



SB 1523: DO NOT PASS or PASS AMENDED TO A ONE YEAR EXTENSION WITH REQUIRED TAX TRANSPARENCY

This bill passed the Senate Finance and Revenue committee with almost no discussion, so it is the House Revenue Committee's responsibility to really think about what it does and propose a better solution with only one year of extension.

The change in how we tax "broadcasters" was made in 2014 as a **pilot** for a new way of taxing certain entities. This bill asks to extend the pilot another four years, **but the industry has proven unwilling to provide the information necessary to actually study the results of the pilot.**

Because the industry didn't fully respond when asked to, the research on the pilot is inconclusive. In fact, according to LRO's Interstate Broadcaster Apportionment Research Report #5-17, "when DOR sent a letter to 26 corporations thought to be broadcasters and requested additional information, two indicated they were not broadcasters, and 15 did not respond."

If the businesses involved aren't willing to be responsive and have full disclosure, then surely the pilot is not working for the benefit of the public good.

A similar extension was considered in 2017, and did not move forward, largely it seems, because broadcasters are challenging the DOR over provisions in the pilot.

Among the issues, lack of clarity regarding

- **Which companies are interstate broadcasters**
- **Which activities create nexus**
- **Which portions of a company's income is subject to apportionment**

Common sense says surely any income from advertising or for receipt of content in a home or business should be income to be apportioned. But is that what our law says?

We think the following questions need to be answered.

Did the state receive more or less revenue from the broadcasters after the pilot began? Also, how many different businesses have challenged their taxes before and after the change?

Are the ambiguities resolved in this bill's language to the advantage or disadvantage of the state General Fund and clear enough that we'll avoid the cost of court cases in the future?

This year's legislation should not just extend the sunset, and certainly not for four years. Instead empower LRO and the DOR to require responses – subject to penalties of \$5000 per day -- and public disclosure by every firm of their 2016 taxes under the pilot and their 2017 taxes under our historic tax regime.

Alternatively, shouldn't all companies taxed under either or both laws prepare and submit their 2017 taxes under both methods and give you the opportunity to see how it affects each business? They are starting to prepare their 2017 taxes now under our pre-pilot tax system, so this information could be available by the next session for most businesses. Either approach will provide Legislators with decent research upon which to base a decision about whether the pilot's approach is best or not and what other changes are needed.

Again, if the businesses involved aren't willing to be responsive and have full disclosure, then surely the pilot is not working for the benefit of the public good.