

HOUSE BILL REPORT

HB 2894

As Reported by House Committee On:
Finance

Title: An act relating to the taxation of concrete pumping services.

Brief Description: Concerning the taxation of concrete pumping services.

Sponsors: Representatives Blake and Van Werven.

Brief History:

Committee Activity:

Finance: 2/10/20 [DP].

Brief Summary of Bill

- Defines "concrete pumping services" for purposes of the business and occupation tax and retail sales tax.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 12 members: Representatives Tarleton, Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member; Chapman, Frame, Macri, Orwall, Springer, Stokesbary, Vick and Wylie.

Staff: Nick Tucker (786-7383).

Background:

Retail Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.9 percent, depending on the location.

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.

Business and Occupation Tax.

Washington's major business tax is the business and occupation (B&O) tax. The 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. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss. A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for services and for activities not classified elsewhere. Several preferential rates also apply to specific business activities.

Concrete Pumping Service.

Customers, such as construction contractors, purchase concrete from another vendor who delivers the material to a job site in a ready-mix concrete truck (cement mixer). The cement mixer discharges the ready mixed concrete into the bay of the concrete pumping truck, and the concrete pumping service provider provides the use of the concrete pumping equipment with an operator. The equipment is used to distribute and place concrete to customer specification.

Concrete pumping services are considered construction services for taxation purposes. The service is generally subject to retailing B&O and retail sales tax. A transaction that includes concrete pumping activity mixed with other activities is taxed based on the primary purpose of the transaction.

Summary of Bill:

"Concrete pumping services" is defined as the service of delivering a concrete pump to a job site that includes an individual to control the operation of the pump and the output of concrete. The term does not include the sale of tangible personal property, including concrete.

The terms "constructing," "building," "repairing," "decorating," or "improving," when used in the context of services provided in respect to real property, include concrete pumping services.

Appropriation: None.

Fiscal Note: Requested on February 8, 2020.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The longstanding practice has been that concrete pumping service was a sales and use tax exempt service. The Department of Revenue then adopted a rule stating that they would begin collecting the tax. This will begin happening in April, so it is important that this bill is passed this session.

The fiscal note assumes only 54 taxpayers, but in reality there are many more who will be affected. If the sales and use tax is imposed, concrete pumping service providers will be placed at a major disadvantage.

Concrete pumping service providers are not like other rental services such as car rental companies. Concrete pumping service providers pay their fair share of taxes, including B&O taxes and retail sales taxes when they first purchase their equipment. Further, the end user still pays the sales and use tax at the final completion of the construction.

(Opposed) None.

Persons Testifying: Bill Stauffacher, Building Industry Association of Washington; Lee Roy Thompson, Champion Concrete Pumping; and Ellen Minnig, Brundage-Bone Concrete Pumping.

Persons Signed In To Testify But Not Testifying: None.