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HOUSE BILL 2150

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State of Washington                      62nd Legislature                      2011 2nd Special Session

By Representatives Pettigrew, Hunter, and Kenney; by request of Department of Social and Health Services

Read first time 12/06/11. Referred to Committee on Ways & Means.

1            AN ACT Relating to generating revenue from community residential  
2 service businesses; amending RCW 82.16.010, 82.16.020, and 35.21.710;  
3 reenacting and amending RCW 82.16.010 and 82.16.020; adding a new  
4 section to chapter 71A.12 RCW; creating new sections; providing  
5 contingent effective dates; providing an expiration date; and declaring  
6 an emergency.

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

8            **Sec. 1.** RCW 82.16.010 and 2010 c 106 s 224 are each amended to  
9 read as follows:

10            For the purposes of this chapter, unless otherwise required by the  
11 context:

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

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

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

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

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

16 (6) "Motor transportation business" means the business (except  
17 urban transportation business) of operating any motor propelled vehicle  
18 by which persons or property of others are conveyed for hire, and  
19 includes, but is not limited to, the operation of any motor propelled  
20 vehicle as an auto transportation company (except urban transportation  
21 business), common carrier, or contract carrier as defined by RCW  
22 81.68.010 and 81.80.010. However, "motor transportation business" does  
23 not mean or include: (a) A log transportation business; or (b) the  
24 transportation of logs or other forest products exclusively upon  
25 private roads or private highways.

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

36 (b) The definitions in this subsection (7)(b) apply throughout this  
37 subsection (7).

1 (i) "Competitive telephone service" has the same meaning as in RCW  
2 82.04.065.

3 (ii) "Network telephone service" means the providing by any person  
4 of access to a telephone network, telephone network switching service,  
5 toll service, or coin telephone services, or the providing of  
6 telephonic, video, data, or similar communication or transmission for  
7 hire, via a telephone network, toll line or channel, cable, microwave,  
8 or similar communication or transmission system. "Network telephone  
9 service" includes the provision of transmission to and from the site of  
10 an internet provider via a telephone network, toll line or channel,  
11 cable, microwave, or similar communication or transmission system.  
12 "Network telephone service" does not include the providing of  
13 competitive telephone service, the providing of cable television  
14 service, the providing of broadcast services by radio or television  
15 stations, nor the provision of internet access as defined in RCW  
16 82.04.297, including the reception of dial-in connection, provided at  
17 the site of the internet service provider.

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

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

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

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

35 (10) "Telegraph business" means the business of affording  
36 telegraphic communication for hire.

37 (11) "Tugboat business" means the business of operating tugboats,

1 towboats, wharf boats or similar vessels in the towing or pushing of  
2 vessels, barges or rafts for hire.

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

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

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

23 (15) "Community residential service business" means a business  
24 that:

25 (a) Is licensed or certified by the department of social and health  
26 services to provide to individuals who have a developmental disability  
27 as defined in RCW 71A.10.020(4):

28 (i) Group home services;

29 (ii) Group training home services;

30 (iii) Supported living services; or

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

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

35 **Sec. 2.** RCW 82.16.010 and 2009 c 535 s 1110 are each reenacted and  
36 amended to read as follows:

1 For the purposes of this chapter, unless otherwise required by the  
2 context:

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

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

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

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

21 (5) "Motor transportation business" means the business (except  
22 urban transportation business) of operating any motor propelled vehicle  
23 by which persons or property of others are conveyed for hire, and  
24 includes, but is not limited to, the operation of any motor propelled  
25 vehicle as an auto transportation company (except urban transportation  
26 business), common carrier, or contract carrier as defined by RCW  
27 81.68.010 and 81.80.010. However, "motor transportation business" does  
28 not mean or include the transportation of logs or other forest products  
29 exclusively upon private roads or private highways.

30 (6)(a) "Public service business" means any of the businesses  
31 defined in subsections (1), (2), (4), (5), (7), (8), (9), (11), and  
32 (12) of this section or any business subject to control by the state,  
33 or having the powers of eminent domain and the duties incident thereto,  
34 or any business hereafter declared by the legislature to be of a public  
35 service nature, except telephone business and low-level radioactive  
36 waste site operating companies as redefined in RCW 81.04.010. It  
37 includes, among others, without limiting the scope hereof: Airplane

1 transportation, boom, dock, ferry, pipe line, toll bridge, toll logging  
2 road, water transportation and wharf businesses.

3 (b) The definitions in this subsection (6)(b) apply throughout this  
4 subsection (6).

5 (i) "Competitive telephone service" has the same meaning as in RCW  
6 82.04.065.

7 (ii) "Network telephone service" means the providing by any person  
8 of access to a telephone network, telephone network switching service,  
9 toll service, or coin telephone services, or the providing of  
10 telephonic, video, data, or similar communication or transmission for  
11 hire, via a telephone network, toll line or channel, cable, microwave,  
12 or similar communication or transmission system. "Network telephone  
13 service" includes the provision of transmission to and from the site of  
14 an internet provider via a telephone network, toll line or channel,  
15 cable, microwave, or similar communication or transmission system.  
16 "Network telephone service" does not include the providing of  
17 competitive telephone service, the providing of cable television  
18 service, the providing of broadcast services by radio or television  
19 stations, nor the provision of internet access as defined in RCW  
20 82.04.297, including the reception of dial-in connection, provided at  
21 the site of the internet service provider.

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

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

28 (7) "Railroad business" means the business of operating any  
29 railroad, by whatever power operated, for public use in the conveyance  
30 of persons or property for hire. It (~~shall~~) may not, however,  
31 include any business herein defined as an urban transportation  
32 business.

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

1 (9) "Telegraph business" means the business of affording  
2 telegraphic communication for hire.

3 (10) "Tugboat business" means the business of operating tugboats,  
4 towboats, wharf boats or similar vessels in the towing or pushing of  
5 vessels, barges or rafts for hire.

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

20 (12) "Water distribution business" means the business of operating  
21 a plant or system for the distribution of water for hire or sale.

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

27 (14) "Community residential service business" means a business  
28 that:

29 (a) Is licensed or certified by the department of social and health  
30 services to provide to individuals who have a developmental disability  
31 as defined in RCW 71A.10.020(4):

32 (i) Group home services;

33 (ii) Group training home services;

34 (iii) Supported living services; or

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

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

1           **Sec. 3.** RCW 82.16.020 and 2011 1st sp.s. c 48 s 7032 are each  
2 reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

20           (h) Log transportation business: One and twenty-eight one-  
21 hundredths percent;

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

24           (2) An additional tax is imposed equal to the rate specified in RCW  
25 82.02.030 multiplied by the tax payable under subsection (1) of this  
26 section.

27           (3) Twenty percent of the moneys collected under subsection (1) of  
28 this section on water distribution businesses and sixty percent of the  
29 moneys collected under subsection (1) of this section on sewerage  
30 collection businesses shall be deposited in the public works assistance  
31 account created in RCW 43.155.050(~~(:—PROVIDED, That)~~). However,  
32 during the fiscal year 2011, twenty percent of the moneys collected  
33 under subsection (1) of this section on water distribution businesses  
34 and sixty percent of the moneys collected under subsection (1) of this  
35 section on sewerage collection businesses must be deposited in the  
36 general fund for general purpose expenditures.

37           (4)(a) One hundred percent of the moneys collected under subsection



1 (1)(i) of this section must be deposited in the developmental  
2 disabilities community residential investment account created in  
3 section 5 of this act.

4 (b) The department of social and health services must establish a  
5 system for community residential service businesses to pay the tax  
6 imposed under subsection (1)(i) of this section and establish in  
7 conjunction with the department of revenue and the office of the state  
8 treasurer the means by which the tax payments will be deposited into  
9 the developmental disabilities community residential investment  
10 account.

11 (5) If at any time the centers for medicare and medicaid services  
12 make a determination that any federal matching funds appropriated in  
13 conjunction with appropriations from the developmental disabilities  
14 community residential investment account cannot be validly  
15 appropriated, the tax under subsection (1)(i) of this section must  
16 cease to be imposed.

17 **Sec. 4.** RCW 82.16.020 and 2011 1st sp.s. c 48 s 7033 are each  
18 amended to read as follows:

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

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

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

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

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

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

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

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

36 (h) Community residential service business: Four and seven-tenths  
37 percent.

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

4 (3) Twenty percent of the moneys collected under subsection (1) of  
5 this section on water distribution businesses and sixty percent of the  
6 moneys collected under subsection (1) of this section on sewerage  
7 collection businesses shall be deposited in the public works assistance  
8 account created in RCW 43.155.050(~~(+—PROVIDED, That)~~). However,  
9 during the fiscal year 2011, twenty percent of the moneys collected  
10 under subsection (1) of this section on water distribution businesses  
11 and sixty percent of the moneys collected under subsection (1) of this  
12 section on sewerage collection businesses must be deposited in the  
13 general fund for general purpose expenditures.

14 (4)(a) One hundred percent of the moneys collected under subsection  
15 (1)(h) of this section must be deposited in the developmental  
16 disabilities community residential investment account created in  
17 section 5 of this act.

18 (b) The department of social and health services must establish a  
19 system for community residential service businesses to pay the tax  
20 imposed under subsection (1)(i) of this section and establish in  
21 conjunction with the department of revenue and the office of the state  
22 treasurer the means by which the tax payments will be deposited into  
23 the developmental disabilities community residential investment  
24 account.

25 (5) If at any time the centers for medicare and medicaid services  
26 make a determination that any federal matching funds appropriated in  
27 conjunction with appropriations from the developmental disabilities  
28 community residential investment account cannot be validly  
29 appropriated, the tax under subsection (1)(h) of this section must  
30 cease to be imposed.

31 NEW SECTION. Sec. 5. A new section is added to chapter 71A.12 RCW  
32 to read as follows:

33 (1) The developmental disabilities community residential investment  
34 account is created in the state treasury. Moneys in the account may be  
35 spent only after appropriation. Expenditures from the account may only  
36 be used for payments to community residential service businesses, or

1 for oversight of community residential service businesses providing  
2 services for adult clients of the department's division of  
3 developmental disabilities.

4 (2) Payment rates established by the department for community  
5 residential service businesses must include the cost of all taxes  
6 imposed on community residential service businesses under Title 82 RCW.

7 **Sec. 6.** RCW 35.21.710 and 2002 c 179 s 1 are each amended to read  
8 as follows:

9 (1) Any city which imposes a license fee or tax upon business  
10 activities consisting of the making of retail sales of tangible  
11 personal property which are measured by gross receipts or gross income  
12 from such sales, (~~shall~~) must impose such tax at a single uniform  
13 rate upon all such business activities. The taxing authority granted  
14 to cities for taxes upon business activities measured by gross receipts  
15 or gross income from sales (~~shall~~) may not exceed a rate of .0020;  
16 except that any city with an adopted ordinance at a higher rate, as of  
17 January 1, 1982, (~~shall be~~) is limited to a maximum increase of ten  
18 percent of the January 1982 rate, not to exceed an annual incremental  
19 increase of two percent of current rate(~~:- PROVIDED, That~~). However,  
20 any adopted ordinance which classifies according to different types of  
21 business or services (~~shall be~~) is subject to both the ten percent  
22 and the two percent annual incremental increase limitation on each tax  
23 rate(~~:- PROVIDED FURTHER, That~~); and all surtaxes on business and  
24 occupation classifications in effect as of January 1, 1982, (~~shall~~)  
25 must expire no later than December 31, 1982, or by expiration date  
26 established by local ordinance. Cities (~~which~~) that impose a license  
27 fee or tax upon business activities consisting of the making of retail  
28 sales of tangible personal property, which are measured by gross  
29 receipts or gross income from such sales (~~shall be~~), are required to  
30 submit an annual report to the state auditor identifying the rate  
31 established and the revenues received from each fee or tax. This  
32 section (~~shall~~) does not apply to any business activities subject to  
33 the tax imposed by chapter 82.16 RCW, except community residential  
34 service businesses.

35 (2) For purposes of this section, the providing to consumers of  
36 competitive telephone service, as defined in RCW 82.04.065, or the

1 providing of payphone service, (~~shall be~~) is subject to tax at the  
2 same rate as business activities consisting of the making of retail  
3 sales of tangible personal property.

4 (3) As used in this section, "payphone service" means making  
5 telephone service available to the public on a fee-per-call basis,  
6 independent of any other commercial transaction, for the purpose of  
7 making telephone calls, when the telephone can only be activated by  
8 inserting coins, calling collect, using a calling card or credit card,  
9 or dialing a toll-free number, and the provider of the service owns or  
10 leases the telephone equipment but does not own the telephone line  
11 providing the service to that equipment and has no affiliation with the  
12 owner of the telephone line.

13 NEW SECTION. **Sec. 7.** By June 30, 2016, the joint legislative  
14 audit and review committee, in consultation with the department of  
15 social and health services and the department of revenue, must conduct  
16 a review of the taxes imposed by this act on community residential  
17 service businesses. In this review, the committee must consult with a  
18 broad range of interested stakeholders. The review must consider  
19 issues including benefits of the tax, compliance with the tax, any  
20 determinations by the centers for medicaid and medicare services  
21 regarding the tax, administrative costs, other administrative issues,  
22 and other issues deemed appropriate. The committee must report to the  
23 legislature on its findings and any recommendations related to the  
24 taxes imposed in this act and related services funded by these taxes by  
25 December 1, 2016.

26 NEW SECTION. **Sec. 8.** Sections 2 and 4 of this act take effect  
27 June 30, 2013.

28 NEW SECTION. **Sec. 9.** Sections 1 and 3 of this act expire the  
29 earlier of June 30, 2013, or the date on which the contingency in  
30 section 10 of this act occurs.

31 NEW SECTION. **Sec. 10.** This act expires if at any time the centers  
32 for medicare and medicaid services determine that federal matching  
33 funds do not apply to the tax imposed under section 3(1)(i) or 4(1)(h)  
34 of this act.

1        NEW SECTION.    **Sec. 11.**    If the contingency in section 10 of this  
2 act occurs, the department of social and health services must provide  
3 written notice to the department of revenue, affected parties, the  
4 chief clerk of the house of representatives, the secretary of the  
5 senate, the office of the code reviser, the office of financial  
6 management, and others as deemed appropriate by the department of  
7 social and health services of the date on which the contingency  
8 occurred.

9        NEW SECTION.    **Sec. 12.**    Except for sections 2 and 4 of this act,  
10 this act is necessary for the immediate preservation of the public  
11 peace, health, or safety, or support of the state government and its  
12 existing public institutions, and takes effect immediately.

--- END ---