

Finance Committee

HB 1854

Brief Description: *Modifying municipal taxation.*

Sponsors: *Representatives Cairnes, Kessler, Mulliken, Morris, Van Luven, Grant, Carrell and Linville.*

Brief Summary of Bill

- *Limits city business taxes to 0.2 percent of gross receipts.*
- *Ties city business tax administration rules those for the state excise taxes.*
- *Requires apportionment of city business taxes.*
- *Requires city business taxes to follow a model city gross receipts tax ordinance.*

Hearing Date: *2/20/01*

Staff: *Rick Peterson (786-7150).*

Background:

Cities may license businesses for the purposes of revenue and regulation. According to the Association of Washington Cities, 170 cities require a local business license to do business within their jurisdictions. A business operating in more than one city may need multiple business licenses. Business license fees vary from flat fees to rates based on the type of business, number of persons employed, or square footage occupied by the business.

Thirty-seven cities impose business and occupation (B&O) taxes. City B&O taxes are imposed on the gross receipts of activities conducted by businesses located within cities without any deduction for the costs of doing business. The Legislature has limited city B&O taxes on retail sales to a maximum tax rate of 0.2 percent, but higher rates are possible if voter-approved or in effect prior to January 1, 1982. Cities first imposing a B&O tax after April 22, 1983 and cities increasing tax rates must have a referendum

procedure. If at least 15 percent of registered voters sign the petition then the tax or tax increase is place before the voters.

A business operating in more than one city may owe gross receipts taxes to multiple cities. Although cities are not required to coordinate their taxes, some cities have enacted provisions designed to prevent multiple taxation of the same activity. Typically, these cities allow a deduction from taxable gross receipts for income derived from activities that are taxed by another city.

Each city determines the time period over which tax liabilities or refunds may be assessed. Each city determines its own penalties, and interest rates for late payment or refunds.

The state's major business tax is the business and occupation (B&O) tax. This tax is imposed on the gross receipts of business activities conducted within the state. Deductions for the costs of doing business are not allowed. The tax classifies businesses into categories and applies tax rates to these categories. The state B&O provides for many exemptions, deductions, and tax credits.

Interest and penalties are charged to taxpayers who are late in paying the state excise taxes. A five percent penalty applies to late payments, the penalty increases to ten percent if payment is over one month late and to twenty percent if payment is two months late. The minimum penalty for late payment is five dollars. Interest is also charged. The Department of Revenue is authorized to audit taxpayers. Generally, they may audit for the current year and the four previous years. If tax is due, the taxpayer pays the assessment plus interest. Refunds are paid with interest. The interest rate equals an annualized average of the federal short-term interest rate plus 2 percentage points.

The Department of Revenue administers and collects local sales and use taxes for cities. The department does not collect city B&O on behalf of cities.

Summary of Bill:

City taxes based on gross income are generally limited to rates no greater than 0.2 percent. A city may continue a higher rate established before January 1, 2002. All businesses in the same activity must be taxed at the same rate. If a city uses a gross income tax then it may not use another tax or fee on the same business activity. However, a business license fee for regulatory purposes is allowed.

Voter approval is required to impose a new gross receipts tax or to increase tax rates. The initial rate for new taxes is 30 percent of 0.2 percent. Rate increases are limited to 10 percent. Voters may approve rates above 0.2 percent.

The Director of the Department of Revenue will form a committee of tax administrators from small, medium, and large cities using gross receipts taxes. The committee will develop a model ordinance for gross receipts taxes by September 1, 2001. The model ordinance will use definitions and classifications substantially similar to the state B&O tax. The Department of Revenue will adopt the model ordinance in conformance with the Administrative Procedures Act. Each year the Department will convene a committee to

update the model ordinance. By January 1, 2002, any city using a gross receipts tax must either adopt the model ordinance or follow all the laws and regulations for the state B&O tax.

Penalties and interest charges on city B&O taxes are made the same as for the state's excise taxes. For the purposes of determining assessments or refunds, cities are required to use the same procedures as the state uses for excise taxes.

When a city gross receipts tax is allocated or apportioned among local jurisdictions the total gross receipts for city taxation purposes cannot exceed the business's total gross receipts for state taxation purposes.

The following guidelines apply to allocation and apportionment:

·Gross receipts from manufacturing, extracting, or processing-for-hire activities are assigned to the city or unincorporated area where the activity actually occurs. If activities occur in more than one jurisdiction, gross receipts must be equitably apportioned among the jurisdictions even though the taxpayer may not have an office or other permanent place of business in each jurisdiction.

·Gross receipts from wholesales and retail sales are assigned to the jurisdiction where the sales occur.

·Gross receipts from service activities are assigned to the city or unincorporated area where the services are primarily performed. When substantial services are rendered in more than one jurisdiction, the taxpayer may apportion the gross receipts among the jurisdictions even though the taxpayer may not have an office or other permanent place of business in each jurisdiction.

·A tax credit must be allowed against any manufacturing, wholesaling, or retailing city B&O tax for any manufacturing or extracting B&O paid on the same activity to another city.

Appropriation: *None.*

Fiscal Note: *Requested on February 12, 2001.*

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