
SUBSTITUTE SENATE BILL 5465

State of Washington

62nd Legislature

2011 Regular Session

By Senate Ways & Means (originally sponsored by Senators Keiser, Delvin, Kline, White, McAuliffe, and Conway)

READ FIRST TIME 04/01/11.

1 AN ACT Relating to creating the safety net assessment to fund
2 services for people with developmental disabilities; amending RCW
3 82.16.010, 82.16.020, 82.16.020, and 35.21.710; reenacting and amending
4 RCW 82.16.010; adding a new section to chapter 82.16 RCW; creating a
5 new section; providing an effective date; and providing an expiration
6 date.

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

8 **Sec. 1.** RCW 82.16.010 and 2010 c 106 s 224 are each amended to
9 read as follows:

10 For the purposes of this chapter, unless otherwise required by the
11 context:

12 (1) "Community residential service business" means the business of
13 providing habilitation, instruction, and support to clients who have a
14 disability meeting the definition of a developmental disability as
15 defined in RCW 71A.10.020(3). "Community residential service business"
16 also means a business that is licensed and/or certified by the aging
17 and disabilities services administration at the department of social
18 and health services to provide the services described in this
19 subsection.

1 (2) "Express business" means the business of carrying property for
2 public hire on the line of any common carrier operated in this state,
3 when such common carrier is not owned or leased by the person engaging
4 in such business.

5 ~~((+2))~~ (3) "Gas distribution business" means the business of
6 operating a plant or system for the production or distribution for hire
7 or sale of gas, whether manufactured or natural.

8 ~~((+3))~~ (4) "Gross income" means the value proceeding or accruing
9 from the performance of the particular public service or transportation
10 business involved, including operations incidental thereto, but without
11 any deduction on account of the cost of the commodity furnished or
12 sold, the cost of materials used, labor costs, interest, discount,
13 delivery costs, taxes, or any other expense whatsoever paid or accrued
14 and without any deduction on account of losses.

15 ~~((+4))~~ (5) "Light and power business" means the business of
16 operating a plant or system for the generation, production or
17 distribution of electrical energy for hire or sale and/or for the
18 wheeling of electricity for others.

19 ~~((+5))~~ (6) "Log transportation business" means the business of
20 transporting logs by truck, except when such transportation meets the
21 definition of urban transportation business or occurs exclusively upon
22 private roads.

23 ~~((+6))~~ (7) "Motor transportation business" means the business
24 (except urban transportation business) of operating any motor propelled
25 vehicle by which persons or property of others are conveyed for hire,
26 and includes, but is not limited to, the operation of any motor
27 propelled vehicle as an auto transportation company (except urban
28 transportation business), common carrier, or contract carrier as
29 defined by RCW 81.68.010 and 81.80.010. However, "motor transportation
30 business" does not mean or include: (a) A log transportation business;
31 or (b) the transportation of logs or other forest products exclusively
32 upon private roads or private highways.

33 ~~((+7))~~ (8)(a) "Public service business" means any of the
34 businesses defined in subsections (1), (2), ~~((+4), (6), (8), (9), (10),~~
35 ~~(+12), and (+13))~~ (3), (5), (7), (9), (10), (11), (13), and (14) of this
36 section or any business subject to control by the state, or having the
37 powers of eminent domain and the duties incident thereto, or any
38 business hereafter declared by the legislature to be of a public

1 service nature, except telephone business and low-level radioactive
2 waste site operating companies as redefined in RCW 81.04.010. It
3 includes, among others, without limiting the scope hereof: Airplane
4 transportation, boom, dock, ferry, pipe line, toll bridge, toll logging
5 road, water transportation and wharf businesses.

6 (b) The definitions in this subsection (~~(7)~~) (8)(b) apply
7 throughout this subsection (~~(7)~~) (8).

8 (i) "Competitive telephone service" has the same meaning as in RCW
9 82.04.065.

10 (ii) "Network telephone service" means the providing by any person
11 of access to a telephone network, telephone network switching service,
12 toll service, or coin telephone services, or the providing of
13 telephonic, video, data, or similar communication or transmission for
14 hire, via a telephone network, toll line or channel, cable, microwave,
15 or similar communication or transmission system. "Network telephone
16 service" includes the provision of transmission to and from the site of
17 an internet provider via a telephone network, toll line or channel,
18 cable, microwave, or similar communication or transmission system.
19 "Network telephone service" does not include the providing of
20 competitive telephone service, the providing of cable television
21 service, the providing of broadcast services by radio or television
22 stations, nor the provision of internet access as defined in RCW
23 82.04.297, including the reception of dial-in connection, provided at
24 the site of the internet service provider.

25 (iii) "Telephone business" means the business of providing network
26 telephone service. It includes cooperative or farmer line telephone
27 companies or associations operating an exchange.

28 (iv) "Telephone service" means competitive telephone service or
29 network telephone service, or both, as defined in (b)(i) and (ii) of
30 this subsection.

31 (~~(8)~~) (9) "Railroad business" means the business of operating any
32 railroad, by whatever power operated, for public use in the conveyance
33 of persons or property for hire. It shall not, however, include any
34 business herein defined as an urban transportation business.

35 (~~(9)~~) (10) "Railroad car business" means the business of
36 operating stock cars, furniture cars, refrigerator cars, fruit cars,
37 poultry cars, tank cars, sleeping cars, parlor cars, buffet cars,
38 tourist cars, or any other kinds of cars used for transportation of

1 property or persons upon the line of any railroad operated in this
2 state when such railroad is not owned or leased by the person engaging
3 in such business.

4 ~~((+10+))~~ (11) "Telegraph business" means the business of affording
5 telegraphic communication for hire.

6 ~~((+11+))~~ (12) "Tugboat business" means the business of operating
7 tugboats, towboats, wharf boats or similar vessels in the towing or
8 pushing of vessels, barges or rafts for hire.

9 ~~((+12+))~~ (13) "Urban transportation business" means the business of
10 operating any vehicle for public use in the conveyance of persons or
11 property for hire, insofar as (a) operating entirely within the
12 corporate limits of any city or town, or within five miles of the
13 corporate limits thereof, or (b) operating entirely within and between
14 cities and towns whose corporate limits are not more than five miles
15 apart or within five miles of the corporate limits of either thereof.
16 Included herein, but without limiting the scope hereof, is the business
17 of operating passenger vehicles of every type and also the business of
18 operating cartage, pickup, or delivery services, including in such
19 services the collection and distribution of property arriving from or
20 destined to a point within or without the state, whether or not such
21 collection or distribution be made by the person performing a local or
22 interstate line-haul of such property.

23 ~~((+13+))~~ (14) "Water distribution business" means the business of
24 operating a plant or system for the distribution of water for hire or
25 sale.

26 ~~((+14+))~~ (15) The meaning attributed, in chapter 82.04 RCW, to the
27 term "tax year," "person," "value proceeding or accruing," "business,"
28 "engaging in business," "in this state," "within this state," "cash
29 discount" and "successor" applies equally in the provisions of this
30 chapter.

31 **Sec. 2.** RCW 82.16.010 and 2009 c 535 s 1110 are each reenacted and
32 amended to read as follows:

33 For the purposes of this chapter, unless otherwise required by the
34 context:

35 (1) "Community residential service business" means the business of
36 providing habilitation, instruction, and support to clients who have a
37 disability meeting the definition of a developmental disability as

1 defined in RCW 71A.10.020(3). "Community residential service business"
2 also means a business that is licensed and/or certified by the aging
3 and disabilities services administration at the department of social
4 and health services to provide the services described in this
5 subsection.

6 (2) "Express business" means the business of carrying property for
7 public hire on the line of any common carrier operated in this state,
8 when such common carrier is not owned or leased by the person engaging
9 in such business.

10 ((+2)) (3) "Gas distribution business" means the business of
11 operating a plant or system for the production or distribution for hire
12 or sale of gas, whether manufactured or natural.

13 ((+3)) (4) "Gross income" means the value proceeding or accruing
14 from the performance of the particular public service or transportation
15 business involved, including operations incidental thereto, but without
16 any deduction on account of the cost of the commodity furnished or
17 sold, the cost of materials used, labor costs, interest, discount,
18 delivery costs, taxes, or any other expense whatsoever paid or accrued
19 and without any deduction on account of losses.

20 ((+4)) (5) "Light and power business" means the business of
21 operating a plant or system for the generation, production or
22 distribution of electrical energy for hire or sale and/or for the
23 wheeling of electricity for others.

24 ((+5)) (6) "Motor transportation business" means the business
25 (except urban transportation business) of operating any motor propelled
26 vehicle by which persons or property of others are conveyed for hire,
27 and includes, but is not limited to, the operation of any motor
28 propelled vehicle as an auto transportation company (except urban
29 transportation business), common carrier, or contract carrier as
30 defined by RCW 81.68.010 and 81.80.010. However, "motor transportation
31 business" does not mean or include the transportation of logs or other
32 forest products exclusively upon private roads or private highways.

33 ((+6)) (7)(a) "Public service business" means any of the
34 businesses defined in subsections ~~((1), (2), (4), (5), (7), (8), (9),~~
35 ~~(11), and (12))~~ (2), (3), (5), (6), (8), (9), (10), (12), and (13) of
36 this section or any business subject to control by the state, or having
37 the powers of eminent domain and the duties incident thereto, or any
38 business hereafter declared by the legislature to be of a public

1 service nature, except telephone business and low-level radioactive
2 waste site operating companies as redefined in RCW 81.04.010. It
3 includes, among others, without limiting the scope hereof: Airplane
4 transportation, boom, dock, ferry, pipe line, toll bridge, toll logging
5 road, water transportation and wharf businesses.

6 (b) The definitions in this subsection (~~((+6+))~~) (7)(b) apply
7 throughout this subsection (~~((+6+))~~) (7).

8 (i) "Competitive telephone service" has the same meaning as in RCW
9 82.04.065.

10 (ii) "Network telephone service" means the providing by any person
11 of access to a telephone network, telephone network switching service,
12 toll service, or coin telephone services, or the providing of
13 telephonic, video, data, or similar communication or transmission for
14 hire, via a telephone network, toll line or channel, cable, microwave,
15 or similar communication or transmission system. "Network telephone
16 service" includes the provision of transmission to and from the site of
17 an internet provider via a telephone network, toll line or channel,
18 cable, microwave, or similar communication or transmission system.
19 "Network telephone service" does not include the providing of
20 competitive telephone service, the providing of cable television
21 service, the providing of broadcast services by radio or television
22 stations, nor the provision of internet access as defined in RCW
23 82.04.297, including the reception of dial-in connection, provided at
24 the site of the internet service provider.

25 (iii) "Telephone business" means the business of providing network
26 telephone service. It includes cooperative or farmer line telephone
27 companies or associations operating an exchange.

28 (iv) "Telephone service" means competitive telephone service or
29 network telephone service, or both, as defined in (b)(i) and (ii) of
30 this subsection.

31 (~~((+7+))~~) (8) "Railroad business" means the business of operating any
32 railroad, by whatever power operated, for public use in the conveyance
33 of persons or property for hire. It (~~((shall))~~) may not, however,
34 include any business herein defined as an urban transportation
35 business.

36 (~~((+8+))~~) (9) "Railroad car business" means the business of operating
37 stock cars, furniture cars, refrigerator cars, fruit cars, poultry
38 cars, tank cars, sleeping cars, parlor cars, buffet cars, tourist cars,

1 or any other kinds of cars used for transportation of property or
2 persons upon the line of any railroad operated in this state when such
3 railroad is not owned or leased by the person engaging in such
4 business.

5 ~~((+9))~~ (10) "Telegraph business" means the business of affording
6 telegraphic communication for hire.

7 ~~((+10))~~ (11) "Tugboat business" means the business of operating
8 tugboats, towboats, wharf boats or similar vessels in the towing or
9 pushing of vessels, barges or rafts for hire.

10 ~~((+11))~~ (12) "Urban transportation business" means the business of
11 operating any vehicle for public use in the conveyance of persons or
12 property for hire, insofar as (a) operating entirely within the
13 corporate limits of any city or town, or within five miles of the
14 corporate limits thereof, or (b) operating entirely within and between
15 cities and towns whose corporate limits are not more than five miles
16 apart or within five miles of the corporate limits of either thereof.
17 Included herein, but without limiting the scope hereof, is the business
18 of operating passenger vehicles of every type and also the business of
19 operating cartage, pickup, or delivery services, including in such
20 services the collection and distribution of property arriving from or
21 destined to a point within or without the state, whether or not such
22 collection or distribution be made by the person performing a local or
23 interstate line-haul of such property.

24 ~~((+12))~~ (13) "Water distribution business" means the business of
25 operating a plant or system for the distribution of water for hire or
26 sale.

27 ~~((+13))~~ (14) The meaning attributed, in chapter 82.04 RCW, to the
28 term "tax year," "person," "value proceeding or accruing," "business,"
29 "engaging in business," "in this state," "within this state," "cash
30 discount" and "successor" shall apply equally in the provisions of this
31 chapter.

32 **Sec. 3.** RCW 82.16.020 and 2009 c 469 s 702 are each amended to
33 read as follows:

34 (1) There is levied and ~~((there shall be))~~ collected from every
35 person a tax for the act or privilege of engaging within this state in
36 any one or more of the businesses herein mentioned. The tax ~~((shall~~

1 be)) is equal to the gross income of the business, multiplied by the
2 rate set out after the business, as follows:

3 (a) Express, sewerage collection, and telegraph businesses: Three
4 and six-tenths percent;

5 (b) Light and power business: Three and sixty-two one-hundredths
6 percent;

7 (c) Gas distribution business: Three and six-tenths percent;

8 (d) Urban transportation business: Six-tenths of one percent;

9 (e) Vessels under sixty-five feet in length, except tugboats,
10 operating upon the waters within the state: Six-tenths of one percent;

11 (f) Motor transportation, railroad, railroad car, and tugboat
12 businesses, and all public service businesses other than ones mentioned
13 above: One and eight-tenths of one percent;

14 (g) Water distribution business: Four and seven-tenths percent;

15 (h) Log transportation business: One and twenty-eight one-
16 hundredths percent;

17 (i) Community residential service business: Four and seven-tenths
18 percent.

19 (2) An additional tax is imposed equal to the rate specified in RCW
20 82.02.030 multiplied by the tax payable under subsection (1) of this
21 section.

22 (3) Twenty percent of the moneys collected under subsection (1) of
23 this section on water distribution businesses and sixty percent of the
24 moneys collected under subsection (1) of this section on sewerage
25 collection businesses (~~shall~~) must be deposited in the public works
26 assistance account created in RCW 43.155.050.

27 (4) One hundred percent of the moneys collected under subsection
28 (1)(i) of this section must be deposited in the community residential
29 investment account.

30 (5) If at any time the centers for medicare and medicaid services
31 make a determination that any federal matching funds appropriated in
32 conjunction with appropriations from the community residential
33 investment account and the home and community based investment account
34 cannot be validly appropriated, the tax under subsection (1)(i) of this
35 section must cease to be imposed.

36 **Sec. 4.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to read
37 as follows:

1 (1) There is levied and (~~there shall be~~) collected from every
2 person a tax for the act or privilege of engaging within this state in
3 any one or more of the businesses herein mentioned. The tax (~~shall~~
4 ~~be~~) is equal to the gross income of the business, multiplied by the
5 rate set out after the business, as follows:

6 (a) Express, sewerage collection, and telegraph businesses: Three
7 and six-tenths percent;

8 (b) Light and power business: Three and sixty-two one-hundredths
9 percent;

10 (c) Gas distribution business: Three and six-tenths percent;

11 (d) Urban transportation business: Six-tenths of one percent;

12 (e) Vessels under sixty-five feet in length, except tugboats,
13 operating upon the waters within the state: Six-tenths of one percent;

14 (f) Motor transportation, railroad, railroad car, and tugboat
15 businesses, and all public service businesses other than ones mentioned
16 above: One and eight-tenths of one percent;

17 (g) Water distribution business: Four and seven-tenths percent;

18 (h) Community residential service business: Four and seven-tenths
19 percent.

20 (2) An additional tax is imposed equal to the rate specified in RCW
21 82.02.030 multiplied by the tax payable under subsection (1) of this
22 section.

23 (3) Twenty percent of the moneys collected under subsection (1) of
24 this section on water distribution businesses and sixty percent of the
25 moneys collected under subsection (1) of this section on sewerage
26 collection businesses (~~shall~~) must be deposited in the public works
27 assistance account created in RCW 43.155.050.

28 (4) One hundred percent of the moneys collected under subsection
29 (1)(h) of this section must be deposited in the community residential
30 investment account.

31 (5) If at any time the centers for medicare and medicaid services
32 make a determination that any federal matching funds appropriated in
33 conjunction with appropriations from the community residential
34 investment account and the home and community based investment account
35 cannot be validly appropriated, the tax under subsection (1)(h) of this
36 section must cease to be imposed.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.16 RCW
2 to read as follows:

3 (1) The community residential investment account is created in the
4 state treasury. Moneys in the account may be spent only after
5 appropriation. Expenditures from the account may only be used for the
6 following purposes:

7 (a) To maintain rates paid to community residential service
8 businesses;

9 (b) To increase rates paid to community residential service
10 businesses from the rates provided in section 205(1), chapter 564, Laws
11 of 2009; or

12 (c) To enhance the rates paid to increase compensation to staff
13 providing habilitative instruction and support services, and homogenize
14 administrative and indirect client support rates.

15 (2) Whenever vendor rates for supported living providers are
16 established, or otherwise affected by legislative action, the funding
17 for the vendor rates must be allocated such that the difference in
18 vendor rates of King and Snohomish counties remains the same as
19 established in 2010.

20 (3) Rates paid by the department of social and health services to
21 community residential service businesses must include reimbursement for
22 the amounts paid by the businesses pursuant to RCW 82.16.020 applicable
23 to services reimbursed by the department of social and health services.

24 **Sec. 6.** RCW 35.21.710 and 2002 c 179 s 1 are each amended to read
25 as follows:

26 Any city which imposes a license fee or tax upon business
27 activities consisting of the making of retail sales of tangible
28 personal property which are measured by gross receipts or gross income
29 from such sales, (~~shall~~) must impose such tax at a single uniform
30 rate upon all such business activities. The taxing authority granted
31 to cities for taxes upon business activities measured by gross receipts
32 or gross income from sales (~~shall~~) may not exceed a rate of .0020;
33 except that any city with an adopted ordinance at a higher rate, as of
34 January 1, 1982 (~~shall~~) must be limited to a maximum increase of ten
35 percent of the January 1982 rate, not to exceed an annual incremental
36 increase of two percent of current rate(~~PROVIDED, That~~). However:
37 Any adopted ordinance which classifies according to different types of

1 business or services (~~shall be~~) is subject to both the ten percent
2 and the two percent annual incremental increase limitation on each tax
3 rate(~~PROVIDED FURTHER, That~~); and all surtaxes on business and
4 occupation classifications in effect as of January 1, 1982, (~~shall~~)
5 must expire no later than December 31, 1982, or by expiration date
6 established by local ordinance. Cities which impose a license fee or
7 tax upon business activities consisting of the making of retail sales
8 of tangible personal property which are measured by gross receipts or
9 gross income from such sales (~~shall~~) must be required to submit an
10 annual report to the state auditor identifying the rate established and
11 the revenues received from each fee or tax. This section (~~shall~~)
12 does not apply to any business activities subject to the tax imposed by
13 chapter 82.16 RCW, except community residential service businesses.
14 For purposes of this section, the providing to consumers of competitive
15 telephone service, as defined in RCW 82.04.065, or the providing of
16 payphone service, (~~shall be~~) is subject to tax at the same rate as
17 business activities consisting of the making of retail sales of
18 tangible personal property. As used in this section, "payphone
19 service" means making telephone service available to the public on a
20 fee-per-call basis, independent of any other commercial transaction,
21 for the purpose of making telephone calls, when the telephone can only
22 be activated by inserting coins, calling collect, using a calling card
23 or credit card, or dialing a toll-free number, and the provider of the
24 service owns or leases the telephone equipment but does not own the
25 telephone line providing the service to that equipment and has no
26 affiliation with the owner of the telephone line.

27 NEW SECTION. **Sec. 7.** By June 30, 2016, the joint legislative
28 audit and review committee in consultation with the department of
29 social and health services and the department of revenue, must conduct
30 a review of the taxes imposed by this act on community residential
31 services businesses. In this review, the committee must consult with
32 a broad range of interested stakeholders. The review must consider
33 issues including benefits of the tax, compliance with the tax, any
34 determinations by the centers for medicaid and medicare services
35 regarding the tax, administrative costs, other administrative issues
36 and other issues deemed appropriate. The committee must report to the

1 legislature on its findings and any recommendations related to the
2 taxes imposed in this act and related services funded by these taxes by
3 December 1, 2016.

4 NEW SECTION. **Sec. 8.** Sections 2 and 4 of this act take effect
5 June 30, 2013.

6 NEW SECTION. **Sec. 9.** Sections 1 and 3 of this act expire June 30,
7 2013.

--- END ---