

SENATE BILL REPORT

ESSB 5739

As Passed Senate, May 24, 1995

Title: An act relating to sales by nonprofit organizations.

Brief Description: Exempting certain sales by nonprofit organizations from sales and use taxes.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Strannigan, Rinehart, Johnson, Quigley, Long, Owen, Cantu, Hale, Finkbeiner, McCaslin, Palmer, Hochstatter, McDonald, Spanel, Schow, Prentice, Moyer, Loveland, Swecker, West, Rasmussen, Smith, Drew, Haugen, Franklin, Fairley, A. Anderson, Wojahn, Heavey, McAuliffe, Kohl, Hargrove, Oke and Bauer).

Brief History:

Committee Activity: Ways & Means: 2/14/95, 2/21/95.
Passed Senate, 3/7/95, 48-0.

First Special Session: Passed Senate, 5/23/95, 46-0.

Second Special Session: Passed Senate, 5/24/95, 47-0.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5739 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rinehart, Chair; Loveland, Vice Chair; Cantu, Drew, Finkbeiner, Fraser, Hochstatter, Johnson, Long, McDonald, Moyer, Roach, Sheldon, Snyder, Spanel, Strannigan, Sutherland, West, Winsley and Wojahn.

Staff: Terry Wilson (786-7715)

Background: Nonprofit organizations are subject to the business and occupation (B&O) tax on their income, and must collect sales taxes on their sales unless specifically exempt by statute. Exemption from federal income tax does not automatically provide an exemption for state taxes. Most nonprofit organizations pay B&O tax at the services rate of 2.09 percent. However, because of the \$420 per year B&O tax credit, nonprofit organizations with gross incomes below \$20,096 per year owe no B&O tax.

Nonprofit organizations are exempt from the B&O tax and are not required to collect sales tax on the following fund-raising activities.

Public Benefit Organization Auctions. Income from fund-raising auctions conducted by nonprofit organizations exempt from federal income tax under section 501(c)(3) of the federal Internal Revenue Code is exempt from B&O tax and sales tax if the auction is held no more than once a year for a period no greater than two days. Organizations exempt from federal income tax under section 501(c)(3) of the federal Internal Revenue Code include organizations that are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes; or to foster national or

international amateur sports competition; or for the prevention of cruelty to children or animals. No part of the net earnings may inure to the benefit of any private individual or shareholder, nor may a substantial part of the activities attempt to influence legislation. In addition, the organization may not participate in any political campaign.

Bazaars and Rummage Sales. Income from bazaars and rummage sales conducted by nonprofit organizations is exempt from B&O tax if the sales are conducted no more than twice each year, each sale lasts no more than two days, and the income from each sale does not exceed \$1,000. Sales tax does not apply to sales that are infrequent enough to be considered casual and isolated. The Department of Revenue has interpreted sales at nonprofit bazaars and rummage sales to be casual and isolated as long as the same criteria for the B&O tax exemption are met.

Fund-Raising Drives/Concessions. By rule of the Department of Revenue, income from fund-raising drives and concessions conducted by nonprofit organizations other than public benefit organization auctions is exempt from B&O tax and sales tax if the activities meet the criteria for exemption as bazaars and rummage sales.

Meals. By rule of the Department of Revenue, income to nonprofit organizations from the serving of meals for fund-raising purposes is exempt from B&O tax and sales tax if the meals are served no more frequently than once every two weeks and the gross receipts are \$1,000 or less.

A deduction is authorized from the B&O tax for governmental payments to nonprofit organizations and political subdivisions for health and social welfare services. In respect to child-related services, these services include activities to prevent juvenile delinquency and child abuse, including recreational activities, the care of orphans and foster children, and the day care of children.

Summary of Bill: The first \$20,000 received in a calendar year by a nonprofit organization from bazaars and rummage sales is exempt from the B&O tax and the sales are not subject to sales tax. A B&O tax exemption is provided for income from child care resource and referral services provided by a nonprofit organization.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which the bill passed.

Testimony For: Bazaars and rummage sales are the main avenue for churches to raise money. The profit goes for good causes. The tax is an added burden.

Testimony Against: None.

Testified: Senator Strannigan, prime sponsor (pro); Barbara Hubbard, Pacific Northwest Conference of United Methodist Women (pro); Carol Gruen, Olympia 1st United Methodist Women (pro).