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ENGROSSED SUBSTITUTE HOUSE BILL 3186

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State of Washington

61st Legislature

2010 Regular Session

**By** House Finance (originally sponsored by Representatives Pettigrew, Walsh, Williams, Hunt, Green, Dickerson, Kagi, Goodman, Orwall, Llias, Seaquist, White, and Appleton)

READ FIRST TIME 03/01/10.

1 AN ACT Relating to imposing a tax on home and community based  
2 services to fund services for seniors and people with disabilities;  
3 amending RCW 82.16.020, 82.16.020, and 35.21.710; reenacting and  
4 amending RCW 82.16.010 and 82.16.010; adding a new section to chapter  
5 82.16 RCW; creating a new section; providing effective dates; and  
6 providing an expiration date.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 82.16.010 and 2009 c 535 s 1110 and 2009 c 469 s 701  
9 are each reenacted and amended to read as follows:

10 For the purposes of this chapter, unless otherwise required by the  
11 context:

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

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

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

8        ~~((2))~~ (4) "Gas distribution business" means the business of  
9 operating a plant or system for the production or distribution for hire  
10 or sale of gas, whether manufactured or natural.

11        ~~((3))~~ (5) "Gross income" means the value proceeding or accruing  
12 from the performance of the particular public service or transportation  
13 business involved, including operations incidental thereto, but without  
14 any deduction on account of the cost of the commodity furnished or  
15 sold, the cost of materials used, labor costs, interest, discount,  
16 delivery costs, taxes, or any other expense whatsoever paid or accrued  
17 and without any deduction on account of losses.

18        ~~((4))~~ (6) "Light and power business" means the business of  
19 operating a plant or system for the generation, production or  
20 distribution of electrical energy for hire or sale and/or for the  
21 wheeling of electricity for others.

22        ~~((5))~~ (7) "Log transportation business" means the business of  
23 transporting logs by truck, other than exclusively upon private roads.

24        ~~((6))~~ (8) "Motor transportation business" means the business  
25 (except urban transportation business) of operating any motor propelled  
26 vehicle by which persons or property of others are conveyed for hire,  
27 and includes, but is not limited to, the operation of any motor  
28 propelled vehicle as an auto transportation company (except urban  
29 transportation business), common carrier, or contract carrier as  
30 defined by RCW 81.68.010 and 81.80.010. However, "motor transportation  
31 business" does not mean or include: (a) A log transportation business;  
32 or (b) the transportation of logs or other forest products exclusively  
33 upon private roads or private highways.

34        ~~((7))~~ (9)(a) "Public service business" means any of the  
35 businesses defined in subsections ~~((1), (2), (4), (6), (8), (9), (10),~~  
36 ~~(12), and (13))~~ (3), (4), (6), (8), (10), (11), (12), (14), and (15)  
37 of this section or any business subject to control by the state, or  
38 having the powers of eminent domain and the duties incident thereto, or

1 any business hereafter declared by the legislature to be of a public  
2 service nature, except telephone business and low-level radioactive  
3 waste site operating companies as redefined in RCW 81.04.010. It  
4 includes, among others, without limiting the scope hereof: Airplane  
5 transportation, boom, dock, ferry, pipe line, toll bridge, toll logging  
6 road, water transportation and wharf businesses.

7 (b) The definitions in this subsection (~~((7))~~) (9)(b) apply  
8 throughout this subsection (~~((7))~~) (9).

9 (i) "Competitive telephone service" has the same meaning as in RCW  
10 82.04.065.

11 (ii) "Network telephone service" means the providing by any person  
12 of access to a telephone network, telephone network switching service,  
13 toll service, or coin telephone services, or the providing of  
14 telephonic, video, data, or similar communication or transmission for  
15 hire, via a telephone network, toll line or channel, cable, microwave,  
16 or similar communication or transmission system. "Network telephone  
17 service" includes the provision of transmission to and from the site of  
18 an internet provider via a telephone network, toll line or channel,  
19 cable, microwave, or similar communication or transmission system.  
20 "Network telephone service" does not include the providing of  
21 competitive telephone service, the providing of cable television  
22 service, the providing of broadcast services by radio or television  
23 stations, nor the provision of internet access as defined in RCW  
24 82.04.297, including the reception of dial-in connection, provided at  
25 the site of the internet service provider.

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

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

32 (~~((8))~~) (10) "Railroad business" means the business of operating  
33 any railroad, by whatever power operated, for public use in the  
34 conveyance of persons or property for hire. It (~~((shall))~~) may not,  
35 however, include any business herein defined as an urban transportation  
36 business.

37 (~~((9))~~) (11) "Railroad car business" means the business of  
38 operating stock cars, furniture cars, refrigerator cars, fruit cars,

1 poultry cars, tank cars, sleeping cars, parlor cars, buffet cars,  
2 tourist cars, or any other kinds of cars used for transportation of  
3 property or persons upon the line of any railroad operated in this  
4 state when such railroad is not owned or leased by the person engaging  
5 in such business.

6 ~~((+10+))~~ (12) "Telegraph business" means the business of affording  
7 telegraphic communication for hire.

8 ~~((+11+))~~ (13) "Tugboat business" means the business of operating  
9 tugboats, towboats, wharf boats or similar vessels in the towing or  
10 pushing of vessels, barges or rafts for hire.

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

25 ~~((+13+))~~ (15) "Water distribution business" means the business of  
26 operating a plant or system for the distribution of water for hire or  
27 sale.

28 ~~((+14+))~~ (16) The meaning attributed, in chapter 82.04 RCW, to the  
29 term "tax year," "person," "value proceeding or accruing," "business,"  
30 "engaging in business," "in this state," "within this state," "cash  
31 discount" and "successor" shall apply equally in the provisions of this  
32 chapter.

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

35 For the purposes of this chapter, unless otherwise required by the  
36 context:

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

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

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

16       (~~(+2)~~) (4) "Gas distribution business" means the business of  
17 operating a plant or system for the production or distribution for hire  
18 or sale of gas, whether manufactured or natural.

19       (~~(+3)~~) (5) "Gross income" means the value proceeding or accruing  
20 from the performance of the particular public service or transportation  
21 business involved, including operations incidental thereto, but without  
22 any deduction on account of the cost of the commodity furnished or  
23 sold, the cost of materials used, labor costs, interest, discount,  
24 delivery costs, taxes, or any other expense whatsoever paid or accrued  
25 and without any deduction on account of losses.

26       (~~(+4)~~) (6) "Light and power business" means the business of  
27 operating a plant or system for the generation, production or  
28 distribution of electrical energy for hire or sale and/or for the  
29 wheeling of electricity for others.

30       (~~(+5)~~) (7) "Motor transportation business" means the business  
31 (except urban transportation business) of operating any motor propelled  
32 vehicle by which persons or property of others are conveyed for hire,  
33 and includes, but is not limited to, the operation of any motor  
34 propelled vehicle as an auto transportation company (except urban  
35 transportation business), common carrier, or contract carrier as  
36 defined by RCW 81.68.010 and 81.80.010. However, "motor transportation  
37 business" does not mean or include the transportation of logs or other  
38 forest products exclusively upon private roads or private highways.

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

12       (b) The definitions in this subsection (~~(6)~~) (8)(b) apply  
13 throughout this subsection (~~(6)~~) (8).

14       (i) "Competitive telephone service" has the same meaning as in RCW  
15 82.04.065.

16       (ii) "Network telephone service" means the providing by any person  
17 of access to a telephone network, telephone network switching service,  
18 toll service, or coin telephone services, or the providing of  
19 telephonic, video, data, or similar communication or transmission for  
20 hire, via a telephone network, toll line or channel, cable, microwave,  
21 or similar communication or transmission system. "Network telephone  
22 service" includes the provision of transmission to and from the site of  
23 an internet provider via a telephone network, toll line or channel,  
24 cable, microwave, or similar communication or transmission system.  
25 "Network telephone service" does not include the providing of  
26 competitive telephone service, the providing of cable television  
27 service, the providing of broadcast services by radio or television  
28 stations, nor the provision of internet access as defined in RCW  
29 82.04.297, including the reception of dial-in connection, provided at  
30 the site of the internet service provider.

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

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

37       (~~(7)~~) (9) "Railroad business" means the business of operating any  
38 railroad, by whatever power operated, for public use in the conveyance

1 of persons or property for hire. It (~~shall~~) may not, however,  
2 include any business herein defined as an urban transportation  
3 business.

4 (~~(+8)~~) (10) "Railroad car business" means the business of  
5 operating stock cars, furniture cars, refrigerator cars, fruit cars,  
6 poultry cars, tank cars, sleeping cars, parlor cars, buffet cars,  
7 tourist cars, or any other kinds of cars used for transportation of  
8 property or persons upon the line of any railroad operated in this  
9 state when such railroad is not owned or leased by the person engaging  
10 in such business.

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

13 (~~(+10)~~) (12) "Tugboat business" means the business of operating  
14 tugboats, towboats, wharf boats or similar vessels in the towing or  
15 pushing of vessels, barges or rafts for hire.

16 (~~(+11)~~) (13) "Urban transportation business" means the business of  
17 operating any vehicle for public use in the conveyance of persons or  
18 property for hire, insofar as (a) operating entirely within the  
19 corporate limits of any city or town, or within five miles of the  
20 corporate limits thereof, or (b) operating entirely within and between  
21 cities and towns whose corporate limits are not more than five miles  
22 apart or within five miles of the corporate limits of either thereof.  
23 Included herein, but without limiting the scope hereof, is the business  
24 of operating passenger vehicles of every type and also the business of  
25 operating cartage, pickup, or delivery services, including in such  
26 services the collection and distribution of property arriving from or  
27 destined to a point within or without the state, whether or not such  
28 collection or distribution be made by the person performing a local or  
29 interstate line-haul of such property.

30 (~~(+12)~~) (14) "Water distribution business" means the business of  
31 operating a plant or system for the distribution of water for hire or  
32 sale.

33 (~~(+13)~~) (15) The meaning attributed, in chapter 82.04 RCW, to the  
34 term "tax year," "person," "value proceeding or accruing," "business,"  
35 "engaging in business," "in this state," "within this state," "cash  
36 discount" and "successor" shall apply equally in the provisions of this  
37 chapter.

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

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

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

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

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

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

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

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

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

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

22       (i) Community residential service business: Four and seven-tenths  
23 percent;

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

25       (2) An additional tax is imposed equal to the rate specified in RCW  
26 82.02.030 multiplied by the tax payable under subsection (1) of this  
27 section.

28       (3) Twenty percent of the moneys collected under subsection (1) of  
29 this section on water distribution businesses and sixty percent of the  
30 moneys collected under subsection (1) of this section on sewerage  
31 collection businesses (~~shall~~) must be deposited in the public works  
32 assistance account created in RCW 43.155.050.

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

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



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

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

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

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

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

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

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

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

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

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

26       (h) Community residential service business: Four and seven-tenths  
27 percent;

28       (i) Adult day health business: Four and seven-tenths percent.

29       (2) An additional tax is imposed equal to the rate specified in RCW  
30 82.02.030 multiplied by the tax payable under subsection (1) of this  
31 section.

32       (3) Twenty percent of the moneys collected under subsection (1) of  
33 this section on water distribution businesses and sixty percent of the  
34 moneys collected under subsection (1) of this section on sewerage  
35 collection businesses (~~shall~~) must be deposited in the public works  
36 assistance account created in RCW 43.155.050.

1       (4) Eighty-one percent of the moneys collected under subsection  
2 (1)(h) of this section must be deposited in the community residential  
3 investment account.

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

7       (6) If at any time the centers for medicare and medicaid services  
8 make a determination that any federal matching funds appropriated in  
9 conjunction with appropriations from the community residential  
10 investment account and the home and community based investment account  
11 cannot be validly appropriated, the tax under subsection (1)(h) and (i)  
12 of this section shall cease to be imposed.

13       **NEW SECTION. Sec. 5.** A new section is added to chapter 82.16 RCW  
14 to read as follows:

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

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

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

25       (c) To increase the number of individuals receiving community  
26 residential services available through the division of developmental  
27 disabilities.

28       (2) The home and community based services investment account is  
29 created in the state treasury. Moneys in the account may be spent only  
30 after appropriation. Expenditures from the account may only be used  
31 for home and community based services provided by the aging and  
32 disabilities services administration at the department of social and  
33 health services.

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

36       Any city which imposes a license fee or tax upon business

1 activities consisting of the making of retail sales of tangible  
2 personal property which are measured by gross receipts or gross income  
3 from such sales, (~~shall~~) must impose such tax at a single uniform  
4 rate upon all such business activities. The taxing authority granted  
5 to cities for taxes upon business activities measured by gross receipts  
6 or gross income from sales (~~shall~~) may not exceed a rate of .0020;  
7 except that any city with an adopted ordinance at a higher rate, as of  
8 January 1, 1982 (~~shall~~) must be limited to a maximum increase of ten  
9 percent of the January 1982 rate, not to exceed an annual incremental  
10 increase of two percent of current rate(~~PROVIDED, That~~). However:  
11 Any adopted ordinance which classifies according to different types of  
12 business or services (~~shall be~~) is subject to both the ten percent  
13 and the two percent annual incremental increase limitation on each tax  
14 rate(~~PROVIDED FURTHER, That~~); and all surtaxes on business and  
15 occupation classifications in effect as of January 1, 1982, (~~shall~~)  
16 must expire no later than December 31, 1982, or by expiration date  
17 established by local ordinance. Cities which impose a license fee or  
18 tax upon business activities consisting of the making of retail sales  
19 of tangible personal property which are measured by gross receipts or  
20 gross income from such sales (~~shall~~) must be required to submit an  
21 annual report to the state auditor identifying the rate established and  
22 the revenues received from each fee or tax. This section (~~shall~~)  
23 does not apply to any business activities subject to the tax imposed by  
24 chapter 82.16 RCW, except community residential service businesses and  
25 adult day health businesses. For purposes of this section, the  
26 providing to consumers of competitive telephone service, as defined in  
27 RCW 82.04.065, or the providing of payphone service, (~~shall be~~) is  
28 subject to tax at the same rate as business activities consisting of  
29 the making of retail sales of tangible personal property. As used in  
30 this section, "payphone service" means making telephone service  
31 available to the public on a fee-per-call basis, independent of any  
32 other commercial transaction, for the purpose of making telephone  
33 calls, when the telephone can only be activated by inserting coins,  
34 calling collect, using a calling card or credit card, or dialing a  
35 toll-free number, and the provider of the service owns or leases the  
36 telephone equipment but does not own the telephone line providing the  
37 service to that equipment and has no affiliation with the owner of the  
38 telephone line.

1        NEW SECTION.    **Sec. 7.** By June 30, 2015, the joint legislative  
2 audit and review committee in consultation with the department of  
3 social and health services and the department of revenue, must conduct  
4 a review of the taxes imposed by this act on community residential  
5 services businesses and adult day health businesses. In this review,  
6 the committee must consult with a broad range of interested  
7 stakeholders. The review must consider issues including benefits of  
8 the tax, compliance with the tax, any determinations by the centers for  
9 medicaid and medicare services regarding the tax, administrative costs,  
10 other administrative issues and other issues deemed appropriate. The  
11 committee must report to the legislature on its findings and any  
12 recommendations related to the taxes imposed in this act and related  
13 services funded by these taxes by December 1, 2015.

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

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

18        NEW SECTION.    **Sec. 10.** Sections 1 and 3 of this act expire June  
19 30, 2013.

--- END ---