S-2925.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5990**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Rolfes and Conway

AN ACT Relating to creating the safety net assessment to fund services for people with developmental disabilities; amending RCW 82.16.010 and 82.16.020; adding a new section to chapter 71A.12 RCW; creating a new section; providing a contingent expiration date; and declaring an emergency.

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

**Sec.**  RCW 82.16.010 and 2015 3rd sp.s. c 6 s 702 are each amended to read as follows:

((~~For the purposes of this chapter, unless otherwise required by the context:~~)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Community residential service business" means a business that:

(a) Is licensed or certified by the department of social and health services to provide to individuals who have a developmental disability as defined in RCW 71A.10.020:

(i) Group home services;

(ii) Group training home services;

(iii) Supported living services; or

(iv) Voluntary placement services provided in a licensed staff residential facility for children; and

(b) Has a contract with the division of developmental disabilities to provide the services identified in (a) of this subsection.

(2) "Express business" means the business of carrying property for public hire on the line of any common carrier operated in this state, when such common carrier is not owned or leased by the person engaging in such business.

((~~(2)~~)) (3) "Gas distribution business" means the business of operating a plant or system for the production or distribution for hire or sale of gas, whether manufactured or natural.

((~~(3)~~)) (4) "Gross income" means the value proceeding or accruing from the performance of the particular public service or transportation business involved, including operations incidental thereto, but without any deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

((~~(4)~~)) (5) "Light and power business" means the business of operating a plant or system for the generation, production or distribution of electrical energy for hire or sale and/or for the wheeling of electricity for others.

((~~(5)~~)) (6) "Log transportation business" means the business of transporting logs by truck, except when such transportation meets the definition of urban transportation business or occurs exclusively upon private roads.

((~~(6)~~)) (7) "Motor transportation business" means the business (except urban transportation business) of operating any motor propelled vehicle by which persons or property of others are conveyed for hire, and includes, but is not limited to, the operation of any motor propelled vehicle as an auto transportation company (except urban transportation business), common carrier, or contract carrier as defined by RCW 81.68.010 and 81.80.010. However, "motor transportation business" does not mean or include: (a) A log transportation business; or (b) the transportation of logs or other forest products exclusively upon private roads or private highways.

((~~(7)~~)) (8)(a) "Public service business" means any of the businesses defined in subsections (1), (2), (4), (6), (8), (9), (10), (12), ((~~and~~)) (13), and (14) of this section or any business subject to control by the state, or having the powers of eminent domain and the duties incident thereto, or any business hereafter declared by the legislature to be of a public service nature, except telephone business and low-level radioactive waste site operating companies as redefined in RCW 81.04.010. It includes, among others, without limiting the scope hereof: Airplane transportation, boom, dock, ferry, pipe line, toll bridge, toll logging road, water transportation and wharf businesses.

(b) The definitions in this subsection ((~~(7)~~)) (8)(b) apply throughout this subsection ((~~(7)~~)) (8).

(i) "Competitive telephone service" has the same meaning as in RCW 82.04.065.

(ii) "Network telephone service" means the providing by any person of access to a telephone network, telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Network telephone service" includes the provision of transmission to and from the site of an internet provider via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Network telephone service" does not include the providing of competitive telephone service, the providing of cable television service, the providing of broadcast services by radio or television stations, nor the provision of internet access as defined in RCW 82.04.297, including the reception of dial-in connection, provided at the site of the internet service provider.

(iii) "Telephone business" means the business of providing network telephone service. It includes cooperative or farmer line telephone companies or associations operating an exchange.

(iv) "Telephone service" means competitive telephone service or network telephone service, or both, as defined in (b)(i) and (ii) of this subsection.

((~~(8)~~)) (9) "Railroad business" means the business of operating any railroad, by whatever power operated, for public use in the conveyance of persons or property for hire. It ((~~shall~~)) does not, however, include any business herein defined as an urban transportation business.

((~~(9)~~)) (10) "Railroad car business" means the business of operating stock cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any other kinds of cars used for transportation of property or persons upon the line of any railroad operated in this state when such railroad is not owned or leased by the person engaging in such business.

((~~(10)~~)) (11) "Telegraph business" means the business of affording telegraphic communication for hire.

((~~(11)~~)) (12) "Tugboat business" means the business of operating tugboats, towboats, wharf boats or similar vessels in the towing or pushing of vessels, barges or rafts for hire.

((~~(12)~~)) (13) "Urban transportation business" means the business of operating any vehicle for public use in the conveyance of persons or property for hire, insofar as (a) operating entirely within the corporate limits of any city or town, or within five miles of the corporate limits thereof, or (b) operating entirely within and between cities and towns whose corporate limits are not more than five miles apart or within five miles of the corporate limits of either thereof. Included herein, but without limiting the scope hereof, is the business of operating passenger vehicles of every type and also the business of operating cartage, pickup, or delivery services, including in such services the collection and distribution of property arriving from or destined to a point within or without the state, whether or not such collection or distribution be made by the person performing a local or interstate line-haul of such property.

((~~(13)~~)) (14) "Water distribution business" means the business of operating a plant or system for the distribution of water for hire or sale.

((~~(14)~~)) (15) The meaning attributed, in chapter 82.04 RCW, to the term "tax year," "person," "value proceeding or accruing," "business," "engaging in business," "in this state," "within this state," "cash discount" and "successor" ((~~shall apply~~)) applies equally in the provisions of this chapter.

**Sec.**  RCW 82.16.020 and 2017 3rd sp.s. c 10 s 14 are each amended to read as follows:

(1) There is levied and collected from every person a tax for the act or privilege of engaging within this state in any one or more of the businesses herein mentioned. The tax is equal to the gross income of the business, multiplied by the rate set out after the business, as follows:

(a) Express, sewerage collection, and telegraph businesses: Three and six-tenths percent;

(b) Light and power business: Three and sixty-two one-hundredths percent;

(c) Gas distribution business: Three and six-tenths percent;

(d) Urban transportation business: Six-tenths of one percent;

(e) Vessels under sixty-five feet in length, except tugboats, operating upon the waters within the state: Six-tenths of one percent;

(f) Motor transportation, railroad, railroad car, and tugboat businesses, and all public service businesses other than ones mentioned above: One and eight-tenths of one percent;

(g) Water distribution business: Four and seven-tenths percent;

(h) Log transportation business: One and twenty-eight one- hundredths percent. The reduced rate established in this subsection (1)(h) is not subject to the ten-year expiration provision in RCW 82.32.805(1)(a);

(i) Community residential service business: Four and seven-tenths percent.

(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section.

(3) Twenty percent of the moneys collected under subsection (1) of this section on water distribution businesses and sixty percent of the moneys collected under subsection (1) of this section on sewerage collection businesses must be deposited in the education legacy trust account created in RCW 83.100.230 from July 1, 2013, through June 30, 2023, and thereafter in the public works assistance account created in RCW 43.155.050.

(4)(a) One hundred percent of the moneys collected under subsection (1)(i) of this section must be deposited in the developmental disabilities community residential investment account created in section 3 of this act.

(b) The tax imposed under subsection (1)(i) of this section must be administered as provided in RCW 82.16.080.

(5) The tax imposed under subsection (1)(i) of this section is subject to the contingency in section 5 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 71A.12 RCW to read as follows:

(1) The developmental disabilities community residential investment account is created in the state treasury. All receipts from the tax imposed under RCW 82.16.020(1)(i) must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used for payments to community residential service businesses.

(2) Payment rates established by the department for community residential service businesses must include the cost of all taxes imposed on community residential service businesses under chapter 82.16 RCW.

NEW SECTION. **Sec.**  By June 30, 2024, the joint legislative audit and review committee, in consultation with the department of social and health services and the department of revenue, must conduct a review of the taxes imposed by this act on community residential service businesses. In this review, the committee must consult with a broad range of interested stakeholders. The review must consider issues including benefits of the tax, compliance with the tax, any determinations by the centers for medicaid and medicare services regarding the tax, administrative costs, other administrative issues, and other issues deemed appropriate. The committee must report to the legislature, in compliance with RCW 43.01.036, on its findings and any recommendations related to the taxes imposed in this act and related services funded by these taxes by December 1, 2024.

NEW SECTION. **Sec.**  (1) Section 2, chapter . . ., Laws of 2019 (section 2 of this act) expires on the earliest date that any of the following occur:

(a) An appellate court or the centers for medicare and medicaid services make a final determination that any element of this act may not be validly implemented; or

(b) Funds generated by the tax for payments to community residential service businesses are determined to be not eligible for federal matching funds in addition to those federal funds that would be received without the tax.

(2) If section 2, chapter . . ., Laws of 2019 (section 2 of this act) expires, any moneys remaining in the fund created in section 3 of this act must be refunded to taxpayers in proportion to the amounts paid by such taxpayers.

(3) The department of revenue must provide written notice of the expiration date of section 2, chapter . . ., Laws of 2019 (section 2 of this act) to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, the office of financial management, the legislative fiscal committees, and others as deemed appropriate by the department.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**