

HOUSE BILL REPORT

SSB 6342

As Passed House:

March 8, 2002

Title: An act relating to authorizing the simplified sales and use tax administration act.

Brief Description: Adopting the simplified sales and use tax administration act.

Sponsors: By Senate Committee on Ways & Means (originally sponsored by Senators Poulsen and Gardner; by request of Department of Revenue).

Brief History:

Committee Activity:

Finance: 2/26/02, 3/4/02 [DP].

Floor Activity:

Passed House: 3/8/02, 86-8.

Brief Summary of Substitute Bill

- Adopts a modified form of the Simplified Sales and Use Tax Administration Act, as proposed by the National Conference of State Legislatures.
- Authorizes the Department of Revenue, in consultation with a Legislative and local advisory group, to represent the state as a voting member in negotiations of a multi-state sales and use tax agreement.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 9 members: Representatives Gombosky, Chair; Berkey, Vice Chair; Cairnes, Ranking Minority Member; Conway, Nixon, Orcutt, Santos, Van Luven and Veloria.

Minority Report: Do not pass. Signed by 2 members: Representatives Morris and Roach.

Staff: Mark Matteson (786-7145).

Background:

An effort was started in early 2000 by the Federation of Tax Administrators (FTA), the

Multistate Tax Commission (MTC), the National Conference of State Legislatures (NCSL), and the National Governors Association (NGA) to simplify and modernize sales and use tax collection and administration. The effort is known as the Streamlined Sales Tax Project (SSTP). The project seeks to incorporate uniform definitions within tax bases, simplify audit and administrative procedures, and explore emerging technologies to reduce the burdens of tax collection for both main street and remote sellers. Among the features of the proposed system is a simplified exemption administration system, where "good-faith" requirements for sellers would be relaxed if the seller obtains all information required for a purchaser to claim exemption from sales tax. Purchasers claiming exemption would be required to provide the same information whether the sale was in-person or remote. With respect to compliance, one of the underlying purposes of the project in making the sales tax administration less burdensome is to compel mail order and remote sellers to collect sales and use taxes, thus minimizing tax avoidance issues. Washington, represented by the Department of Revenue, has been one of 40 states participating in the simplification effort discussions.

In December 2000 SSTP participants proposed and adopted a model Sales and Use Tax Administration Act and a Streamlines Sales and Use Tax Agreement. In January 2001 an NCSL Task Force voted to adopt a modified form of the SSTP act and agreement. In each case, the model act is a model state statute that includes conditions for member states to participate in discussions and approve the final form of the agreement. In each case, the agreement is a progress-in-work road map of statutory changes ultimately required in order for the state to actually participate in the simplified system. The NSCL version of the model act differs from the SSTP version in terms of governance of the agreement and the requirements that the agreement must include.

In terms of commonalities, both model acts include provisions that:

- Authorize the state (through the state revenue department) to join the multistate agreement once a list of statutory conformity measures are adopted;
- authorize the state (through the state revenue department) to enter into joint procurement contracts;
- hold that no part of the agreement (to be ultimately adopted) invalidates or amends state law and that implementation of any condition of the agreement must be pursuant to state action;
- require the agreement, as approved by the reviewing states, to include certain provisions pertaining to uniform sourcing and administration standards, central registration, consumer privacy, and other matters before any state revenue department can enter into the agreement;
- hold that the agreement is a compact-like accord between states and inures benefits

- to only member states; and
- establish third-party certified service providers as agents of the sellers for the purposes of collecting and remitting sales and use taxes and assign liability to these providers for the collection and remittance.

The NCSL Model Act differs from the SSCP version in several significant areas. The NCSL version allows a state to designate up to four delegates for the purposes of reviewing and/or amending the final form of the agreement. (Under the SSCP version, the state revenue department is the sole designee.) The NCSL version provides that the agreement must include a more limited set of requirements before the state can enter into discussions. (While the SSCP version includes provisions that require the ultimate form of the agreement to include uniform definitions, uniform state rates, and allowances for bad debts, the NCSL version is silent on these matters.)

A state is required to adopt either the SSCP or the NCSL version of the model act by January 1, 2003 for the state to remain as a voting participant in the discussions on the final form of the agreement. As of January 9, 2002, there were 21 states that had enacted either the SSCP model proposal or the NCSL proposal.

Summary of Bill:

In a modified form of the NCSL model Sales and Use Tax Administration Act, the Department of Revenue is authorized to join a multistate sales and use tax simplification agreement once a list of statutory conformity measures are adopted by the state pursuant to the agreement. The department is also authorized to enter into joint procurement contracts with other member states involved in the sales tax simplification effort under the agreement.

For the purposes of reviewing and/or amending the final form of the agreement, the department will represent Washington. The governor may appoint up to four persons to consult with the department in representing the state at the discussions. In addition, the department will regularly consult with an advisory group composed of representatives designated by the House of Representatives, the Senate, retailers, large and small businesses, and cities and counties. The two largest caucuses in the House and Senate will each be represented by a single person in the advisory group. All other stakeholders will be represented by a single person each.

The sales and use tax simplification agreement will in no measure invalidate or amend state law. The implementation of any condition of the ultimate agreement must be pursuant to state law and/or regulation.

The final form of the sales and use tax simplification agreement must include certain

provisions pertaining to uniform sourcing and administration standards, central registration, consumer privacy, and other matters before the department can enter into the agreement.

The sales and use tax simplification agreement will be a compact-like accord between states that inures benefits to only member states.

Third-party certified service providers are authorized as agents of sellers for the purposes of collecting and remitting sales and use taxes under the simplification agreement. These providers will be liable for the collection and remittance of taxes under the agreement.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The Washington Software Alliance supports this bill. Washington State needs to be at the table for the discussions on the Streamlined Sales Tax Agreement. In these discussions, our state needs the advice of all companies, both brick and mortar as well as internet retailers. We believe that the state should be doing more education and enforcement of the use tax. We have no interest in seeing the *Quill* decision overturned. This is not an internet tax bill. Washington State is very sales tax dependent and is a center of e-commerce and needs to be a part of these discussions.

Testimony Against: None.

Testified: Lew McMurran, Washington Software Association; and Julie Sexton, Department of Revenue.