

# HOUSE BILL REPORT

## ESHB 2221

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### As Passed House:

April 22, 2005

**Title:** An act relating to the excise taxation of fruit and vegetable processing and storage.

**Brief Description:** Modifying the excise taxation of fruit and vegetable processing and storage.

**Sponsors:** By House Committee on Finance (originally sponsored by Representatives Takko, Orcutt, Grant, Kristiansen, Williams, Strow, Blake, Bailey, Kenney, Haler and Linville).

### Brief History:

#### Committee Activity:

Finance: 3/4/05, 4/21/05 [DPS].

#### Floor Activity:

Passed House: 4/22/05, 96-2.

### Brief Summary of Engrossed Substitute Bill

- Exempts fresh fruit and vegetable processing from business and occupation tax starting July 1, 2005.
- Exempts from sales and use tax the construction of and machinery and equipment used in fresh fruit and vegetable processing facilities and cold storage warehouses. Requires exempted taxes be paid if facility or warehouse used for another purpose within eight years. Program starts July 1, 2007 and ends July 1, 2012.
- Exempts cold storage warehouses larger than 25,000 square feet from the state sales tax on construction and material-handling and racking equipment starting July 1, 2007.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives McIntire, Chair; Hunter, Vice Chair; Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern, Conway, Ericksen, Hasegawa and Santos.

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

### Background:

The manufacturing of fresh fruits and vegetables is subject to the business and occupation (B&O) tax at 0.138 percent. Out-of-state sales of manufactured fresh fruits and vegetables are not subject to wholesaling or retailing B&O tax. In-state wholesale sales of manufactured fresh fruits and vegetables are subject to wholesaling B&O tax at a rate of 0.484 percent, except that in-state wholesale sales of fresh fruits and vegetables manufactured by the seller that are transported out-of-state in the ordinary course of business are taxed at 0.138 percent.

The rural county sales and use tax deferral program is available in counties with population densities of less than 100 per square mile, community empowerment zones, and counties containing a community empowerment zone. Manufacturing, research and development, and computer service businesses may defer sales and use taxes on buildings, machinery and equipment, and installation labor. The deferred taxes are forgiven if the investment project meets the program criteria for eight years after the project is complete. The manufacturing of fresh fruits and vegetables qualifies under this program. The program expires July 1, 2010.

A tax incentive exists for the construction of warehouses over 200,000 square feet, including cold storage warehouses. The taxpayer is entitled to a refund exemption equal to 50 percent of the state sales and use tax on machinery and equipment purchases and 100 percent of the state sales and use tax on construction costs. The taxpayer must initially pay all applicable taxes and then apply for reimbursement to the Department of Revenue.

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#### **Summary of Engrossed Substitute Bill:**

A B&O tax exemption is provided for amounts received from the canning, preserving, freezing, processing, or dehydrating fresh fruits and vegetables and from selling at wholesale fresh fruits and vegetables canned, preserved, frozen, processed, or dehydrated by the seller and sold to purchasers who transport in the ordinary course of business the goods out of this state.

A new sales and use tax deferral program is authorized. Fruit and vegetable processing, cold storage warehousing, and related research and development businesses may defer sales and use taxes on buildings, machinery and equipment, and installation labor. The deferred taxes are forgiven if the investment project meets the program criteria for eight years. The deferral program expires July 1, 2012.

Persons claiming the B&O tax exemption or the sales and use tax deferral are required to complete an annual survey and provide information on the amount of B&O tax exemption taken and sales and use tax deferred; number of jobs and the percent of full-time, part-time and temporary jobs; wages by salary band; and number of jobs with employer provided health and retirement benefits. The Department of Revenue may request additional information necessary to measure the results of the programs. Information reported in the survey is confidential except the amount of B&O tax exempted or sales tax deferred is not confidential.

The Department of Revenue will prepare annual summaries and report on the effectiveness of the programs by December 1, 2011.

Cold storage warehouses of at least 25,000 square feet qualify for remittance of 100 percent of the state sales tax on construction and purchases of material-handling and racking equipment.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill contains an emergency clause and sections 1 and 2 relating to the B&O tax exemption for food processing take effect July 1, 2005. The remainder of the bill takes effect July 1, 2007.

**Testimony For:** Agriculture is important. We don't want to see cranberry and other berry processing leave the state. This is a problem throughout the state. We are losing food processing facilities. The bill is targeted to a specific sector. Food processing is the third largest manufacturing employer in Washington. These facilities are primarily in the rural areas of the state. The food processing industry has been depressed for the last six years.

**Testimony Against:** None.

**Persons Testifying:** Representative Takko, prime sponsor; and Ken Yates, Northwest Food Processors Association.

**Persons Signed In To Testify But Not Testifying:** None.