

This language leaves the department no flexibility should unanticipated problems occur which would require additional funding.

There are numerous difficulties and unknowns associated with the renovation of a building constructed 90 years ago. Health and safety codes become more demanding, structural deterioration occurs, and functions and spatial requirements change. I want to ensure that the department has sufficient latitude to complete this project as planned.

## 2. General Administration

On page 8, Section 3 (23), I have vetoed the entire Subsection 23. It is the apparent intent of this language to move the Office of Financial Management and the Department of Natural Resources out of the House Office Building and the Public Lands Building so that the space can be converted to legislative use. No space provisions have been made for the agencies that would be displaced from the two buildings.

This project had not been reviewed by the Department of General Administration for feasibility and cost before being placed in the capital budget by the legislature. Approval of this project would be premature since funds have been appropriated within this act for a Capitol Area Master Plan.

## 3. Donations of Real Estate

I have vetoed Section 37 on page 78. In a study conducted by the Office of Financial Management during the current biennium it was determined that land donations could be acquired through the unanticipated receipts system. This procedure ensures that a potential acquisition will be reported to the Office of Financial Management and analyzed for potential impact before acceptance. It also ensures timely notification to the legislature of contemplated actions while allowing for the expeditious acceptance of donations that may be beneficial to the state. Therefore, Section 37 is excessively restrictive and unnecessary.

## 4. Capitol Facilities

I have vetoed Section 38 on page 79. The section in effect transfers control of capitol buildings occupied wholly or in part by the legislature from the Department of General Administration to the legislature. This language would unduly restrict the executive branch in its responsibility to complete projects in an efficient and timely manner.

With the exceptions of the foregoing sections and items which I have vetoed for the reasons stated, the remainder of Reengrossed Substitute Senate Bill 3843 as amended by the House is approved."

## CHAPTER 144

### [Substitute House Bill No. 61] TELEPHONE BUSINESS TAXATION

AN ACT Relating to telecommunications; amending section 82.16.010, chapter 15, Laws of 1961 as last amended by section 20, chapter 173, Laws of 1965 ex. sess. and RCW 82.16.010; amending section 1, chapter 8, Laws of 1970 ex. sess. as last amended by section 5, chapter 291, Laws of 1975 1st ex. sess. and RCW 82.04.050; amending section 3, chapter 94, Laws of 1970 ex. sess. and RCW 82.14.020; amending section 80.04.270, chapter 14, Laws of 1961 and RCW 80.04.270; amending section 6, chapter 134, Laws of 1972 ex. sess. and RCW 35.21.710; amending section 7, chapter 134, Laws of 1972 ex. sess. and RCW 35A.82.050; adding new sections to chapter 35.21 RCW; adding new sections to chapter 35A.82 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. Section 1. The legislature recognizes that there have been significant changes in the nature of the telephone business in recent

years. Once solely the domain of regulated monopolies, the telephone business has now been opened up to competition with respect to most of its services and equipment. As a result of this competition, the state and local excise tax structure in the state of Washington has become discriminatory when applied to regulated telephone company transactions that are similar in nature to those consummated by nonregulated competitors. Telephone companies are forced to operate at a significant state and local tax disadvantage when compared to these nonregulated competitors.

To remedy this situation, it is the intent of the legislature to place telephone companies and nonregulated competitors of telephone companies on an equal excise tax basis with regard to the providing of similar goods and services. Therefore competitive telephone services shall for excise tax purposes only, unless otherwise provided, be treated as retail sales under the applicable state and local business and occupation and sales and use taxes. This shall not affect any requirement that regulated telephone companies have under Title 80 RCW, unless otherwise provided.

Nothing in this act affects the authority and responsibility of the Washington utilities and transportation commission to set fair, just, reasonable, and sufficient rates for telephone service.

Sec. 2. Section 82.16.010, chapter 15, Laws of 1961 as last amended by section 20, chapter 173, Laws of 1965 ex. sess. and RCW 82.16.010 are each amended to read as follows:

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

(1) "Railroad business" means the business of operating any railroad, by whatever power operated, for public use in the conveyance of persons or property for hire. It shall not, however, include any business herein defined as an urban transportation business((:)).

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

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

(4) "Water distribution business" means the business of operating a plant or system for the distribution of water for hire or sale((:)).

(5) "Light and power business" means the business of operating a plant or system for the generation, production or distribution of electrical energy for hire or sale((:)).

(6) "Telephone business" means the business of ~~((operating or managing any telephone line or part of a telephone line and exchange or exchanges used in the conduct of the business of affording telephonic communication for hire))~~ providing access to a local telephone network, local telephone network switching service, toll service, or coin telephone services, or providing telephonic, video, data, or similar communication or transmission for hire, via a local telephone network, toll line or channel, or similar communication or transmission system. It includes cooperative or farmer line telephone companies or associations operating an exchange((;)). "Telephone business" does not include the providing of competitive telephone service, nor the providing of cable television service.

(7) "Telegraph business" means the business of affording telegraphic communication for hire((;)).

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

(9) "Motor transportation business" means the business (except urban transportation business) of operating any motor propelled vehicle by which persons or property of others are conveyed for hire, and includes, but is not limited to, the operation of any motor propelled vehicle as an auto transportation company (except urban transportation business), common carrier or contract carrier as defined by RCW 81.68.010 and 81.80.010: PROVIDED, That "motor transportation business" shall not mean or include the transportation of logs or other forest products exclusively upon private roads or private highways.

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

(11) "Public service business" means any of the businesses defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10) or any business subject to control by the state, or having the powers of eminent domain and the duties incident thereto, or any business hereafter declared by the legislature to be of a public service nature. It includes, among others, without limiting the scope hereof: Airplane transportation, boom, dock, ferry,

log patrol, pipe line, warehouse, toll bridge, toll logging road, water transportation and wharf businesses(;;).

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

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

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

(15) "Competitive telephone service" means the providing by any person of telephone equipment, apparatus, or service, other than toll service, which is of a type which can be provided by persons that are not subject to regulation as telephone companies under Title 80 RCW and for which a separate charge is made.

Sec. 3. Section 1, chapter 8, Laws of 1970 ex. sess. as last amended by section 5, chapter 291, Laws of 1975 1st ex. sess. and RCW 82.04.050 are each amended to read as follows:

"Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who (a) purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, or (b) installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person, or (c) purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale, or (d) purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.16.010. The term shall include every sale of tangible personal property which is used or consumed or to be used

or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), ~~((or))~~ (c), or (d) above following such use. The term also means every sale of tangible personal property to persons engaged in any business which is taxable under RCW 82.04.280, subsections (2) and (7) and RCW 82.04.290.

The term "sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following: (a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house, trailer camp or tourist camp for the exclusive use of the tenants thereof, and also excluding sales of laundry service to members by nonprofit associations composed exclusively of nonprofit hospitals, and excluding services rendered in respect to live animals, birds and insects; (b) the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture; (c) the sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting; (d) the sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW; (e) the sale of and charge made for the furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same; (f) the sale of or charge made for tangible personal property, labor and services to persons taxable under (a),

(b), (c), (d), and (e) above when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this paragraph shall be construed to modify the first paragraph of this section and nothing contained in the first paragraph of this section shall be construed to modify this paragraph.

The term "sale at retail" or "retail sale" shall include the sale of or charge made for personal business or professional services, including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities; (a) amusement and recreation businesses including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows and others; (b) abstract, title insurance and escrow businesses; (c) credit bureau businesses; (d) automobile parking and storage garage businesses.

The term shall also include the renting or leasing of tangible personal property to consumers.

The term shall also include the providing of competitive telephone service as defined in RCW 82.16.010.

The term shall not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind, nor shall it include sales of feed, seed, fertilizer, and spray materials to persons for the purpose of producing for sale any agricultural product whatsoever, including milk, eggs, wool, fur, meat, honey, or other substances obtained from animals, birds, or insects but only when such production and subsequent sale are exempt from tax under RCW 82.04.330, nor shall it include sales of chemical sprays or washes to persons for the purpose of post-harvest treatment of fruit for the prevention of scald, fungus, mold, or decay.

The term shall not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor shall the term include the sale of services or charges made for the clearing of land and the

moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority.

Sec. 4. Section 3, chapter 94, Laws of 1970 ex. sess. and RCW 82.14-.020 are each amended to read as follows:

For purposes of this chapter:

(1) A retail sale consisting solely of the sale of tangible personal property shall be deemed to have occurred at the retail outlet at or from which delivery is made to the consumer;

(2) A retail sale consisting essentially of the performance of personal business or professional services shall be deemed to have occurred at the place at which such services were primarily performed;

(3) A retail sale consisting of the rental of tangible personal property shall be deemed to have occurred (a) in the case of a rental involving periodic rental payments, at the primary place of use by the lessee during the period covered by each payment, or (b) in all other cases, at the place of first use by the lessee;

(4) A retail sale within the scope of the second paragraph of RCW 82-.04.050, and a retail sale of taxable personal property to be installed by the seller shall be deemed to have occurred at the place where the labor and services involved were primarily performed;

(5) A retail sale consisting of the providing to a consumer of competitive telephone service, as defined in RCW 82.16.010, other than a sale of tangible personal property under subsection (1) of this section or a rental of tangible personal property under subsection (3) of this section, shall be deemed to have occurred at the situs of the primary telephone or other instrument through which the competitive telephone service is rendered;

(6) "City" means a city or town;

~~((6))~~ (7) The meaning ascribed to words and phrases in chapters 82-.04, 82.08 and 82.12 RCW, as now or hereafter amended, insofar as applicable, shall have full force and effect with respect to taxes imposed under authority of this chapter;

~~((7))~~ (8) "Taxable event" shall mean any retail sale, or any use of an article of tangible personal property, upon which a state tax is imposed pursuant to chapter 82.08 or 82.12 RCW, as they now exist or may hereafter be amended: PROVIDED, HOWEVER, That the term shall not include a retail sale taxable pursuant to RCW 82.08.150, as now or hereafter amended.

Sec. 5. Section 80.04.270, chapter 14, Laws of 1961 and RCW 80.04-.270 are each amended to read as follows:

Any public service company engaging in the sale of merchandise or appliances or equipment shall keep separate accounts, as prescribed by the commission, of its capital employed in such business and of its revenues therefrom and operating expenses thereof. The capital employed in such business shall not constitute a part of the fair value of said company's

property for rate making purposes, nor shall the revenues from or operating expenses of such business constitute a part of the operating revenues and expenses of said company as a public service company. For purposes of this section, the providing of competitive telephone service, as defined in RCW 82.16.010, shall not constitute the sale of merchandise, appliances, or equipment, unless the commission determines that it would be in the public interest to hold otherwise.

Sec. 6. Section 6, chapter 134, Laws of 1972 ex. sess. and RCW 35.21-.710 are each amended to read as follows:

Any city which imposes a license fee or tax upon business activities consisting of the making of retail sales of tangible personal property which are measured by gross receipts or gross income from such sales, shall impose such tax at a single uniform rate upon all such business activities. This section shall not apply to any business activities subject to the tax imposed by chapter 82.16 RCW. For purposes of this section, the providing to consumers of competitive telephone service, as defined in RCW 82.16.010, shall be deemed to be the retail sale of tangible personal property.

Sec. 7. Section 7, chapter 134, Laws of 1972 ex. sess. and RCW 35A-.82.050 are each amended to read as follows:

Any code city which imposes a license fee or tax upon business activities consisting of the making of retail sales of tangible personal property which are measured by gross receipts or gross income from such sales, shall impose such tax at a single uniform rate upon all such business activities. This section shall not apply to any business activities subject to the tax imposed by chapter 82.16 RCW. For purposes of this section, the providing to consumers of competitive telephone service, as defined in RCW 82.16.010, shall be deemed to be the retail sale of tangible personal property.

NEW SECTION. Sec. 8. There is added to chapter 35.21 RCW a new section to read as follows:

Any city which imposes a license fee or tax upon the business activity of engaging in the telephone business, as defined in RCW 82.16.010, which is measured by gross receipts or gross income from the business shall impose the tax at a uniform rate on all persons engaged in the telephone business in the city.

This section does not apply to the providing of competitive telephone service as defined in RCW 82.16.010.

NEW SECTION. Sec. 9. There is added to chapter 35A.82 RCW a new section to read as follows:

Any code city which imposes a license fee or tax upon the business activity of engaging in the telephone business, as defined in RCW 82.16.010, which is measured by gross receipts or gross income from the business shall impose the tax at a uniform rate on all persons engaged in the telephone business in the code city.

This section does not apply to the providing of competitive telephone service as defined in RCW 82.16.010.

NEW SECTION. Sec. 10. There is added to chapter 35.21 RCW a new section to read as follows:

Any city which imposes a license fee or tax upon the business activity of engaging in the telephone business, as defined in RCW 82.16.010, which is measured by gross receipts or gross income may impose the fee or tax, if it desires, on one hundred percent of the total gross revenue derived from toll telephone services subject to the fee or tax.

NEW SECTION. Sec. 11. There is added to chapter 35A.82 RCW a new section to read as follows:

Any code city which imposes a license fee or tax upon the business activity of engaging in the telephone business, as defined in RCW 82.16.010, which is measured by gross receipts or gross income may impose the fee or tax, if it desires, on one hundred percent of the total gross revenue derived from toll telephone services subject to the fee or tax.

NEW SECTION. Sec. 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 13. This act shall take effect on January 1, 1982.

Passed the House April 23, 1981.

Passed the Senate April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

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CHAPTER 145

[Substitute House Bill No. 128]

VICTIMS AND WITNESSES OF CRIMES, RIGHTS—DOMESTIC VIOLENCE  
LAW, ENFORCEMENT—RAPE CRISIS CENTER RECORDS

AN ACT Relating to crime victims and witnesses; amending section 3, chapter 105, Laws of 1979 ex. sess. and RCW 10.99.030; amending section 4, chapter 105, Laws of 1979 ex. sess. and RCW 10.99.040; adding a new chapter to Title 7 RCW; adding new sections to chapter 10.99 RCW; and adding a new section to chapter 70.125 RCW.

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

NEW SECTION. Section 1. In recognition of the civic and moral duty of victims and witnesses of crimes to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the legislature declares its intent, in this chapter, to ensure that all victims and witnesses of crime are treated