) (5) "Gross income" means the value proceeding or accruing
26 from the performance of the particular public service or transportation
27 business involved, including operations incidental thereto, but without
28 any deduction on account of the cost of the commodity furnished or
29 sold, the cost of materials used, labor costs, interest, discount,

1 delivery costs, taxes, or any other expense whatsoever paid or accrued
2 and without any deduction on account of losses.

3 ~~((+4))~~ (6) "Light and power business" means the business of
4 operating a plant or system for the generation, production or
5 distribution of electrical energy for hire or sale and/or for the
6 wheeling of electricity for others.

7 ~~((+5))~~ (7) "Log transportation business" means the business of
8 transporting logs by truck, other than exclusively upon private roads.

9 ~~((+6))~~ (8) "Motor transportation business" means the business
10 (except urban transportation business) of operating any motor propelled
11 vehicle by which persons or property of others are conveyed for hire,
12 and includes, but is not limited to, the operation of any motor
13 propelled vehicle as an auto transportation company (except urban
14 transportation business), common carrier, or contract carrier as
15 defined by RCW 81.68.010 and 81.80.010. However, "motor transportation
16 business" does not mean or include: (a) A log transportation business;
17 or (b) the transportation of logs or other forest products exclusively
18 upon private roads or private highways.

19 ~~((+7))~~ (9)(a) "Public service business" means any of the
20 businesses defined in subsections ~~((+1), (2), (4), (6), (8), (9), (10),~~
21 ~~(+12), and (13))~~ (3), (4), (6), (8), (10), (11), (12), (14), and (15)
22 of this section or any business subject to control by the state, or
23 having the powers of eminent domain and the duties incident thereto, or
24 any business hereafter declared by the legislature to be of a public
25 service nature, except telephone business and low-level radioactive
26 waste site operating companies as redefined in RCW 81.04.010. It
27 includes, among others, without limiting the scope hereof: Airplane
28 transportation, boom, dock, ferry, pipe line, toll bridge, toll logging
29 road, water transportation and wharf businesses.

30 (b) The definitions in this subsection ~~((+7))~~ (9)(b) apply
31 throughout this subsection ~~((+7))~~ (9).

32 (i) "Competitive telephone service" has the same meaning as in RCW
33 82.04.065.

34 (ii) "Network telephone service" means the providing by any person
35 of access to a telephone network, telephone network switching service,
36 toll service, or coin telephone services, or the providing of
37 telephonic, video, data, or similar communication or transmission for
38 hire, via a telephone network, toll line or channel, cable, microwave,

1 or similar communication or transmission system. "Network telephone
2 service" includes the provision of transmission to and from the site of
3 an internet provider via a telephone network, toll line or channel,
4 cable, microwave, or similar communication or transmission system.
5 "Network telephone service" does not include the providing of
6 competitive telephone service, the providing of cable television
7 service, the providing of broadcast services by radio or television
8 stations, nor the provision of internet access as defined in RCW
9 82.04.297, including the reception of dial-in connection, provided at
10 the site of the internet service provider.

11 (iii) "Telephone business" means the business of providing network
12 telephone service. It includes cooperative or farmer line telephone
13 companies or associations operating an exchange.

14 (iv) "Telephone service" means competitive telephone service or
15 network telephone service, or both, as defined in (b)(i) and (ii) of
16 this subsection.

17 (~~(+8)~~) (10) "Railroad business" means the business of operating
18 any railroad, by whatever power operated, for public use in the
19 conveyance of persons or property for hire. It (~~shall~~) may not,
20 however, include any business herein defined as an urban transportation
21 business.

22 (~~(+9)~~) (11) "Railroad car business" means the business of
23 operating stock cars, furniture cars, refrigerator cars, fruit cars,
24 poultry cars, tank cars, sleeping cars, parlor cars, buffet cars,
25 tourist cars, or any other kinds of cars used for transportation of
26 property or persons upon the line of any railroad operated in this
27 state when such railroad is not owned or leased by the person engaging
28 in such business.

29 (~~(+10)~~) (12) "Telegraph business" means the business of affording
30 telegraphic communication for hire.

31 (~~(+11)~~) (13) "Tugboat business" means the business of operating
32 tugboats, towboats, wharf boats or similar vessels in the towing or
33 pushing of vessels, barges or rafts for hire.

34 (~~(+12)~~) (14) "Urban transportation business" means the business of
35 operating any vehicle for public use in the conveyance of persons or
36 property for hire, insofar as (a) operating entirely within the
37 corporate limits of any city or town, or within five miles of the
38 corporate limits thereof, or (b) operating entirely within and between

1 cities and towns whose corporate limits are not more than five miles
2 apart or within five miles of the corporate limits of either thereof.
3 Included herein, but without limiting the scope hereof, is the business
4 of operating passenger vehicles of every type and also the business of
5 operating cartage, pickup, or delivery services, including in such
6 services the collection and distribution of property arriving from or
7 destined to a point within or without the state, whether or not such
8 collection or distribution be made by the person performing a local or
9 interstate line-haul of such property.

10 ((+13+)) (15) "Water distribution business" means the business of
11 operating a plant or system for the distribution of water for hire or
12 sale.

13 ((+14+)) (16) The meaning attributed, in chapter 82.04 RCW, to the
14 term "tax year," "person," "value proceeding or accruing," "business,"
15 "engaging in business," "in this state," "within this state," "cash
16 discount" and "successor" shall apply equally in the provisions of this
17 chapter.

18 **Sec. 2.** RCW 82.16.010 and 2009 c 535 s 1110 are each reenacted and
19 amended to read as follows:

20 For the purposes of this chapter, unless otherwise required by the
21 context:

22 (1) "Community residential service business" means the business of
23 providing habilitation, instruction, and support to clients who have a
24 disability meeting the definition of a developmental disability as
25 defined in RCW 71A.10.020(3). "Community residential services
26 business" also means a business that is licensed and/or certified by
27 the aging and disabilities services administration at the department of
28 social and health services to provide the services described in this
29 subsection.

30 (2) "Adult day health business" is the business of providing
31 personal care, meals, social activities, and skilled therapeutic
32 services at adult day health centers.

33 (3) "Express business" means the business of carrying property for
34 public hire on the line of any common carrier operated in this state,
35 when such common carrier is not owned or leased by the person engaging
36 in such business.

1 ~~((+2))~~ (4) "Gas distribution business" means the business of
2 operating a plant or system for the production or distribution for hire
3 or sale of gas, whether manufactured or natural.

4 ~~((+3))~~ (5) "Gross income" means the value proceeding or accruing
5 from the performance of the particular public service or transportation
6 business involved, including operations incidental thereto, but without
7 any deduction on account of the cost of the commodity furnished or
8 sold, the cost of materials used, labor costs, interest, discount,
9 delivery costs, taxes, or any other expense whatsoever paid or accrued
10 and without any deduction on account of losses.

11 ~~((+4))~~ (6) "Light and power business" means the business of
12 operating a plant or system for the generation, production or
13 distribution of electrical energy for hire or sale and/or for the
14 wheeling of electricity for others.

15 ~~((+5))~~ (7) "Motor transportation business" means the business
16 (except urban transportation business) of operating any motor propelled
17 vehicle by which persons or property of others are conveyed for hire,
18 and includes, but is not limited to, the operation of any motor
19 propelled vehicle as an auto transportation company (except urban
20 transportation business), common carrier, or contract carrier as
21 defined by RCW 81.68.010 and 81.80.010. However, "motor transportation
22 business" does not mean or include the transportation of logs or other
23 forest products exclusively upon private roads or private highways.

24 ~~((+6))~~ (8)(a) "Public service business" means any of the
25 businesses defined in subsections ~~((+1), (2), (4), (5), (7), (8), (9),~~
26 ~~(+11), and (+12))~~ (3), (4), (6), (7), (9), (10), (11), (13), and (14) of
27 this section or any business subject to control by the state, or having
28 the powers of eminent domain and the duties incident thereto, or any
29 business hereafter declared by the legislature to be of a public
30 service nature, except telephone business and low-level radioactive
31 waste site operating companies as redefined in RCW 81.04.010. It
32 includes, among others, without limiting the scope hereof: Airplane
33 transportation, boom, dock, ferry, pipe line, toll bridge, toll logging
34 road, water transportation and wharf businesses.

35 (b) The definitions in this subsection ~~((+6))~~ (8)(b) apply
36 throughout this subsection ~~((+6))~~ (8).

37 (i) "Competitive telephone service" has the same meaning as in RCW
38 82.04.065.

1 (ii) "Network telephone service" means the providing by any person
2 of access to a telephone network, telephone network switching service,
3 toll service, or coin telephone services, or the providing of
4 telephonic, video, data, or similar communication or transmission for
5 hire, via a telephone network, toll line or channel, cable, microwave,
6 or similar communication or transmission system. "Network telephone
7 service" includes the provision of transmission to and from the site of
8 an internet provider via a telephone network, toll line or channel,
9 cable, microwave, or similar communication or transmission system.
10 "Network telephone service" does not include the providing of
11 competitive telephone service, the providing of cable television
12 service, the providing of broadcast services by radio or television
13 stations, nor the provision of internet access as defined in RCW
14 82.04.297, including the reception of dial-in connection, provided at
15 the site of the internet service provider.

16 (iii) "Telephone business" means the business of providing network
17 telephone service. It includes cooperative or farmer line telephone
18 companies or associations operating an exchange.

19 (iv) "Telephone service" means competitive telephone service or
20 network telephone service, or both, as defined in (b)(i) and (ii) of
21 this subsection.

22 ((+7)) (9) "Railroad business" means the business of operating any
23 railroad, by whatever power operated, for public use in the conveyance
24 of persons or property for hire. It (~~shall~~) may not, however,
25 include any business herein defined as an urban transportation
26 business.

27 ((+8)) (10) "Railroad car business" means the business of
28 operating stock cars, furniture cars, refrigerator cars, fruit cars,
29 poultry cars, tank cars, sleeping cars, parlor cars, buffet cars,
30 tourist cars, or any other kinds of cars used for transportation of
31 property or persons upon the line of any railroad operated in this
32 state when such railroad is not owned or leased by the person engaging
33 in such business.

34 ((+9)) (11) "Telegraph business" means the business of affording
35 telegraphic communication for hire.

36 ((+10)) (12) "Tugboat business" means the business of operating
37 tugboats, towboats, wharf boats or similar vessels in the towing or
38 pushing of vessels, barges or rafts for hire.

1 (~~(11)~~) (13) "Urban transportation business" means the business of
2 operating any vehicle for public use in the conveyance of persons or
3 property for hire, insofar as (a) operating entirely within the
4 corporate limits of any city or town, or within five miles of the
5 corporate limits thereof, or (b) operating entirely within and between
6 cities and towns whose corporate limits are not more than five miles
7 apart or within five miles of the corporate limits of either thereof.
8 Included herein, but without limiting the scope hereof, is the business
9 of operating passenger vehicles of every type and also the business of
10 operating cartage, pickup, or delivery services, including in such
11 services the collection and distribution of property arriving from or
12 destined to a point within or without the state, whether or not such
13 collection or distribution be made by the person performing a local or
14 interstate line-haul of such property.

15 (~~(12)~~) (14) "Water distribution business" means the business of
16 operating a plant or system for the distribution of water for hire or
17 sale.

18 (~~(13)~~) (15) The meaning attributed, in chapter 82.04 RCW, to the
19 term "tax year," "person," "value proceeding or accruing," "business,"
20 "engaging in business," "in this state," "within this state," "cash
21 discount" and "successor" shall apply equally in the provisions of this
22 chapter.

23 **Sec. 3.** RCW 82.16.020 and 2009 c 469 s 702 are each amended to
24 read as follows:

25 (1) There is levied and (~~there shall be~~) collected from every
26 person a tax for the act or privilege of engaging within this state in
27 any one or more of the businesses herein mentioned. The tax (~~shall~~
28 ~~be~~) is equal to the gross income of the business, multiplied by the
29 rate set out after the business, as follows:

30 (a) Express, sewerage collection, and telegraph businesses: Three
31 and six-tenths percent;

32 (b) Light and power business: Three and sixty-two one-hundredths
33 percent;

34 (c) Gas distribution business: Three and six-tenths percent;

35 (d) Urban transportation business: Six-tenths of one percent;

36 (e) Vessels under sixty-five feet in length, except tugboats,
37 operating upon the waters within the state: Six-tenths of one percent;

1 (f) Motor transportation, railroad, railroad car, and tugboat
2 businesses, and all public service businesses other than ones mentioned
3 above: One and eight-tenths of one percent;

4 (g) Water distribution business: Four and seven-tenths percent;

5 (h) Log transportation business: One and twenty-eight one-
6 hundredths percent;

7 (i) Community residential service business: Four and seven-tenths
8 percent;

9 (j) Adult day health business: Four and seven-tenths percent.

10 (2) An additional tax is imposed equal to the rate specified in RCW
11 82.02.030 multiplied by the tax payable under subsection (1) of this
12 section.

13 (3) Twenty percent of the moneys collected under subsection (1) of
14 this section on water distribution businesses and sixty percent of the
15 moneys collected under subsection (1) of this section on sewerage
16 collection businesses (~~shall~~) must be deposited in the public works
17 assistance account created in RCW 43.155.050.

18 (4) Eighty-one percent of the moneys collected under subsection
19 (1)(i) of this section must be deposited in the community residential
20 investment account.

21 (5) Eighty-one percent of the moneys collected under subsection
22 (1)(j) of this section must be deposited in the home and community
23 based services investment account.

24 (6) If at any time the centers for medicare and medicaid services
25 make a determination that any federal matching funds appropriated in
26 conjunction with appropriations from the community residential
27 investment account and the home and community based investment account
28 cannot be validly appropriated, the tax under subsection (1)(i) and (j)
29 of this section shall cease to be imposed.

30 **Sec. 4.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to read
31 as follows:

32 (1) There is levied and (~~there shall be~~) collected from every
33 person a tax for the act or privilege of engaging within this state in
34 any one or more of the businesses herein mentioned. The tax (~~shall~~
35 ~~be~~) is equal to the gross income of the business, multiplied by the
36 rate set out after the business, as follows:

- 1 (a) Express, sewerage collection, and telegraph businesses: Three
2 and six-tenths percent;
- 3 (b) Light and power business: Three and sixty-two one-hundredths
4 percent;
- 5 (c) Gas distribution business: Three and six-tenths percent;
- 6 (d) Urban transportation business: Six-tenths of one percent;
- 7 (e) Vessels under sixty-five feet in length, except tugboats,
8 operating upon the waters within the state: Six-tenths of one percent;
- 9 (f) Motor transportation, railroad, railroad car, and tugboat
10 businesses, and all public service businesses other than ones mentioned
11 above: One and eight-tenths of one percent;
- 12 (g) Water distribution business: Four and seven-tenths percent;
- 13 (h) Community residential service business: Four and seven-tenths
14 percent;
- 15 (i) Adult day health business: Four and seven-tenths percent.
- 16 (2) An additional tax is imposed equal to the rate specified in RCW
17 82.02.030 multiplied by the tax payable under subsection (1) of this
18 section.
- 19 (3) Twenty percent of the moneys collected under subsection (1) of
20 this section on water distribution businesses and sixty percent of the
21 moneys collected under subsection (1) of this section on sewerage
22 collection businesses (~~shall~~) must be deposited in the public works
23 assistance account created in RCW 43.155.050.
- 24 (4) Eighty-one percent of the moneys collected under subsection
25 (1)(h) of this section must be deposited in the community residential
26 investment account.
- 27 (5) Eighty-one percent of the moneys collected under subsection
28 (1)(i) of this section must be deposited in the home and community
29 based services investment account.
- 30 (6) If at any time the centers for medicare and medicaid services
31 make a determination that any federal matching funds appropriated in
32 conjunction with appropriations from the community residential
33 investment account and the home and community based investment account
34 cannot be validly appropriated, the tax under subsection (1)(h) and (i)
35 of this section shall cease to be imposed.

36 NEW SECTION. Sec. 5. A new section is added to chapter 82.16 RCW
37 to read as follows:

1 (1) The community residential investment account is created in the
2 state treasury. Moneys in the account may be spent only after
3 appropriation. Expenditures from the account may only be used for the
4 following purposes:

5 (a) To increase rates paid to community residential services
6 businesses from the rates provided in section 205(1), chapter 564, Laws
7 of 2009;

8 (b) To enhance the rates paid to increase compensation to staff
9 providing habilitative instruction and support services, and homogenize
10 administrative and indirect client support rates; or

11 (c) To increase the number of individuals receiving community
12 residential services available through the division of developmental
13 disabilities.

14 (2) The home and community based services investment account is
15 created in the state treasury. Moneys in the account may be spent only
16 after appropriation. Expenditures from the account may only be used
17 for home and community based services provided by the aging and
18 disabilities services administration at the department of social and
19 health services.

20 **Sec. 6.** RCW 35.21.710 and 2002 c 179 s 1 are each amended to read
21 as follows:

22 Any city which imposes a license fee or tax upon business
23 activities consisting of the making of retail sales of tangible
24 personal property which are measured by gross receipts or gross income
25 from such sales, (~~shall~~) must impose such tax at a single uniform
26 rate upon all such business activities. The taxing authority granted
27 to cities for taxes upon business activities measured by gross receipts
28 or gross income from sales (~~shall~~) may not exceed a rate of .0020;
29 except that any city with an adopted ordinance at a higher rate, as of
30 January 1, 1982 (~~shall~~) must be limited to a maximum increase of ten
31 percent of the January 1982 rate, not to exceed an annual incremental
32 increase of two percent of current rate(~~:- PROVIDED, That~~). However:
33 Any adopted ordinance which classifies according to different types of
34 business or services (~~shall be~~) is subject to both the ten percent
35 and the two percent annual incremental increase limitation on each tax
36 rate(~~:- PROVIDED FURTHER, That~~); and all surtaxes on business and
37 occupation classifications in effect as of January 1, 1982, (~~shall~~)

1 must expire no later than December 31, 1982, or by expiration date
2 established by local ordinance. Cities which impose a license fee or
3 tax upon business activities consisting of the making of retail sales
4 of tangible personal property which are measured by gross receipts or
5 gross income from such sales (~~shall~~) must be required to submit an
6 annual report to the state auditor identifying the rate established and
7 the revenues received from each fee or tax. This section (~~shall~~)
8 does not apply to any business activities subject to the tax imposed by
9 chapter 82.16 RCW, except community residential service businesses and
10 adult day health businesses. For purposes of this section, the
11 providing to consumers of competitive telephone service, as defined in
12 RCW 82.04.065, or the providing of payphone service, (~~shall be~~) is
13 subject to tax at the same rate as business activities consisting of
14 the making of retail sales of tangible personal property. As used in
15 this section, "payphone service" means making telephone service
16 available to the public on a fee-per-call basis, independent of any
17 other commercial transaction, for the purpose of making telephone
18 calls, when the telephone can only be activated by inserting coins,
19 calling collect, using a calling card or credit card, or dialing a
20 toll-free number, and the provider of the service owns or leases the
21 telephone equipment but does not own the telephone line providing the
22 service to that equipment and has no affiliation with the owner of the
23 telephone line.

24 NEW SECTION. **Sec. 7.** By June 30, 2015, the joint legislative
25 audit and review committee in consultation with the department of
26 social and health services and the department of revenue, must conduct
27 a review of the taxes imposed by this act on community residential
28 services businesses and adult day health businesses. In this review,
29 the committee must consult with a broad range of interested
30 stakeholders. The review must consider issues including benefits of
31 the tax, compliance with the tax, any determinations by the centers for
32 medicaid and medicare services regarding the tax, administrative costs,
33 other administrative issues and other issues deemed appropriate. The
34 committee must report to the legislature on its findings and any
35 recommendations related to the taxes imposed in this act and related
36 services funded by these taxes by December 1, 2015.

1 NEW SECTION. **Sec. 8.** Sections 1 and 3 of this act take effect
2 July 1, 2010.

3 NEW SECTION. **Sec. 9.** Sections 2 and 4 of this act take effect
4 June 30, 2013.

5 NEW SECTION. **Sec. 10.** Sections 1 and 3 of this act expire June
6 30, 2013."

7 Correct the title.

EFFECT: Clarifies that Adult Day Health Businesses are businesses that provide skilled therapeutic services. Requires that funds in the Community Residential Investment Account and Home and Community Based Services Investment Account be used for the purposes specified. Changes the percentage of the funds collected under the act that must be deposited to the general fund. Provides a review of the tax by June 30, 2015.

--- END ---