

# SENATE BILL REPORT

## ESHB 1512

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As Passed Senate, April 15, 2021

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

**Committee Activity:** Ways & Means: 3/23/21, 3/25/21 [DP, DNP, w/oRec].

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

### Brief Summary of 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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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Carlyle, Conway, Darneille, Dhingra, Gildon, Hunt, Keiser, Liias, Mullet, Muzzall, Pedersen, Rivers, Van De Wege, Warnick and Wellman.

**Minority Report:** Do not pass.

Signed by Senators Honeyford, Assistant Ranking Member, Capital; Hasegawa.

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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.*

**Minority Report:** That it be referred without recommendation.

Signed by Senators Schoesler, Assistant Ranking Member, Capital; Braun and Wagoner.

**Staff:** Alia Kennedy (786-7405)

**Background:** Parking and Business Improvement Areas. Cities and counties are authorized to establish parking and business improvement areas (PBIA) 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 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 acquisition, construction, or maintenance of parking facilities; decoration of a public place; sponsorship or promotion of public events; furnishing music; professional management, planning, and promotion for the area; maintenance and security for common, public areas; or 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 Bill:** A lodging business may collect any PBIA special assessment from its guests in a separately stated charge per night on the sale of lodging. When collecting a special assessment in this manner, a lodging business is deemed to be collecting the assessment as an 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.

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

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

**Staff Summary of Public Testimony:** PRO: Funding for parking and business improvement areas primary come from special assessments. Travel and tourism have an enormous impact on the economy. Parking and business improvement area activities help make a city's tourism industry more competitive. The parking and business improvement program works in conjunction with the tourism promotion act, which excludes special assessments for purposes of calculating sales and use and B&O taxes. This bill would align the two programs. A hotel was recently audited by the Department of Revenue and told that it had to pay tax on special assessments. No hotel has paid tax on special assessments in the ten years since the parking and business improvement area statutes were enacted. The fiscal note is inaccurate because tax has never been paid or collected on these special assessments. The tourism industry has been greatly impacted by the COVID-19 pandemic. This is a technical clarification that will have minimal impact on the budget, but a big impact on the hotel industry.

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

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