

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6671

Chapter 301, Laws of 2006

59th Legislature
2006 Regular Session

TAXATION--PROFESSIONAL EMPLOYER ORGANIZATIONS

EFFECTIVE DATE: 7/1/06

Passed by the Senate February 20, 2006
YEAS 47 NAYS 1

BRAD OWEN

President of the Senate

Passed by the House March 7, 2006
YEAS 97 NAYS 1

FRANK CHOPP

Speaker of the House of Representatives

Approved March 29, 2006.

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6671** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

March 29, 2006 - 3:43 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6671

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Doumit, Delvin, Rasmussen and Parlette)

READ FIRST TIME 02/17/06.

1 AN ACT Relating to clarifying the application of taxes to the
2 financial activities of professional employer organizations; amending
3 RCW 82.08.010, 82.12.010, 82.80.050, and 35.102.040; adding a new
4 section to chapter 82.04 RCW; adding a new section to chapter 82.32
5 RCW; adding a new section to chapter 35.102 RCW; adding a new section
6 to chapter 82.02 RCW; and providing an effective date.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW
9 to read as follows:

10 (1) The provision of professional employer services by a
11 professional employer organization is taxable under RCW 82.04.290(2).

12 (2) A professional employer organization is allowed a deduction
13 from the gross income of the business derived from performing
14 professional employer services that is equal to the portion of the fee
15 charged to a client that represents the actual cost of wages and
16 salaries, benefits, workers' compensation, payroll taxes, withholding,
17 or other assessments paid to or on behalf of a covered employee by the
18 professional employer organization under a professional employer
19 agreement.

1 (3) For the purposes of this section, the following definitions
2 apply:

3 (a) "Client" means any person who enters into a professional
4 employer agreement with a professional employer organization. For
5 purposes of this subsection (3)(a), "person" has the same meaning as
6 "buyer" in RCW 82.08.010.

7 (b) "Coemployer" means either a professional employer organization
8 or a client.

9 (c) "Coemployment relationship" means a relationship which is
10 intended to be an ongoing relationship rather than a temporary or
11 project-specific one, wherein the rights, duties, and obligations of an
12 employer which arise out of an employment relationship have been
13 allocated between coemployers pursuant to a professional employer
14 agreement and applicable state law. In such a coemployment
15 relationship:

16 (i) The professional employer organization is entitled to enforce
17 only such employer rights and is subject to only those obligations
18 specifically allocated to the professional employer organization by the
19 professional employer agreement or applicable state law;

20 (ii) The client is entitled to enforce those rights and obligated
21 to provide and perform those employer obligations allocated to such
22 client by the professional employer agreement and applicable state law;
23 and

24 (iii) The client is entitled to enforce any right and obligated to
25 perform any obligation of an employer not specifically allocated to the
26 professional employer organization by the professional employer
27 agreement or applicable state law.

28 (d) "Covered employee" means an individual having a coemployment
29 relationship with a professional employer organization and a client who
30 meets all of the following criteria: (i) The individual has received
31 written notice of coemployment with the professional employer
32 organization, and (ii) the individual's coemployment relationship is
33 pursuant to a professional employer agreement. Individuals who are
34 officers, directors, shareholders, partners, and managers of the client
35 are covered employees to the extent the professional employer
36 organization and the client have expressly agreed in the professional
37 employer agreement that such individuals would be covered employees and

1 provided such individuals meet the criteria of this subsection and act
2 as operational managers or perform day-to-day operational services for
3 the client.

4 (e) "Professional employer agreement" means a written contract by
5 and between a client and a professional employer organization that
6 provides:

- 7 (i) For the coemployment of covered employees; and
- 8 (ii) For the allocation of employer rights and obligations between
9 the client and the professional employer organization with respect to
10 the covered employees.

11 (f) "Professional employer organization" means any person engaged
12 in the business of providing professional employer services. The
13 following shall not be deemed to be professional employer organizations
14 or the providing of professional employer services for purposes of this
15 section:

16 (i) Arrangements wherein a person, whose principal business
17 activity is not entering into professional employer arrangements and
18 which does not hold itself out as a professional employer organization,
19 shares employees with a commonly owned company within the meaning of
20 section 414(b) and (c) of the Internal Revenue Code of 1986, as
21 amended;

22 (ii) Independent contractor arrangements by which a person assumes
23 responsibility for the product produced or service performed by such
24 person or his or her agents and retains and exercises primary direction
25 and control over the work performed by the individuals whose services
26 are supplied under such arrangements; or

27 (iii) Providing staffing services.

28 (g) "Professional employer services" means the service of entering
29 into a coemployment relationship with a client in which all or a
30 majority of the employees providing services to a client or to a
31 division or work unit of a client are covered employees.

32 (h) "Staffing services" means services consisting of a person:

- 33 (i) Recruiting and hiring its own employees;
- 34 (ii) Finding other organizations that need the services of those
35 employees;

36 (iii) Assigning those employees on a temporary basis to perform
37 work at or services for the other organizations to support or
38 supplement the other organizations' work forces, or to provide

1 assistance in special work situations such as, but not limited to,
2 employee absences, skill shortages, seasonal workloads, or to perform
3 special assignments or projects, all under the direction and
4 supervision of the customer; and

5 (iv) Customarily attempting to reassign the employees to other
6 organizations when they finish each assignment.

7 **Sec. 2.** RCW 82.08.010 and 2005 c 514 s 110 are each amended to
8 read as follows:

9 For the purposes of this chapter:

10 (1) "Selling price" includes "sales price." "Sales price" means
11 the total amount of consideration, except separately stated trade-in
12 property of like kind, including cash, credit, property, and services,
13 for which tangible personal property, extended warranties, or services
14 defined as a "retail sale" under RCW 82.04.050 are sold, leased, or
15 rented, valued in money, whether received in money or otherwise. No
16 deduction from the total amount of consideration is allowed for the
17 following: (a) The seller's cost of the property sold; (b) the cost of
18 materials used, labor or service cost, interest, losses, all costs of
19 transportation to the seller, all taxes imposed on the seller, and any
20 other expense of the seller; (c) charges by the seller for any services
21 necessary to complete the sale, other than delivery and installation
22 charges; (d) delivery charges; (e) installation charges; and (f) the
23 value of exempt tangible personal property given to the purchaser where
24 taxable and exempt tangible personal property have been bundled
25 together and sold by the seller as a single product or piece of
26 merchandise.

27 When tangible personal property is rented or leased under
28 circumstances that the consideration paid does not represent a
29 reasonable rental for the use of the articles so rented or leased, the
30 "selling price" shall be determined as nearly as possible according to
31 the value of such use at the places of use of similar products of like
32 quality and character under such rules as the department may prescribe.

33 "Selling price" or "sales price" does not include: Discounts,
34 including cash, term, or coupons that are not reimbursed by a third
35 party that are allowed by a seller and taken by a purchaser on a sale;
36 interest, financing, and carrying charges from credit extended on the
37 sale of tangible personal property, extended warranties, or services,

1 if the amount is separately stated on the invoice, bill of sale, or
2 similar document given to the purchaser; and any taxes legally imposed
3 directly on the consumer that are separately stated on the invoice,
4 bill of sale, or similar document given to the purchaser;

5 (2)(a) "Seller" means every person, including the state and its
6 departments and institutions, making sales at retail or retail sales to
7 a buyer, purchaser, or consumer, whether as agent, broker, or
8 principal, except "seller" does not mean:

9 (i) The state and its departments and institutions when making
10 sales to the state and its departments and institutions; or

11 (ii) A professional employer organization when a covered employee
12 coemployed with the client under the terms of a professional employer
13 agreement engages in activities that constitute a sale at retail that
14 is subject to the tax imposed by this chapter. In such cases, the
15 client, and not the professional employer organization, is deemed to be
16 the seller and is responsible for collecting and remitting the tax
17 imposed by this chapter.

18 (b) For the purposes of (a) of this subsection, the terms "client,"
19 "covered employee," "professional employer agreement," and
20 "professional employer organization" have the same meanings as in
21 section 1 of this act.

22 (3) "Buyer," "purchaser," and "consumer" include, without limiting
23 the scope hereof, every individual, receiver, assignee, trustee in
24 bankruptcy, trust, estate, firm, copartnership, joint venture, club,
25 company, joint stock company, business trust, corporation, association,
26 society, or any group of individuals acting as a unit, whether mutual,
27 cooperative, fraternal, nonprofit, or otherwise, municipal corporation,
28 quasi municipal corporation, and also the state, its departments and
29 institutions and all political subdivisions thereof, irrespective of
30 the nature of the activities engaged in or functions performed, and
31 also the United States or any instrumentality thereof;

32 (4) "Delivery charges" means charges by the seller of personal
33 property or services for preparation and delivery to a location
34 designated by the purchaser of personal property or services including,
35 but not limited to, transportation, shipping, postage, handling,
36 crating, and packing;

37 (5) "Direct mail" means printed material delivered or distributed
38 by United States mail or other delivery service to a mass audience or

1 to addressees on a mailing list provided by the purchaser or at the
2 direction of the purchaser when the cost of the items are not billed
3 directly to the recipients. "Direct mail" includes tangible personal
4 property supplied directly or indirectly by the purchaser to the direct
5 mail seller for inclusion in the package containing the printed
6 material. "Direct mail" does not include multiple items of printed
7 material delivered to a single address;

8 (6) The meaning attributed in chapter 82.04 RCW to the terms "tax
9 year," "taxable year," "person," "company," "sale," "sale at retail,"
10 "retail sale," "sale at wholesale," "wholesale," "business," "engaging
11 in business," "cash discount," "successor," "consumer," "in this state"
12 and "within this state" shall apply equally to the provisions of this
13 chapter;

14 (7) For the purposes of the taxes imposed under this chapter and
15 under chapter 82.12 RCW, "tangible personal property" means personal
16 property that can be seen, weighed, measured, felt, or touched, or that
17 is in any other manner perceptible to the senses. Tangible personal
18 property includes electricity, water, gas, steam, and prewritten
19 computer software;

20 (8) "Extended warranty" has the same meaning as in RCW
21 82.04.050(7).

22 **Sec. 3.** RCW 82.12.010 and 2005 c 514 s 104 are each amended to
23 read as follows:

24 For the purposes of this chapter:

25 (1) "Purchase price" means the same as sales price as defined in
26 RCW 82.08.010.

27 (2)(a) "Value of the article used" shall be the purchase price for
28 the article of tangible personal property, the use of which is taxable
29 under this chapter. The term also includes, in addition to the
30 purchase price, the amount of any tariff or duty paid with respect to
31 the importation of the article used. In case the article used is
32 acquired by lease or by gift or is extracted, produced, or manufactured
33 by the person using the same or is sold under conditions wherein the
34 purchase price does not represent the true value thereof, the value of
35 the article used shall be determined as nearly as possible according to
36 the retail selling price at place of use of similar products of like
37 quality and character under such rules as the department may prescribe.

1 (b) In case the articles used are acquired by bailment, the value
2 of the use of the articles so used shall be in an amount representing
3 a reasonable rental for the use of the articles so bailed, determined
4 as nearly as possible according to the value of such use at the places
5 of use of similar products of like quality and character under such
6 rules as the department of revenue may prescribe. In case any such
7 articles of tangible personal property are used in respect to the
8 construction, repairing, decorating, or improving of, and which become
9 or are to become an ingredient or component of, new or existing
10 buildings or other structures under, upon, or above real property of or
11 for the United States, any instrumentality thereof, or a county or city
12 housing authority created pursuant to chapter 35.82 RCW, including the
13 installing or attaching of any such articles therein or thereto,
14 whether or not such personal property becomes a part of the realty by
15 virtue of installation, then the value of the use of such articles so
16 used shall be determined according to the retail selling price of such
17 articles, or in the absence of such a selling price, as nearly as
18 possible according to the retail selling price at place of use of
19 similar products of like quality and character or, in the absence of
20 either of these selling price measures, such value may be determined
21 upon a cost basis, in any event under such rules as the department of
22 revenue may prescribe.

23 (c) In the case of articles owned by a user engaged in business
24 outside the state which are brought into the state for no more than one
25 hundred eighty days in any period of three hundred sixty-five
26 consecutive days and which are temporarily used for business purposes
27 by the person in this state, the value of the article used shall be an
28 amount representing a reasonable rental for the use of the articles,
29 unless the person has paid tax under this chapter or chapter 82.08 RCW
30 upon the full value of the article used, as defined in (a) of this
31 subsection.

32 (d) In the case of articles manufactured or produced by the user
33 and used in the manufacture or production of products sold or to be
34 sold to the department of defense of the United States, the value of
35 the articles used shall be determined according to the value of the
36 ingredients of such articles.

37 (e) In the case of an article manufactured or produced for purposes
38 of serving as a prototype for the development of a new or improved

1 product, the value of the article used shall be determined by: (i) The
2 retail selling price of such new or improved product when first offered
3 for sale; or (ii) the value of materials incorporated into the
4 prototype in cases in which the new or improved product is not offered
5 for sale.

6 (f) In the case of an article purchased with a direct pay permit
7 under RCW 82.32.087, the value of the article used shall be determined
8 by the purchase price of such article if, but for the use of the direct
9 pay permit, the transaction would have been subject to sales tax;

10 (3) "Value of the service used" means the purchase price for the
11 service, the use of which is taxable under this chapter. If the
12 service is received by gift or under conditions wherein the purchase
13 price does not represent the true value thereof, the value of the
14 service used shall be determined as nearly as possible according to the
15 retail selling price at place of use of similar services of like
16 quality and character under rules the department may prescribe;

17 (4) "Value of the extended warranty used" means the purchase price
18 for the extended warranty, the use of which is taxable under this
19 chapter. If the extended warranty is received by gift or under
20 conditions wherein the purchase price does not represent the true value
21 of the extended warranty, the value of the extended warranty used shall
22 be determined as nearly as possible according to the retail selling
23 price at place of use of similar extended warranties of like quality
24 and character under rules the department may prescribe;

25 (5) "Use," "used," "using," or "put to use" shall have their
26 ordinary meaning, and shall mean:

27 (a) With respect to tangible personal property, the first act
28 within this state by which the taxpayer takes or assumes dominion or
29 control over the article of tangible personal property (as a consumer),
30 and include installation, storage, withdrawal from storage,
31 distribution, or any other act preparatory to subsequent actual use or
32 consumption within this state;

33 (b) With respect to a service defined in RCW 82.04.050(2)(a), the
34 first act within this state after the service has been performed by
35 which the taxpayer takes or assumes dominion or control over the
36 article of tangible personal property upon which the service was
37 performed (as a consumer), and includes installation, storage,

1 withdrawal from storage, distribution, or any other act preparatory to
2 subsequent actual use or consumption of the article within this state;
3 and

4 (c) With respect to an extended warranty, the first act within this
5 state after the extended warranty has been acquired by which the
6 taxpayer takes or assumes dominion or control over the article of
7 tangible personal property to which the extended warranty applies, and
8 includes installation, storage, withdrawal from storage, distribution,
9 or any other act preparatory to subsequent actual use or consumption of
10 the article within this state;

11 (6) "Taxpayer" and "purchaser" include all persons included within
12 the meaning of the word "buyer" and the word "consumer" as defined in
13 chapters 82.04 and 82.08 RCW;

14 (7)(a)(i) Except as provided in (a)(ii) of this subsection (7),
15 "retailer" means every seller as defined in RCW 82.08.010 and every
16 person engaged in the business of selling tangible personal property at
17 retail and every person required to collect from purchasers the tax
18 imposed under this chapter.

19 (ii) "Retailer" does not include a professional employer
20 organization when a covered employee coemployed with the client under
21 the terms of a professional employer agreement engages in activities
22 that constitute a sale of tangible personal property, extended
23 warranty, or a sale of any service defined as a retail sale in RCW
24 82.04.050 (2)(a) or (3)(a) that is subject to the tax imposed by this
25 chapter. In such cases, the client, and not the professional employer
26 organization, is deemed to be the retailer and is responsible for
27 collecting and remitting the tax imposed by this chapter.

28 (b) For the purposes of (a) of this subsection, the terms "client,"
29 "covered employee," "professional employer agreement," and
30 "professional employer organization" have the same meanings as in
31 section 1 of this act;

32 (8) "Extended warranty" has the same meaning as in RCW
33 82.04.050(7);

34 (9) The meaning ascribed to words and phrases in chapters 82.04 and
35 82.08 RCW, insofar as applicable, shall have full force and effect with
36 respect to taxes imposed under the provisions of this chapter.
37 "Consumer," in addition to the meaning ascribed to it in chapters 82.04
38 and 82.08 RCW insofar as applicable, shall also mean any person who

1 distributes or displays, or causes to be distributed or displayed, any
2 article of tangible personal property, except newspapers, the primary
3 purpose of which is to promote the sale of products or services. With
4 respect to property distributed to persons within this state by a
5 consumer as defined in this subsection (9), the use of the property
6 shall be deemed to be by such consumer.

7 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.32 RCW
8 to read as follows:

9 (1) A client under the terms of a professional employer agreement
10 is deemed to be the sole employer of a covered employee for purposes of
11 eligibility for any tax credit, exemption, or other tax incentive,
12 arising as the result of the employment of covered employees, provided
13 in RCW 82.04.4333, 82.04.44525, 82.04.448, 82.04.4483, 82.08.965,
14 82.12.965, 82.16.0495, or 82.60.049 or chapter 82.62 or 82.70 RCW, or
15 any other provision in this title. A client, and not the professional
16 employer organization, shall be entitled to the benefit of any tax
17 credit, exemption, or other tax incentive arising as the result of the
18 employment of covered employees of that client.

19 (2) A client under the terms of a professional employer agreement
20 is deemed to be the sole employer of a covered employee for purposes of
21 reports or surveys that require the reporting of employment information
22 relating to covered employees of the client, as provided in RCW
23 82.04.4452, 82.04.4483, 82.04.4484, 82.32.535, 82.32.540, 82.32.545,
24 82.32.560, 82.32.570, 82.32.610, 82.32.620, 82.60.070, 82.62.050,
25 82.63.020, or 82.74.040, or any other provision in this title. A
26 client, and not the professional employer organization, shall be
27 required to complete any survey or report that requires the reporting
28 of employment information relating to covered employees of that client.

29 (3) For the purposes of this section, "client," "covered employee,"
30 "professional employer agreement," and "professional employer
31 organization" have the same meanings as in section 1 of this act.

32 **Sec. 5.** RCW 82.80.050 and 2000 c 103 s 21 are each amended to read
33 as follows:

34 (1) A city or town electing to own, construct, maintain, operate,
35 and preserve its streets as a separate street utility may levy periodic
36 charges for the use or availability of the streets in a total annual

1 amount of up to fifty percent of the actual costs for maintenance,
2 operation, and preservation of facilities under the jurisdiction of the
3 street utility. The rates charged for the use must be uniform for the
4 same class of service and all business and residential properties must
5 be subject to the utility charge. Charges imposed on businesses shall
6 be measured solely by the number of employees and shall not exceed the
7 equivalent of two dollars per full-time equivalent employee per month.
8 Charges imposed against owners or occupants of residential property
9 shall not exceed two dollars per month per housing unit as defined in
10 RCW 35.95.040. A client under the terms of a professional employer
11 agreement is deemed to be the sole employer of a covered employee for
12 purposes of this section. In such cases, a professional employer
13 organization is not an employer and is not liable, primarily or
14 secondarily, for remitting the charge authorized in this section with
15 respect to covered employees. Charges authorized in this section shall
16 not be imposed against owners of property: ~~((1))~~ (a) Exempt under
17 RCW 84.36.010; ~~((2))~~ (b) exempt from the leasehold tax under chapter
18 82.29A RCW; or ~~((3))~~ (c) used for nonprofit or sectarian purposes,
19 which if said property were owned by such organization would qualify
20 for exemption under chapter 84.36 RCW. The charges shall not be
21 computed on the basis of an ad valorem charge on the underlying real
22 property and improvements. This section shall not be used as a basis
23 to directly or indirectly charge transportation impact fees or
24 mitigation fees of any kind against new development. A city or town
25 may contract with any other utility or local government to provide for
26 billing and collection of the street utility charges.

27 (2) In classifying service furnished within the general categories
28 of business and residential, the city or town legislative authority may
29 in its discretion consider any or all of the following factors: The
30 difference in cost of service to the various users or traffic
31 generators; location of the various users or traffic generators within
32 the city or town; the difference in cost of maintenance, operation,
33 construction, repair, and replacement of the various parts of the
34 enterprise and facility; the different character of the service
35 furnished to various users or traffic generators within the city or
36 town; the size and quality of the street service furnished; the time of
37 use or traffic generation; capital contributions made to the facility
38 including but not limited to special assessments; and any other matters

1 that present a reasonable difference as a ground for distinction, or
2 the entire category of business or residential may be established as a
3 single class. The city or town may reduce or exempt charges on
4 residential properties to the extent of their occupancy by low-income
5 senior citizens and other low-income citizens as provided in RCW
6 74.38.070(~~((1))~~), or to the extent of their occupancy by the needy or
7 infirm.

8 (3) The charges shall be charges against the property and the use
9 thereof and shall become liens and be enforced in the same manner as
10 rates and charges for the use of systems of sewerage under chapter
11 35.67 RCW.

12 (4) Any city or town ordinance or resolution creating a street
13 utility must contain a provision granting to any business a credit
14 against any street utility charge the full amount of any commuter or
15 employer tax paid for transportation purposes by that business. A
16 client under the terms of a professional employer agreement is entitled
17 to the credit provided by this subsection (4) for any commuter or
18 employer tax paid by the client with respect to covered employees.

19 (5) For the purposes of this section, "client," "covered employee,"
20 "professional employer agreement," and "professional employer
21 organization" have the same meanings as in section 1 of this act.

22 **NEW SECTION. Sec. 6.** A new section is added to chapter 35.102 RCW
23 to read as follows:

24 (1) A city that imposes its business and occupation tax on
25 professional employer services performed by a professional employer
26 organization, regardless of the tax classification applicable to such
27 services, shall provide a deduction identical to the deduction in
28 section 1(2) of this act.

29 (2) For the purposes of this section, "professional employer
30 organization" and "professional employer services" have the same
31 meanings as in section 1 of this act.

32 **Sec. 7.** RCW 35.102.040 and 2005 c 274 s 266 are each amended to
33 read as follows:

34 (1)(a) The cities, working through the association of Washington
35 cities, shall form a model ordinance development committee made up of
36 a representative sampling of cities that as of July 27, 2003, impose a

1 business and occupation tax. This committee shall work through the
2 association of Washington cities to adopt a model ordinance on
3 municipal gross receipts business and occupation tax. The model
4 ordinance and subsequent amendments shall be adopted using a process
5 that includes opportunity for substantial input from business
6 stakeholders and other members of the public. Input shall be solicited
7 from statewide business associations and from local chambers of
8 commerce and downtown business associations in cities that levy a
9 business and occupation tax.

10 (b) The municipal research council shall contract to post the model
11 ordinance on an internet web site and to make paper copies available
12 for inspection upon request. The department of revenue and the
13 department of licensing shall post copies of or links to the model
14 ordinance on their internet web sites. Additionally, a city that
15 imposes a business and occupation tax must make copies of its ordinance
16 available for inspection and copying as provided in chapter 42.56 RCW.

17 (c) The definitions and tax classifications in the model ordinance
18 may not be amended more frequently than once every four years, however
19 the model ordinance may be amended at any time to comply with changes
20 in state law. Any amendment to a mandatory provision of the model
21 ordinance must be adopted with the same effective date by all cities.

22 (2) A city that imposes a business and occupation tax must adopt
23 the mandatory provisions of the model ordinance. The following
24 provisions are mandatory:

25 (a) A system of credits that meets the requirements of RCW
26 35.102.060 and a form for such use;

27 (b) A uniform, minimum small business tax threshold of at least the
28 equivalent of twenty thousand dollars in gross income annually. A city
29 may elect to deviate from this requirement by creating a higher
30 threshold or exemption but it shall not deviate lower than the level
31 required in this subsection. If a city has a small business threshold
32 or exemption in excess of that provided in this subsection as of
33 January 1, 2003, and chooses to deviate below the threshold or
34 exemption level that was in place as of January 1, 2003, the city must
35 notify all businesses licensed to do business within the city at least
36 one hundred twenty days prior to the potential implementation of a
37 lower threshold or exemption amount;

1 (c) Tax reporting frequencies that meet the requirements of RCW
2 35.102.070;

3 (d) Penalty and interest provisions that meet the requirements of
4 RCW 35.102.080 and 35.102.090;

5 (e) Claim periods that meet the requirements of RCW 35.102.100;

6 (f) Refund provisions that meet the requirements of RCW 35.102.110;
7 and

8 (g) Definitions, which at a minimum, must include the definitions
9 enumerated in RCW 35.102.030 and 35.102.120. The definitions in
10 chapter 82.04 RCW shall be used as the baseline for all definitions in
11 the model ordinance, and any deviation in the model ordinance from
12 these definitions must be described by a comment in the model
13 ordinance.

14 (3) Except for the deduction required by section 6 of this act and
15 the system of credits developed to address multiple taxation under
16 subsection (2)(a) of this section, a city may adopt its own provisions
17 for tax exemptions, tax credits, and tax deductions.

18 (4) Any city that adopts an ordinance that deviates from the
19 nonmandatory provisions of the model ordinance shall make a description
20 of such differences available to the public, in written and electronic
21 form.

22 NEW SECTION. Sec. 8. A new section is added to chapter 82.02 RCW
23 to read as follows:

24 (1) A professional employer organization is not liable for any tax
25 imposed by or under the authority of this title or Title 35 RCW or any
26 other tax, fee, or charge that the department administers based solely
27 on the activities or status of a covered employee having a coemployment
28 relationship with the professional employer organization.

29 (2) This subsection does not exempt a professional employer
30 organization from:

31 (a) Any tax imposed by or under the authority of this or any other
32 title based on:

33 (i) Professional employer services provided by the professional
34 employer organization; or

35 (ii) The status or activities of employees of the professional
36 employer organization that are not covered employees coemployed with a
37 client; or

1 (b) The duty to withhold, collect, report, and remit payroll-
2 related and unemployment taxes as required by state law and regulation.

3 (3) The definitions in section 1 of this act apply to this section.

4 NEW SECTION. **Sec. 9.** The provisions of this act do not affect the
5 application of Title 50 or 51 RCW to the reporting requirement or tax
6 liabilities of professional employer organizations or their clients.

7 NEW SECTION. **Sec. 10.** This act takes effect July 1, 2006.
Passed by the Senate February 20, 2006.
Passed by the House March 7, 2006.
Approved by the Governor March 29, 2006.
Filed in Office of Secretary of State March 29, 2006.