

HOUSE BILL REPORT

HB 1833

As Reported by House Committee On: Transportation

Title: An act relating to exempting tax information from public inspection and copying.

Brief Description: Exempting tax information from public inspection and copying.

Sponsors: Representatives Bergquist, Hargrove, Green and Ryu; by request of Department of Licensing.

Brief History:

Committee Activity:

Transportation: 2/27/13, 2/28/13 [DP].

Brief Summary of Bill

- Creates exemptions from the Public Records Act for certain taxpayer information related to the motor vehicle fuel tax, special fuel tax, and aviation fuel tax.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass. Signed by 30 members: Representatives Clibborn, Chair; Fey, Vice Chair; Liias, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Angel, Bergquist, Farrell, Fitzgibbon, Habib, Hayes, Johnson, Klippert, Kochmar, Kretz, Kristiansen, Moeller, Morris, O'Ban, Riccelli, Rodne, Ryu, Sells, Shea, Takko, Tarleton, Upthegrove and Zeiger.

Staff: David Munnecke (786-7315).

Background:

The Public Records Act (PRA) requires that all state and local government agencies make all public records available for public inspection and copying unless they fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted

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liberally and the exemptions narrowly in order to effectuate a general policy favoring disclosure.

There is an exemption to the PRA for information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information:

- is prohibited under certain statutes related to property tax assessments, taxes collected by the Department of Revenue (DOR), and city-imposed business and occupation taxes; or
- would violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

The Department of Licensing (DOL) collects a variety of information from fuel distributors, importers, and blenders pursuant to the collection of motor vehicle fuel, special fuel, and aviation fuel taxes.

Summary of Bill:

Tax information, tax returns, supporting schedules, and documents accompanying tax returns and supporting schedules for motor fuel taxes, special fuel taxes, and aviation fuel taxes are confidential and privileged, and may not be disclosed except under the following circumstances:

- certain civil, criminal, or administrative proceedings;
- when requested by the taxpayer;
- when a lien or warrant has been issued or filed and remains outstanding for 10 or more working days;
- for anonymous statistics;
- for official purposes, to the Governor, Attorney General, any state agency, or committees of the Legislature;
- audits of the DOL's records;
- in response to search warrants, subpoenas, or other court orders;
- for official purposes, to the Internal Revenue Service, Canadian government or provincial government, or proper officer of the tax department of a state, city, town, or county;
- for official purposes, to various agencies of the federal government;
- except for commercial purposes, taxpayer names, entity types, addresses, license numbers, and license status;
- when applying for a subpoena; and
- when disclosure is specifically authorized by another state statute.

The DOL may also disclose, within various parameters, certain information to a person under investigation or during any court or administrative proceeding against a person. The disclosure may occur only if the person under investigation is a party to the tax information to be disclosed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill protects businesses from disclosure. It responds to a recent court case, and allows currently confidential information to remain confidential.

Based on a recent court case, the DOL is concerned that it can no longer rely on statutes related to the DOR to withhold certain tax information. Releasing this information could effect a company's competitive position in its industry. This bill is independent of the effort to merge the fuel tax statutes but would work with that bill if both were passed.

(Other) The Gendler court case involved a database used by both the Washington State Department of Transportation and the Washington State Patrol, and did not involve protection for tax information.

There are a variety of exemptions to the aircraft fuel statutes. So many, that much of the fuel sold is exempt from taxation. It is important that people be able to look into this issue, and find out what is being paid in taxes and what deferrals are being used. There is also a qualified exemption for tribes in statute, and this is being used to prevent people from obtaining information about fuel tax payments.

The DOR does already have many of these protections, but the DOL has protections from disclosure as well. There should be a careful consideration of what sort of exemptions from public disclosure should be provided.

(Opposed) None.

Persons Testifying: (In support) Representative Bergquist, prime sponsor; and Tony Sermonti, Department of Licensing.

(Other) Rowland Thompson, Allied Daily Newspapers.

Persons Signed In To Testify But Not Testifying: None.