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SENATE BILL 5763

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State of Washington

55th Legislature

1997 Regular Session

By Senators Finkbeiner, Brown, Rossi, McAuliffe, Roach, Kohl, Jacobsen, Hochstatter, Haugen, Goings and West

Read first time 02/11/97. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to prohibiting the taxation of internet service  
2 providers as network telephone services providers; amending RCW  
3 82.04.055 and 82.04.065; adding a new section to chapter 35.21 RCW;  
4 creating a new section; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the newly  
7 emerging business of providing internet service is providing widespread  
8 benefits to all levels of society. The legislature further finds that  
9 this business is important to our state's continued growth in the high-  
10 technology sector of the economy and that, as this industry emerges, it  
11 should not be burdened by new taxes that might not be appropriate for  
12 the type of service being provided.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.21 RCW  
14 to read as follows:

15 Until July 1, 1999, a city or town may not impose any new taxes or  
16 fees specific to internet service providers. For the purposes of this  
17 section, "internet service" has the same meaning as in RCW 82.04.065.

1       **Sec. 3.** RCW 82.04.055 and 1993 sp.s. c 25 s 201 are each amended  
2 to read as follows:

3       (1) "Selected business services" means:

4       (a) Stenographic, secretarial, and clerical services.

5       (b) Computer services, including but not limited to computer  
6 programming, custom software modification, custom software  
7 installation, custom software maintenance, custom software repair,  
8 training in the use of custom software, computer systems design, and  
9 custom software update services.

10       (c) Data processing services, including but not limited to word  
11 processing, data entry, data retrieval, data search, information  
12 compilation, payroll processing, business accounts processing, data  
13 production, and other computerized data and information storage or  
14 manipulation. Data processing services also includes the use of a  
15 computer or computer time for data processing whether the processing is  
16 performed by the provider of the computer or by the purchaser or other  
17 beneficiary of the service.

18       (d) Information services, including but not limited to electronic  
19 data retrieval or research that entails furnishing financial or legal  
20 information, data or research, internet service as defined in RCW  
21 82.04.065, general or specialized news, or current information unless  
22 such news or current information is furnished to a newspaper publisher  
23 or to a radio or television station licensed by the federal  
24 communications commission.

25       (e) Legal, arbitration, and mediation services, including but not  
26 limited to paralegal services, legal research services, and court  
27 reporting services.

28       (f) Accounting, auditing, actuarial, bookkeeping, tax preparation,  
29 and similar services.

30       (g) Design services whether or not performed by persons licensed or  
31 certified, including but not limited to the following:

32       (i) Engineering services, including civil, electrical, mechanical,  
33 petroleum, marine, nuclear, and design engineering, machine designing,  
34 machine tool designing, and sewage disposal system designing;

35       (ii) Architectural services, including but not limited to:  
36 Structural or landscape design or architecture, interior design,  
37 building design, building program management, and space planning.

38       (h) Business consulting services. Business consulting services are  
39 those primarily providing operating counsel, advice, or assistance to

1 the management or owner of any business, private, nonprofit, or public  
2 organization, including but not limited to those in the following  
3 areas: Administrative management consulting, general management  
4 consulting, human resource consulting or training, management  
5 engineering consulting, management information systems consulting,  
6 manufacturing management consulting, marketing consulting, operations  
7 research consulting, personnel management consulting, physical  
8 distribution consulting, site location consulting, economic consulting,  
9 motel, hotel, and resort consulting, restaurant consulting, government  
10 affairs consulting, and lobbying.

11 (i) Business management services, including but not limited to  
12 administrative management, business management, and office management,  
13 but not including property management or property leasing, motel,  
14 hotel, and resort management, or automobile parking management.

15 (j) Protective services, including but not limited to detective  
16 agency services and private investigating services, armored car  
17 services, guard or protective services, lie detection or polygraph  
18 services, and security system, burglar, or fire alarm monitoring and  
19 maintenance services.

20 (k) Public relations or advertising services, including but not  
21 limited to layout, art direction, graphic design, copy writing,  
22 mechanical preparation, opinion research, marketing research,  
23 marketing, or production supervision, but excluding services provided  
24 as part of broadcast or print advertising.

25 (l) Aerial and land surveying, geological consulting, and real  
26 estate appraising.

27 (2) Subsection (1) of this section notwithstanding, the term  
28 "selected business services" does not include:

29 (a) The provision of either permanent or temporary employees.

30 (b) Services provided by a public benefit nonprofit organization,  
31 as defined in RCW 82.04.366, to the state of Washington, its political  
32 subdivisions, municipal corporations, or quasi-municipal corporations.

33 (c) Services related to the identification, investigation, or  
34 cleanup arising out of the release or threatened release of hazardous  
35 substances when the services are remedial or response actions performed  
36 under federal or state law, or when the services are performed to  
37 determine if a release of hazardous substances has occurred or is  
38 likely to occur.

1 (d) Services provided to or performed for, on behalf of, or for the  
2 benefit of a collective investment fund such as: (i) A mutual fund or  
3 other regulated investment company as defined in section 851(a) of the  
4 Internal Revenue Code of 1986, as amended; (ii) an "investment company"  
5 as that term is used in section 3(a) of the Investment Company Act of  
6 1940 as well as an entity that would be an investment company under  
7 section 3(a) of the Investment Company Act of 1940 except for the  
8 section 3(c)(1) or (11) exemptions, or except that it is a foreign  
9 investment company organized under laws of a foreign country; (iii) an  
10 "employee benefit plan," which includes any plan, trust, commingled  
11 employee benefit trusts, or custodial arrangement that is subject to  
12 the Employee Retirement Income Security Act of 1974, as amended, 29  
13 U.S.C. Sec. 1001 et seq., or that is described in sections 125, 401,  
14 403, 408, 457, and 501(c)(9) and (17) through (23) of the Internal  
15 Revenue Code of 1986, as amended, or similar plan maintained by state  
16 or local governments, or plans, trusts, or custodial arrangements  
17 established to self-insure benefits required by federal, state, or  
18 local law; (iv) a fund maintained by a tax exempt organization as  
19 defined in section 501(c)(3) or 509(a) of the Internal Revenue Code of  
20 1986, as amended, for operating, quasi-endowment, or endowment  
21 purposes; or (v) funds that are established for the benefit of such tax  
22 exempt organization such as charitable remainder trusts, charitable  
23 lead trusts, charitable annuity trusts, or other similar trusts.

24 (e) Research or experimental services eligible for expense  
25 treatment under section 174 of the Internal Revenue Code of 1986, as  
26 amended.

27 (f) Financial services provided by a financial institution. The  
28 term "financial institution" means a corporation, partnership, or other  
29 business organization chartered under Title 30, 31, 32, or 33 RCW, or  
30 under the National Bank Act, as amended, the Homeowners Loan Act, as  
31 amended, or the Federal Credit Union Act, as amended, or a holding  
32 company of any such business organization that is subject to the Bank  
33 Holding Company Act, as amended, or the Homeowners Loan Act, as  
34 amended, or a subsidiary or affiliate wholly owned or controlled by one  
35 or more financial institutions, as well as a lender approved by the  
36 United States secretary of housing and urban development for  
37 participation in any mortgage insurance program under the National  
38 Housing Act, as amended. The term "financial services" means those  
39 activities authorized by the laws cited in this subsection (2)(f) and

1 includes services such as mortgage servicing, contract collection  
2 servicing, finance leasing, and services provided in a fiduciary  
3 capacity to a trust or estate.

4 **Sec. 4.** RCW 82.04.065 and 1983 2nd ex.s. c 3 s 24 are each amended  
5 to read as follows:

6 (1) "Competitive telephone service" means the providing by any  
7 person of telecommunications equipment or apparatus, or service related  
8 to that equipment or apparatus such as repair or maintenance service,  
9 if the equipment or apparatus is of a type which can be provided by  
10 persons that are not subject to regulation as telephone companies under  
11 Title 80 RCW and for which a separate charge is made.

12 (2) "Internet" means the international computer network of both  
13 federal and nonfederal interoperable packet switched data networks,  
14 including the graphical subnetwork called the world wide web.

15 (3) "Internet service" means a service, offered over a  
16 telecommunications network, that includes computer processing  
17 applications, provides the user with additional or restructured  
18 information, or permits the user to interact with stored information.

19 (4) "Network telephone service" means the providing by any person  
20 of access to a local telephone network, local telephone network  
21 switching service, toll service, or coin telephone services, or the  
22 providing of telephonic, video, data, or similar communication or  
23 transmission for hire, via a local telephone network, toll line or  
24 channel, cable, microwave, or similar communication or transmission  
25 system. "Network telephone service" includes interstate service,  
26 including toll service, originating from or received on  
27 telecommunications equipment or apparatus in this state if the charge  
28 for the service is billed to a person in this state. "Network  
29 telephone service" does not include the providing of competitive  
30 telephone service, the providing of cable television service, ~~((nor))~~  
31 the providing of broadcast services by radio or television stations,  
32 nor the provision of internet service.

33 ~~((+3))~~ (5) "Telephone service" means competitive telephone service  
34 or network telephone service, or both, as defined in subsections (1)  
35 and ~~((+2))~~ (4) of this section.

36 ~~((+4))~~ (6) "Telephone business" means the business of providing  
37 network telephone service, as defined in subsection ~~((+2))~~ (4) of this

1 section. It includes cooperative or farmer line telephone companies or  
2 associations operating an exchange.

3 NEW SECTION. **Sec. 5.** If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
8 preservation of the public peace, health, or safety, or support of the  
9 state government and its existing public institutions, and takes effect  
10 immediately.

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