

SENATE BILL REPORT

SJM 8009

As Passed Senate, May 9, 2011

Brief Description: Requesting respectfully for adoption of the federal main street fairness act.

Sponsors: Senators Regala and Nelson.

Brief History:

Committee Activity: Ways & Means: 5/04/11, 5/05/11 [DP, DNP].

First Special Session: Passed Senate: 5/09/11, 32-12.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli, Ranking Minority Member; Parlette, Ranking Minority Member Capital; Brown, Conway, Fraser, Hatfield, Keiser, Kohl-Welles, Pridemore, Regala, Rockefeller and Tom.

Minority Report: Do not pass.

Signed by Senators Baxter, Holmquist Newbry, Honeyford and Schoesler.

Staff: Dean Carlson (786-7305)

Background: Washington and 45 other states impose retail sales and use taxes. These taxes are imposed on the retail sale or use of most items of tangible personal property and some services. The rates, definitions, and administrative provisions relating to sales and use taxes vary greatly among the 7500 state and local taxing jurisdictions. This variety is one reason cited in *Quill v. North Dakota*, 112 S.Ct. 1904 (1992), where the United States Supreme Court held that the federal commerce clause prohibits a state from requiring mail-order, and by extension internet, firms to collect sales tax unless they have a physical presence in the state.

An effort was started in early 2000, by the Federation of Tax Administrators, the Multistate Tax Commission, the National Conference of State Legislatures, and the National Governors Association, to simplify and modernize sales and use tax collection and administration nation-wide. The effort is known as the Streamlined Sales Tax Project (SSTP). The purpose of the project was to nation-wide simplify sales tax collection in order to address the issues raised in the *Quill* case.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In the 2002 Legislative Session, the Legislature adopted the Simplified Sales and Use Tax Administration Act, which authorized the Department of Revenue (DOR) to be a voting member in the SSTP. Many other states have also authorized such participation, and representatives have met to develop an agreement to govern the implementation of the SSTP. This agreement, called the Streamlined Sales and Use Tax Agreement (SSUTA), was adopted by 34 states and Washington, D.C. in November 2002.

During the 2003 Legislative Session, the Legislature enacted legislation at the request of the DOR to implement the uniform definitions and administrative provisions of the SSUTA. However, the legislation did not implement several provisions that are necessary for the state to conform fully to the SSUTA, including a provision that would require the state to change its local sales and use tax sourcing rules.

In 2007 the Legislature adopted the remaining provisions (including changing our sourcing from origin based to destination based) needed to fully conform to the SSUTA which allowed Washington to be a full member state. To date, 24 states are in full compliance with the SSUTA.

During the 112th congress, the Main Street Fairness Act will be introduced and will grant those states that comply with the SSUTA the authority to require all sellers, regardless of nexus, to collect those state's sales and use taxes.

Summary of Bill: The memorial asks Washington's congressional delegation to join as cosponsors of the Main Street Fairness Act and to support the act's passage. It also asks President Obama to sign the Main Street Fairness Act into law, upon passage by congress.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Staff Summary of Public Testimony: PRO: Washington is a leader in the streamlined sales tax arena. It is now time for congress to act. For consistency it is important for congress to act rather than state by state. This is very important for our brick and mortar business. We see constant eroding from brick and mortar businesses as people keep shopping on line. On line purchases get close to a 10 percent sales advantage as they don't have to collect sales taxes. Federal legislation is needed to help local businesses compete against remote sellers. We are working hard to get bipartisan support, and this bill will help send a message to congress.

Persons Testifying: PRO: Mark Johnson, Washington Retail Association; Steve Gano, WalMart; Drew Shirk, Greg Potegal, DOR.