

# HOUSE BILL REPORT

## SSB 5129

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### As Reported By House Committee On:

Energy & Utilities

**Title:** An act relating to excluding utility line clearing from the definition of retail sale.

**Brief Description:** Excluding utility line clearing from the definition of retail sale.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Sheldon, McCaslin, West and Snyder; by request of Department of Revenue).

### Brief History:

#### Committee Activity:

Energy & Utilities: 3/28/95 [DP].

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## HOUSE COMMITTEE ON ENERGY & UTILITIES

**Majority Report:** Do pass. Signed by 10 members: Representatives Casada, Chairman; Crouse, Vice Chairman; Hankins, Vice Chairman; Kessler, Ranking Minority Member; Kremen, Assistant Ranking Minority Member; Huff; Mastin; Mielke; Mitchell and Patterson.

**Staff:** Margaret Allen (786-7110).

**Background:** In 1993, the Legislature extended the state and local retail sales taxes to sales of certain services, including landscape maintenance and horticultural services other than horticultural services provided to farmers.

The legislation did not define "landscape maintenance" service. Subsequently, the Department of Revenue issued a rule interpreting the term as including tree trimming performed for public and private utilities to keep power lines free of tree branches. These activities are commonly known as "line clearing."

The legislation also extended retail sales taxes to the use of coin-operated laundry facilities in apartment houses, hotels, trailer camps, and tourist camps, service charges associated with tickets to professional sporting events, guided tours and guided charters, physical fitness services, tanning salon services, tattoo parlor services, massage services, steam bath services, turkish bath services, escort services, and dating services.

The state retail sales tax is imposed on retail sales of most items of tangible personal property and some services. The tax rate is 6.5 percent and is applied to the selling price of the article or service. In addition, local sales and use taxes apply. The total rate ranges between 7 percent and 8.2 percent, depending on the area.

Washington's major business tax is the business and occupation (B&O) tax. This tax is imposed on the gross receipts of business activities conducted within the state. There are several different rates, but the relevant rates for the purpose of the bill are:

Retailing	0.471 percent
Services (Other Activities)	2.09 percent

Businesses that collect retail sales taxes from customers for services rendered generally pay the retailing B&O tax rate, while businesses that do not collect retail sales taxes for services rendered generally pay the higher "services-other activities" rate.

The retail sales tax and the B&O tax use the same definition of retail sale. Consequently, when the 1993 Legislature added landscape maintenance services to the definition of retail sale, and the Department of Revenue interpreted "landscape maintenance" services to include line clearing, the B&O tax rate for line-clearing services was set at the retailing rate.

**Summary of Bill:** Line clearing (specifically, pruning, trimming, repairing, removing, and clearing of trees and brush near electric distribution or transmission lines or equipment, if performed by or at the direction of an electric utility purveyor) is removed from the definition of retail sale.

The B&O tax on line-clearing is the "services - other activities" rate, currently 2.09 percent.

Legislative history and findings are included, along with an emergency clause.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 1995.

**Testimony For:** Utility line clearing is done for system integrity and public safety. In 1993, the Legislature did not intend for retail sales taxes to be extended to utility line clearing as a type of landscape maintenance. This bill clarifies current law.

**Testimony Against:** None.

**Testified:** (Pro) Ron Newbry, PacifiCorp; Joan Hepp, Seattle City Light; and Ryan Spiller, Department of Revenue.