

HOUSE BILL REPORT

HB 1575

As Reported by House Committee On:

Finance

Title: An act relating to the taxation of physical fitness services.

Brief Description: Modifying the taxation of physical fitness services.

Sponsors: Representatives Quall, Cairnes, Morris, O'Brien, Roach, Reardon, Grant, Woods, Linville, Pflug, Hatfield, Carrell, Eickmeyer, Bush, Gombosky, Miloscia, Ruderman, Fromhold, Wood, Lovick, Delvin, Haigh, Hurst, Edmonds, Schoesler, Simpson, Lambert, Cooper, Lantz, Rockefeller, Esser, Barlean, Cox, Sehlin and Van Luven.

Brief History:

Committee Activity:

Finance: 2/13/01, 2/15/01 [DP].

Brief Summary of Bill

- Physical fitness services are exempted from retail sales and use taxes, and are reclassified under the business and occupation tax as service activities.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 8 members: Representatives Cairnes, Republican Co-Chair; Morris, Democratic Co-Chair; Berkey, Democratic Vice Chair; Roach, Republican Vice Chair; Carrell, Pennington, Santos and Van Luven.

Minority Report: Without recommendation. Signed by 2 members: Representatives Conway and Veloria.

Staff: Mark Matteson (786-7145).

Background:

The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The tax base includes goods and certain services, including physical fitness services. The tax is levied at a 6.5 percent rate by the state. Cities and

counties may levy a local tax at a rate up to a maximum of 3.1 percent. Currently, local rates levied range from 0.5 percent to 2.3 percent. Sales tax is paid by the purchaser and collected by the seller.

The use tax is imposed on items used in the state that were not subject to the retail sales tax, and includes purchases made in other states and purchases from sellers who do not collect Washington sales tax. The state and local rates are the same as those imposed under the retail sales tax. Use tax is paid directly to the Department of Revenue.

The business and occupation (B&O) tax is imposed on the gross receipts of business activities conducted within the state without any deduction for the costs of doing business. Different tax rates apply for various classifications of business activities and firms may be subject to one or more rate, depending upon the sources of income. The tax rate is 0.471 percent for the activities of firms defined as retailing, which includes physical fitness services. Firms engaged in service activities generally, are subject to a 1.5 percent B&O rate.

All retail goods and services are included in the tax base for the retail B&O classification and for retail sales and use taxes, unless specifically exempted. In 1981 the Legislature provided several tax breaks to nonprofit youth organizations, including a B&O deduction for membership fees and dues paid for the use of organizations' recreational facilities, as well as a sales tax exemption for amusement and recreation services. In 1993 the Legislature extended the state and local retail sales tax base to certain services, including physical fitness services. This change imposed state and local retail sales and use taxes on charges made for such services, and reduced the B&O tax rate for businesses providing physical fitness services from 1.5 percent to 0.471 percent. In 1994 certain personal services, including physical fitness services, provided by nonprofit youth organizations and governmental agencies, were exempted from retail sales taxes.

The effect of the various legislative changes since 1981 means that nonprofit youth organizations that provide physical fitness services pay no B&O taxes and are not required to collect sales taxes on their services. However, other organizations that provide physical fitness services must collect retail sales taxes and must pay retail B&O taxes on the provision of those services.

Physical fitness services are activities where the primary focus is exercise and include exercise classes, provision of exercise equipment, and provision of personal trainers. Physical fitness services do not include instructional lessons, such as those for tennis, golf, martial arts, and other activities where the primary focus is instruction. Physical fitness services are also different than amusement and recreation services, which include activities like golf, basketball, racquet ball, and swimming as well as the provision of associated facilities.

Summary of Bill:

Physical fitness services are exempted from the retail sales and use taxes. For the B&O tax, physical fitness services are reclassified from retail activities to service activities, resulting in a change in the B&O tax rate from 0.471 percent to 1.5 percent.

Appropriation: None.

Fiscal Note: Requested on February 06, 2001.

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

Testimony For: The persons who were impacted by the imposition of the sales tax on physical fitness services in 1993 were assured that the change in tax status would be temporary. This is the last significant tax remaining from the additional taxes that were passed in 1993. Fundamentally, this is an issue of fairness and the Legislature should honor its word.

Additionally, the state should take a public policy interest in preventative health. Organized fitness is the most effective way of providing positive physiological benefits. Besides being good for the population in general, this bill would provide benefits to senior citizens, some of whom are not in a good position to take on the added costs brought on by the taxation.

The imposition of the tax in 1993 has hurt physical fitness businesses. Clubs lost memberships due to the increase, and the tax made it more difficult for members to pay for personal training services. Passage of this bill is one way the state could promote a worthy cause by reducing the cost of participation.

Testimony Against: None.

Testified: Representative Quall, prime sponsor; Scott Gilreath, Washington Health & Fitness Club Association; George Eusterman, Washington Health & Fitness Club Association; and Mick Stevens, Washington Health & Fitness Club Association.