

HOUSE BILL REPORT

HB 2261

As Passed House:

March 12, 1999

Title: An act relating to the meaning of the phrase "services rendered in respect to constructing" for purposes of the business and occupation and sales and use taxes.

Brief Description: Clarifying the phrase "services rendered in respect to constructing" for business and occupation tax purposes.

Sponsors: Representatives Reardon, Cairnes and Santos; by request of Department of Revenue.

Brief History:

Committee Activity:

Finance: 3/8/99 [DP].

Floor Activity:

Passed House: 3/12/99, 96-0.

Brief Summary of Bill

- Limits wholesaling business and occupation tax treatment to services that are directly related to construction, building, repairing, improving, and decorating of buildings or structures.
- Applies services business and occupation tax rate to engineering, architectural, surveying, flagging, accounting, legal, consulting, or administrative services.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 12 members: Representatives Dunshee, Democratic Co-Chair; Thomas, Republican Co-Chair; Carrell, Republican Vice Chair; Reardon, Democratic Vice Chair; Cairnes; Conway; Cox; Dickerson; Pennington; Santos; Van Luven and Veloria.

Staff: Rick Peterson (786-7150).

Background: Washington's major business tax is the business and occupation (B&O) tax. Although there are several different rates, the most common rates are 0.471 percent for retailing, 0.484 percent for wholesaling, and 1.5 percent for service activity.

The sales tax is imposed on retail sales of most items of tangible personal property and some services. Use tax is imposed on the use of an item in this state, when the acquisition of the item or service has not been subject to sales tax. Taxable services include construction, repair, telephone, and some recreation and amusement services. The combined state and local sales and use tax rate is between 7 and 8.6 percent, depending on location.

Generally, sales tax applies to construction activity. Prime contractors are hired to construct buildings for consumers. The prime contractor collects sales tax from the consumer on the full contract price for the construction. The full contract price includes all the costs of construction including the prime contractor's profit and charges paid by the contractor for engineering, architectural, surveying, and other services.

Materials and subcontractor services purchased by the contractor are purchases for resale, and sales tax is not collected. Suppliers and subcontractors pay wholesaling B&O tax on these transactions.

Summary of Bill:

Services sold to contractors are treated as wholesales only if they are directly related to construction, building, repairing, improving, and decorating of buildings or structures.

The services B&O rate (1.5 percent) applies to engineering, architectural, surveying, flagging, accounting, legal, consulting, or administrative services when these services are sold to the construction industry.

Appropriation: None.

Fiscal Note: Requested.

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

Testimony For: (Testimony on HB 1622) This bill creates a bright line test for determining when construction related services are retailing/wholesaling activities and when they are services activities. Architects are concerned that their contract

administration services will be treated as a retail sale, and they will be required to charge sales tax to their clients. The bill will ensure they will be treated as a service activity.

Testimony Against: None.

Testified: Representative Reardon, prime sponsor; Tim Sekerak, Department of Revenue; Cliff Webster, Architects and Engineers Legislative Council; and Gordy Lindstrom, Geifel Group, Ltd.