
SUBSTITUTE HOUSE BILL 3186

State of Washington

61st Legislature

2010 Regular Session

By House Finance (originally sponsored by Representatives Pettigrew, Walsh, Williams, Hunt, Green, Dickerson, Kagi, Goodman, Orwall, Lias, 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 and 82.16.020; reenacting and amending RCW
4 82.16.010 and 82.16.010; adding a new section to chapter 82.16 RCW;
5 providing effective dates; and providing an expiration date.

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

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

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

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

1 (2) "Adult day health business" is the business of providing
2 personal care, meals, social activities, and therapeutic services at
3 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 therapeutic services at
11 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) Seventy-three 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) Seventy-five 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) Seventy-three 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) Seventy-five 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 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; and

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 be used for
31 home and community based services provided by the aging and
32 disabilities services administration at the department of social and
33 health services. Expenditures from the account may be used for, but
34 are not limited to, the following purposes: (a) To increase rates paid
35 to adult day health businesses to compensate for the amount of public
36 utility tax paid and (b) to prevent reductions in services or expand
37 access to adult day health services.

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

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

1 leases the telephone equipment but does not own the telephone line
2 providing the service to that equipment and has no affiliation with the
3 owner of the telephone line.

4 NEW SECTION. **Sec. 7.** Sections 1 and 3 of this act take effect
5 July 1, 2010.

6 NEW SECTION. **Sec. 8.** Sections 2 and 4 of this act take effect
7 June 30, 2013.

8 NEW SECTION. **Sec. 9.** Sections 1 and 3 of this act expire June 30,
9 2013.

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