

# HOUSE BILL REPORT

## ESHB 1512

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### As Passed Legislature

**Title:** An act relating to lodging-related assessments under chapter 35.87A RCW.

**Brief Description:** Concerning lodging-related assessments under chapter 35.87A RCW.

**Sponsors:** House Committee on Finance (originally sponsored by Representative Ryu).

#### Brief History:

##### Committee Activity:

Finance: 2/16/21, 2/19/21 [DPS].

##### Floor Activity:

Passed House: 3/9/21, 96-0.

Passed Senate: 4/15/21, 47-1.

Passed Legislature.

#### Brief Summary of Engrossed Substitute Bill

- Authorizes lodging businesses to collect parking and business improvement area (PBIA) special assessments as an agent for the PBIA from guests as a separately stated per night charge.
- Provides that special assessment amounts collected by a lodging business on behalf of a PBIA are not subject to the sales and use or business and occupation taxes.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Chase, Chopp, Harris-Talley, Morgan, Orwall, Ramel, Springer, Stokesbary, Thai, Vick, Wylie and Young.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Nick Tucker (786-7383).

**Background:**

Parking and Business Improvement Areas.

Cities and counties are authorized to establish parking and business improvement areas (PBIAs) by ordinance. A PBIA is an area within a county, city, or town that has the authority to levy special assessments on the businesses and multifamily residential or mixed-use projects within the area that are specially benefited by the activities of the PBIA. Parking and business improvement area special assessments are imposed on the business or residential operator and are generally collected annually.

Revenues raised from the special assessments of a PBIA must be used to finance: (1) acquisition, construction, or maintenance of parking facilities; (2) decoration of a public place; (3) sponsorship or promotion of public events; (4) furnishing of music; (5) professional management, planning, and promotion for the area; (6) maintenance and security for common, public areas; or (7) transportation services for the benefit of the area.

Business & Occupation Tax.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss.

Retail Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes.

**Summary of Engrossed Substitute Bill:**

A lodging business may collect any PBIA special assessment from its guests in the form of a separately stated charge per night on the sale lodging. In collecting a special assessment in this manner, a lodging business is deemed to be collecting the assessment as agent of the PBIA and such amounts are not subject to the sales and use or B&O taxes.

A lodging business is a business that furnishes lodging, where the sale of such lodging is subject to the sales and use tax.

The provisions of the bill apply retroactively for any taxpayer who has been assessed taxes, on any special assessment amounts collected by a lodging business, prior to the effective date of the bill. No refund may be made on taxes lawfully paid.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) This bill clarifies the tax treatment of these special assessment amounts to align with stakeholders' understanding of how these amounts would be treated for taxation. This past year has been incredibly challenging for lodging businesses and asking them to pay taxes on these amounts now is a burden they cannot bear. During the pandemic, we have learned the important role that tourism plays in the state's economy. In Seattle, the Business Improvement Area Program was used to create a tourism improvement area. Through a modest assessment on lodging businesses, the tourism improvement area is able to market Seattle to potential tourists. Taxing these amounts would be detrimental to this tourism improvement area. Lodging businesses in Seattle are still struggling due to the challenges created by the COVID-19 pandemic. There is no retroactive application of the bill, but that might improve the policy.

(Opposed) None.

**Persons Testifying:** Representative Ryu, prime sponsor; Tom Norwalk and Becky Bogard, Visit Seattle; Bill Weise, Silver Cloud Hotel-Stadium; and Julia Gorton, Washington Hospitality Association.

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