

SENATE BILL REPORT

SSB 5431

As Passed Senate, February 19, 2025

Title: An act relating to modifying tax and revenue laws in a manner that is not estimated to affect state or local tax collections.

Brief Description: Modifying tax and revenue laws in a manner that is not estimated to affect state or local tax collections.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Schoesler, Robinson, Dozier and Nobles).

Brief History:

Committee Activity: Ways & Means: 2/04/25, 2/06/25 [DPS].

Floor Activity: Passed Senate: 2/19/25, 48-0.

Brief Summary of First Substitute Bill

- Makes a number of administrative and technical changes to the state tax codes.
- Changes the due date for the tax exemption study.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5431 be substituted therefor, and the substitute bill do pass.

Signed by Senators Robinson, Chair; Stanford, Vice Chair, Operating; Trudeau, Vice Chair, Capital; Frame, Vice Chair, Finance; Gildon, Ranking Member, Operating; Torres, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Dozier, Assistant Ranking Member, Capital; Boehnke, Braun, Cleveland, Conway, Dhingra, Hansen, Hasegawa, Kauffman, Muzzall, Pedersen, Riccelli, Saldaña, Wagoner, Warnick, Wellman and Wilson, C..

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: Tianyi Lan (786-7432)

Background: Each year the Department of Revenue (DOR) identifies technical and administrative changes to the tax and licensing sections in the Revised Code of Washington (RCW) for consideration by the Legislature. Technical revisions to state law may be required for multiple reasons. Sections of the RCW may be repealed, recodified, or amended in a way changing their internal or statutory numbering or terminology. The language in these sections, as well as references to these sections in other provisions of the RCW, then become incorrect. Statutes may become obsolete with the passage of time, evolution of technology, improvement of administrative processes, or adoption of state or federal legislation. Administrative agencies occasionally suggest statutory revisions to increase clarity or improve administration.

Tax Preference Performance Statement and Annual Tax Performance Report. State law provides a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Legislation that establishes or expands a tax preference must include a tax preference performance statement that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference.

Businesses may be required to file an annual tax performance report to DOR to qualify for tax incentives offered by Washington, including deferrals, reduced B&O rates, exemptions, and credits. To claim a tax incentive, a business must report by May 31 following each year the business is eligible for the incentive.

Retails Sales Tax Reporting. For retail sales tax reporting, sellers are required to state sales tax separately from the selling price in the sale invoice or other instrument of sale with exception of retail sales through vending machines. Health plans that include coverage for durable medical equipment coverage and mobility enhancing equipment are required to include the sales tax and use tax calculation in plan payment.

In terms of billing for durable medical equipment and mobility enhancing equipment, DOR defers to the contract between the medical supply vendor and the insurance company to determine the way the vendor reports sales to DOR. In practice, vendors are allowed to back out the retail sales tax from the amount received from the insurance company only if:

- the contract between the medical supply vendor and the insurance company is a fixed amount; and
- the vendor is not entitled to collect the balance from the covered person or other person.

Sales and Use Tax Exemption for Data Centers. A sales and use tax exemption for purchases of server equipment and power infrastructure is available to the owner and tenants of an eligible data center that has a combined square footage of at least 100,000

square feet and is located in a rural county. Qualifying activities include constructing, renovating, or expanding a data center under a building permit issued during certain time periods or refurbishing an existing facility.

Certificates for refurbishment are limited to six each calendar years. Each qualifying business may only apply for one refurbishment certificate per data center per calendar year.

Within six years of the issuance of an exemption certificate, the applicant must show net employment increased by at least the lesser of 35 family wage employment positions and three family wage employment positions for each 20,000 square feet or less of newly dedicated server space at the data center.

Tax Exemption Study. Every four years, DOR is required to submit a tax exemption report. Tax exemptions refer to tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits which impact state tax revenues and local tax revenues collected by the state. The report includes an estimate of the revenue lost from the tax exemption, the purpose of the tax exemption, the persons, organizations, or parts of the population that benefit from the tax exemption, and whether or not the tax exemption conflicts with another state program.

DOR submitted the 2024 tax exemption study to the Legislature in January before the start of the 2024 regular session, which covers 786 tax exemptions for Washington's major state and local tax sources.

Summary of First Substitute Bill: Tax Preference Performance Statement. Two reference errors are corrected to allow JLARC's access to DOR's annual tax performance report for their tax preference performance review.

Retails Sales Tax Reporting. The bill codifies the process medical supply vendors may use when collecting and remitting state retail sales tax on qualifying sales from medical supply vendors.

Sales and Use Tax Exemption for Data Centers. The bill clarifies the current treatment of employment positions not existing or vacant when DOR issued the business an exemption certificate of refurbishment for the employment requirements in eligible server equipment to data centers for the sales tax exemption.

Tax Exemption Study. The due date of the next tax exemption study is changed to January 2029 and every four years thereafter. Obsolete language referencing the 2012 tax exemption report is removed.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The bill is the annual technical correction bill which is constructed as revenue-neutral. The Department of Revenue is seeking an amendment to remove the first section where they want to continue the conversation with county assessors. Other than that, the provisions of the bill are simple, common sense clean-ups, including correcting references to documents that no longer exist, codifying current guidance on how to assess sales tax on durable medical equipment and mobility enhancing equipment, clarifying language related to employment requirements, and moving back the deadline for the tax exemption study. The data and fiscal staff works on the study all summer so moving it from the summer after the long session to the summer after the short session would allow more time. The numbers would be fresh and useful for the next budget cycle.

Persons Testifying: PRO: Senator Mark Schoesler, Prime Sponsor; Steve Ewing, Dept. of Revenue.

Persons Signed In To Testify But Not Testifying: No one.