

Checks in payment for claims pursuant to any health care service contract for health care services provided by persons licensed or regulated under chapters 18.22, 18.25, 18.29, 18.32 or 18.53 RCW, where the provider is not a participant under a contract with the health care service contractor, shall be made out to both the provider and the insured, jointly, to require endorsement by each: PROVIDED, That payment shall be made in the single name of the insured if the insured as part of his or her claim furnishes evidence of prepayment to the health care service provider: AND PROVIDED FURTHER, That nothing in this act shall preclude a health care service contractor from voluntarily issuing payment in the single name of the provider.

Passed the House March 7, 1982.

Passed the Senate March 4, 1982.

Approved by the Governor April 1, 1982.

Filed in Office of Secretary of State April 1, 1982.

---

## CHAPTER 169

[House Bill No. 752]

### MOTOR FREIGHT CARRIERS—MULTIPLE TAXATION

AN ACT Relating to municipal business and occupation taxes upon motor carriers of freight for hire; adding new sections to chapter 35.21 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. There is added to chapter 35.21 RCW a new section to read as follows:

The following principles shall allocate gross receipts of a motor carrier of freight for hire (called the "motor carrier" in this section) to prevent multiple taxation by two or more municipalities. They shall apply when two or more municipalities in this state impose a license fee or tax for the act or privilege of engaging in business activities; each municipality has a basis in local activity for imposing its tax; and the gross receipts measured by all taxing municipalities, added together, exceed the motor carrier's gross receipts.

(1) No municipality shall be entitled to an allocation of the gross receipts of a motor carrier on account of the use of its streets or highways when no pick-up or delivery occurs therein.

(2) Gross receipts of a motor carrier derived within a municipality, where it solicits orders and engages in business activities that are a significant factor in holding the market but where it maintains no office or terminal, shall be allocated equally between the municipality providing the local market and the municipality where the motor carrier's office or terminal is located. Where no such local solicitation and business activity occurs, all the

gross receipts shall be allocated to the municipality where the office or terminal is located irrespective of the place of pick-up or delivery. The word "terminal" means a location at which any three of the following four occur: Dispatching takes place, from which trucks operate or are serviced, personnel report and receive assignments, and orders are regularly received from the public.

(3) Gross receipts of a motor carrier that are not attributable to transportation services, such as investment income, truck repair, and rental of equipment, shall be allocated to the office or terminal conducting such activities.

(4) Gross receipts of a motor carrier with an office or terminal in two or more municipalities in this state shall be allocated to the office or terminal at which the transportation services commenced.

NEW SECTION. Sec. 2. There is added to chapter 35.21 RCW a new section to read as follows:

A motor carrier of freight for hire whose gross receipts are subject to multiple taxation by two or more municipalities in this state may request and thereupon shall be given a joint audit of the taxpayer's books and records by all of the taxing authorities seeking to tax all or part of such gross receipts. Such taxing authorities shall agree upon and establish a tax allocation formula which shall be binding upon the taxpayer and the taxing authorities participating in the audit or receiving a copy of such request from the taxpayer. Payment by the taxpayer of the taxes to each taxing authority in accordance with such tax allocation formula shall be a complete defense in any action by any taxing authority to recover additional taxes, interest, and/or penalties. A taxing municipality, whether or not a party to such joint audit, may seek a revision of the formula by giving written notice to each other taxing municipality concerned and the taxpayer. Any such revision as may be agreed upon by the taxing municipalities, or as may be decreed by a court of competent jurisdiction in an action initiated by one or more taxing authorities, shall apply only to gross receipts of the taxpayer received after the date of any such agreed revision or effective date of the judgment or order of any such court.

NEW SECTION. Sec. 3. There is added to chapter 35.21 RCW a new section to read as follows:

No demand for a fee or tax or penalty shall be made by a city or town against a motor carrier of freight for hire on gross income derived from providing transportation services more than four years after the close of the year in which the same accrued except (1) against a taxpayer who has been guilty of fraud or misrepresentation of a material fact; or (2) where a taxpayer has executed a written waiver of such limitations; or (3) against a taxpayer who has not registered as required by the ordinance of the city or town imposing such tax or fee, provided this subsection shall not apply to a

taxpayer who has registered in any city or town where the taxpayer maintains an office or terminal, or in the case of a taxpayer who has paid a license fee or tax based on such gross receipts to any city or town levying same which may reasonably be construed to be the principal market of the taxpayer but in which he maintains no office or terminal.

**NEW SECTION.** Sec. 4. This act applies to motor carriers of freight for hire only. Nothing in this act applies to a person engaged in the business of making sales at retail or wholesale or of providing storage services for tangible personal property.

Passed the House February 15, 1982,

Passed the Senate March 7, 1982.

Approved by the Governor April 1, 1982.

Filed in Office of Secretary of State April 1, 1982.

## CHAPTER 170

[Substitute House Bill No. 931]

### PUBLIC WORKS CONTRACTS—RETAINED PERCENTAGE—BOND— NOTICE OF COMPLETION—FUNDS RELEASE

AN ACT Relating to public works; amending section 14, chapter 260, Laws of 1981 and RCW 60.28.010; amending section 5, chapter 236, Laws of 1955 as last amended by section 3, chapter 38, Laws of 1970 ex. sess. and RCW 60.28.050; amending section 3, chapter 62, Laws of 1973 1st ex. sess. and RCW 60.28.080; and repealing section 1, chapter 91, Laws of 1957, section 26, chapter 26, Laws of 1967 ex. sess., section 2, chapter 151, Laws of 1969 ex. sess. and RCW 60.28.070.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 14, chapter 260, Laws of 1981 and RCW 60.28.010 are each amended to read as follows:

(1) Contracts for public improvements or work, other than for professional services, by the state, or any county, city, town, district, board, or other public body, herein referred to as "public body", shall provide, and there shall be reserved by the public body from the moneys earned by the contractor on estimates during the progress of the improvement or work, a sum (~~equal to ten percent of the first one hundred thousand dollars and~~) not to exceed five percent (~~for all amounts over one hundred thousand dollars of such estimates~~), said sum to be retained by the state, county, city, town, district, board, or other public body, as a trust fund for the protection and payment of any person or persons, mechanic, subcontractor or materialman who shall perform any labor upon such contract or the doing of said work, and all persons who shall supply such person or persons or subcontractors with provisions and supplies for the carrying on of such work, and the state with respect to taxes imposed pursuant to Title 82 RCW which may be due from such contractor. Every person performing labor or furnishing supplies toward the completion of said improvement or work shall