

ANALYSIS OF HB 2617

House Agriculture & Ecology Committee

February 4, 1998

BACKGROUND:

The state Model Toxics Control Act, adopted as an initiative in 1988, requires the cleanup of contaminated sites. Sites with hazardous waste contamination must be reported to the Department of Ecology. The department must conduct an initial investigation of a known and reported site, followed by a site hazard assessment. If the result of the site hazard assessment shows that the site will require further cleanup action, the site is placed on the department's hazardous sites list.

At any point in the investigation and assessment process, a person may choose to conduct an independent cleanup without Department of Ecology oversight. When an independent cleanup is completed, the cleanup results must be reported to the Department of Ecology. Currently approximately 90 percent of site cleanups, mostly leaking underground storage tanks, are conducted independently.

Contractors and subcontractors conducting hazardous waste cleanup services perform a number of different activities at a cleanup site. These activities include site development such as excavation of uncontaminated soil, paving, and landscaping, and activities directly related to the cleanup, such as the removal of contaminated soil or water.

Prior to 1989, some of these activities fell under one business and occupation (B&O) tax rate, other activities at another B&O tax rate. In 1989, the Department of Revenue adopted a policy which exempts site cleanups from state sales tax on cleanup activities and provides a uniform B&O tax rate if certain conditions are met. However, the policy applies only to hazardous waste sites that have been placed on the Department of Ecology's hazardous sites list. Currently, businesses contracting for cleanups at a listed site are charged at the B&O tax rate for services at 1.83 percent but do not pay sales tax. Businesses contracting cleanups independently are charged at the lower B&O retailing rate of 0.471 percent but do pay sales tax.

SUMMARY:

All contracted hazardous waste cleanup activities are taxed uniformly. Hazardous waste cleanup activities, including the identification, investigation, and cleanup of sites, whether conducted under order from the Department of Ecology or U.S. Environmental Protection Agency, or

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conducted voluntarily by an owner or operator of a site, are exempt from sales tax.

The business and occupation tax rate for all businesses contracting environmental cleanup actions is set at the rate of 0.471 percent. The owner of a property that is subject to an environmental remedial action must send written notification to the Department of Ecology and to persons who provided subcontracted services related to the cleanup.

Eligibility for remedial action can be proven in a number of different ways, including an affidavit from the owner or from a certified underground storage tank service supervisor or professional engineer. The Department of Revenue responds in writing within 60 days either confirming or denying the site is eligible. Upon completion of the remedial action, the person who performed the action provides a report to the Department of Ecology detailing the action. False information or misrepresentations of such information are misdemeanors. This section expires June 30, 2003.

Persons who perform remedial activities on eligible hazardous waste sites are exempted from a higher tax rate of 1.5 percent until June 30, 2003.

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