

SENATE BILL REPORT

SB 5275

As of February 9, 2015

Title: An act relating to tax code improvements that do not affect state revenue collections.

Brief Description: Concerning tax code improvements that do not affect state revenue collections.

Sponsors: Senators Schoesler, Hargrove, Hill, Sheldon and Hewitt.

Brief History:

Committee Activity: Ways & Means: 1/26/15.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dean Carlson (786-7305)

Background: When legislation is enacted, it frequently contains references to other statutes. These references may become erroneous due to changes made to the referenced statutes by other legislation enacted during the same legislative session. In addition, statutes sometimes include provisions that are limited in time. These provisions become obsolete with the passage of time.

From time to time, administrative agencies suggest statutory revisions for the purpose of increasing clarity or improving administration.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Part 1 – Eliminating Obsolete and Redundant Statutory Provisions. Two statutes are repealed that are duplicative of RCW 82.04.600:

- RCW 82.04.395 – exempts certain materials printed in school district and educational service district printing facilities; and
- RCW 82.04.397 – exempts certain materials printed in county, city, or town printing facilities.

The Business and Occupation (B&O) tax credit in RCW 82.04.4333 for a portion of employer-provided job training costs of eligible taxpayers is repealed.

- The credit has not been used since 2006. The credit for customized employment training under 82.04.4333 is being used instead.

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.

The B&O tax credit for the cost of purchasing mechanical lifting devices in hospitals is repealed. This repeal eliminates the need for the Department of Revenue (DOR) to issue an irrelevant annual report on the amount of credits claimed.

- Credit could not be earned after December 30, 2010.
- Although unused credit can be carried forward until fully used, tax reporting data indicates that no credit has been claimed since the first quarter of 2011.

The sales tax exemption in RCW 82.08.0265 for sales to nonresidents of certain retail services, such as the repair of tangible personal property (TPP) and TPP that becomes a component part during the course of providing retail services exempt from sales tax under this statute is repealed.

- The statute no longer serves any purpose because of the sales tax sourcing provisions in RCW 82.32.730, which generally source sales of TPP and retail services to the location where receipt by the buyer occurs.

RCW 82.14.220, which references duties of the State Treasurer that are no longer required, is repealed.

RCW 82.24.235, which is part of a series of changes in Sections 307 and 308 to clarify that DOR may only adopt rules to administer the cigarette and other tobacco products (OTP) tax statutes, but not enforce these statutes, is repealed. The Liquor Control Board (LCB) must continue enforcing the cigarette and OTP laws.

RCW 84.41.030, 84.41.041, and 84.48.034 are amended to remove obsolete language regarding cyclical revaluation for property tax purposes. By law, all counties are now required to revalue property annually. Previously they were able to value property anywhere between every one to four years.

Part 2 – Providing Administrative Efficiencies. RCW 46.71.090 is amended to streamline the process of providing notice to automotive repair facilities regarding customer rights by allowing DOR to maintain the information on its website in lieu of sending annual notices to automotive repair facilities. DOR continues to provide this information when issuing a tax registration to an automotive repair business, either in paper form or electronically.

The application requirement in RCW 82.08.900 is eliminated to make it easier to claim the sales tax exemption for certain services and components related to anaerobic digesters. This makes it on par with other agricultural exemptions.

Part 3 – Providing Greater Clarity and Consistency. Out-of-date references in RCW 82.04.627 are updated.

- This statute addresses the place of sale of specified components of commercial airplanes for B&O tax purposes.
- The statute contains out-of-date federal aviation regulation (FAR) citations and references terms no longer used in FARs.

The B&O and sales and use tax exemptions for restaurant employee meals is clarified to only apply to the restaurant's employees.

Ambiguity concerning whether airplanes used primarily to provide services to the federal government, such as fire suppression services, are exempt from the sales and use tax is clarified. These sections make clear that such airplanes are exempt from the sales and use tax.

Sections 307 and 308, along with section 101(7), clarify that DOR may only adopt rules to administer the cigarette and OTP taxes, but not enforce these taxes. LCB must continue enforcing the cigarette and OTP tax laws.

- In 1997 legislation was enacted (ESHB 2272) that transferred responsibility for the enforcement of cigarette taxes to LCB. DOR retained the responsibility for administering cigarette taxes.
- Enforcement of cigarette taxes includes ensuring that tobacco sellers are properly licensed, keeping tobacco out of the hands of those under age 18, and investigating and preventing unlawful acquisition and shipments of contraband cigarettes.
- Administration of cigarette taxes includes collecting the taxes, engaging in taxpayer education efforts, auditing taxpayers, and administering the cigarette stamping process.
- There is a similar delegation of duties between DOR and LCB with respect to the OTP tax.

DOR's administrative provisions in RCW 82.32 are clarified to apply to fees collected by DOR – e.g. the wood stove fee imposed in RCW 70.94.483 and the replacement tire fee imposed in RCW 70.95.510.

The requirement for taxpayers to maintain records is clarified to apply to any tax or fee administered by DOR, not just taxes or fees imposed in chapters 82.04 through 82.27 RCW.

RCW 82.65A.030 is amended to replace the term persons with developmental disabilities with the term persons with intellectual disabilities, which is consistent with other statutes in chapter 82.65A.

RCW's 84.36.041, 84.38.030, and 84.39.010 are amended to clarify the meaning of the term disability for purposes of the property tax exemption for nonprofit homes for the aging, the senior citizen/disabled person property tax deferral, and the property tax grant program for widows and widowers of veterans. More specifically, these sections:

- clarify that the term disability for purposes of these property tax programs is not limited to physical disabilities; and
- align the definition of disability for these programs with the definition of disability for the senior citizen/disabled person property tax exemption program.

County treasurers need not continue the property tax foreclosure process when a taxpayer pays all amounts due under a certificate of delinquency, except a lien for deferred property taxes that remain eligible for continued deferral.

- In 2013 DOR succeeded in getting legislation enacted to ensure that the state is entitled to be repaid for deferred property tax liens when a county sells or rents tax-title property – i.e. property acquired by a county for delinquent property taxes when the property goes unsold at the foreclosure sale.

- Staff from the treasurers' offices in Thurston and King counties recently questioned whether the treasurer could discontinue property tax foreclosure proceedings where the property owner paid all amounts due under a certificate of delinquency other than a lien for deferred property taxes.

It was never DOR's intent to allow the foreclosure of properties subject to a lien for deferred property taxes when the owner is still eligible for a continued deferral of taxes. These sections would codify this intent.

Part 4 – Taxability Matrix. Recent amendments to the Streamlined Sales and Use Tax Agreement (SSUTA) are implemented to:

- provide that when the taxability matrix is updated, sellers and certified service providers who relied on the prior taxability matrix are relieved from liability until the first day of the calendar month that is at least 30 days after DOR submits notice of the change to the taxability matrix to the SSUTA Governing Board; and
- expand the taxability matrix to include the state's practices in the administration of sales and use taxes as required under SSUTA.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This is an annual tax clean-up bill. It removes outdated and redundant code.

Persons Testifying: PRO: Drew Shirk, Dept. of Revenue.