

Ordinance No. 120182

Council Bill No. 113457

The City of Seattle
Council Bill/Ordinance

AN ORDINANCE relating to Utility Taxes, defining pager services, redefining "cellular telephone service" and "telephone business," and amending Sections 5.44.444 and 5.48.020 of the Seattle Municipal Code in connection therewith.

11-22-00 Pass

CF No. _____

Date Introduced:	OCT 30 2000	
Date 1st Referred:	OCT 30 2000	To: (committee) BUDGET
Date Re - Referred:		To: (committee)
Date Re - Referred:		To: (committee)
Date of Final Passage:	Full Council Vote: 9-0	
Date Presented to Mayor:	Date Approved: 11-29-00	
Date Returned to City Clerk:	Date Published:	T.O. <input checked="" type="checkbox"/> E.T. <input type="checkbox"/>
Date Vetoes by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

11-27-00 Pass

This file is complete and ready

Law Department

Law Dept. Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____
Councilmember

DRAGO

Committee Action:

11-22-00 Passed 8-0 (Excused: Steinbrueck)

11-27-00 Passed 9-0

This file is complete and ready for presentation to Full Council. Committee: _____

(initial/date)

Law Department

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ORDINANCE 120182

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3 AN ORDINANCE relating to Utility Taxes, defining pager services, redefining "cellular telephone
4 service" and "telephone business," and amending Sections 5.44.444 and 5.48.020 of the Seattle
Municipal Code in connection therewith.

5 WHEREAS, RCW 84.04.065 defines "telephone business" to include the transmission of data
6 communication for hire via a local telephone network, toll line or channel, cable, microwave, or
similar communication or transmission system; and,

7 WHEREAS, the Washington State Supreme Court recently held that the City of Tacoma properly
8 classified paging services as "telephone services" under its public utilities tax in *Western*
9 *Telepage, Inc., Dba AT&T Wireless Services v. City of Tacoma*, Docket No. 68028-1, filed May
11, 2000, and rejected Western Telepage's argument that only "two way communications" could
be classified as telephone services; NOW, THEREFORE,

10 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

11 Section 1. Effective January 1, 2001, Subsections 5.48.020(A)(3) and 5.48.020(A)(21) of the
12 Seattle Municipal Code are amended as follows:

13 **SMC 5.48.020 Definitions.**

14 * * *

15 3. "Cellular telephone service" is a ~~((two-(2)-way))~~ voice and data telephone/telecommunications system
16 based in whole or substantial part on wireless radio communications, whether or ~~((and which is))~~ not the
17 communications are subject to regulation by the Washington Utilities and Transportation Commission
18 (WUTC). This includes cellular mobile service. Cellular mobile service includes other wireless radio
19 communications services such as specialized mobile radio (SMR), personal communication services (PCS),
20 and any other evolving wireless radio communications technology which accomplishes the same purpose as
21 cellular mobile service. Cellular telephone service is included within the definition of "telephone business"
22 for purposes of this chapter and Chapter 5.44.

23 * * *



1 21. "Telephone business" means the business of providing access to a local telephone network, local
2 telephone network switching service, toll service, coin telephone services, telephonic, video, data, cellular
3 telephone service, ((two-way)) pager((s)) service, or similar communication, or transmission for hire, via a
4 local telephone network, toll line or channel, cable, microwave, or similar communication or transmission
5 system. The term includes cooperative or farmer line telephone companies or associations operating
6 exchanges. "Telephone business" does not include the providing of competitive telephone service, or
7 providing of cable television service, or other providing of broadcast services by radio or television stations.

8 * * *

9 Section 2. Effective January 1, 2001, Section 5.48.020(A) is amended by adding a new subsection
10 as follows:

11 "Pager Service" means service provided by means of an electronic device which has the ability to send or
12 receive voice or digital messages transmitted through the local telephone network, via satellite or any other
13 form of voice data transmission.

14 The City's Code Reviser is authorized and directed to insert this new subsection in alphabetical
15 order, and to renumber SMC 5.48.020 accordingly.

16 Section 3. Effective January 1, 2001, Section 5.44.444 of the Seattle Municipal Code is amended to
17 read:

18 **5.44.444 Persons engaged in telephone business -- Resale of network telephone services.**

19 A person engaging in or carrying on a telephone business, as defined in Section 5.48.020 ((A21)),
20 shall be subject to tax under Section 5.44.400 C with respect to income from charges to a
21 telecommunications company as defined in RCW 80.04.010 for network telephone service that the
22 purchaser buys for the purpose of resale, as contemplated by RCW 35.21.715.



1 Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its
2 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after
3 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

4 Passed by the City Council the 27th day of November, 2000, and signed by me in open
5 session in authentication of its passage this 27th day of November, 2000.

6
7 Margaret C. Peyer
President of the City Council

8 Approved by me this 29th day of NOVEMBER, 2000.

9
10 Paul Scully
Mayor

11
12 Filed by me this 30th day of November.

13
14 Ann Dowfield
acting City Clerk

15 (Seal)





City of Seattle

Paul Schell, Mayor

Executive Services Department

Dwight D. Dively, Director

MEMORANDUM

Date: October 18, 2000

To: Honorable Margaret Pageler, President
Seattle City Council

From: Dwight D. Dively, Director 
Executive Services Department

Subject: AN ORDINANCE relating to Utility Taxes, defining pager services, redefining "cellular telephone service" and "telephone business," and amending Sections 5.44.444 and 5.48.020 of the Seattle Municipal Code in connection therewith.

In May of this year, the Washington State Supreme Court held that the City of Tacoma properly classified "pager services" as "telephone services" under its public utilities tax. The Court reached this decision in the case of *Western Telepage, Inc., Dba AT & T Wireless Services v. City of Tacoma*, Docket No. 68028-1, thereby rejecting Western Telepage's argument that only "two way communications" could be classified as telephone services. The attached ordinance broadens Seattle's utility tax to include all pager services, not just two-way pager services.

The ordinance specifically adds a definition for pager services, and also changes some wording in the definitions of "cellular telephone service" and "telephone business" to reflect the broad scope of these definitions. (Seattle uses the term "telephone business" whereas the State and some other cities use the term "telephone service.") The ordinance also amends SMC 5.44.444 due to the renumbering of definitions contained in SMC 5.48.020.

Adoption of the attached ordinance will bring Seattle in line with the State Supreme Court's ruling, and with the Department of Revenue's and other major Washington cities' current taxation practices. We look forward to your positive consideration of this legislation and invite you to contact Mel McDonald at 233-0071 if you have any questions or would like an individual briefing on this matter.

cc: Honorable Jan Drago
Mel McDonald



Fiscal Note

Department: Executive Services	Contact Person/Phone: Mel McDonald / 3-0071	CBO Analyst/Phone: Barbara Gangwer/5-0768
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Legislation Title: AN ORDINANCE relating to Utility Taxes, defining pager services, redefining "cellular telephone service" and "telephone business," and amending Section 5.44.444 and 5.48.020 of the Seattle Municipal Code in connection therewith.

Summary of the Legislation:

This legislation reclassifies one-way pager services from the Service and Other Tax classification to the Utility Tax classification. The end result will be a tax increase for such services inasmuch as one-way pager services are presently subject to service B & O tax at the rate of .00415, and will subsequently be subject to a .06 utility tax rate. This adjustment is in response to a finding in a recent Washington State Supreme Court case that concluded that paging service, two-way or one-way, was properly classified as "telephone business." The \$450,000 revenue increase is calculated as a net number. The City would lose a small amount of service B & O tax and gain under the utility tax.

Background :

The attached ordinance creates uniformity between all major Washington cities as well as with the Washington State Department of Revenue concerning the taxation of paging services. The present "two-way" limitation language contained in the definition of telephone business was included in the SMC in 1996. At that time, ESD's Revenue and Consumer Affairs (RCA) staff believed that we legally could not tax one-way pagers as telephone business. The recent State Supreme court case has dictated otherwise.

Sustainability Issues (related to grant awards): Not applicable



Estimated Operating Budget Expenditure Impacts:

FUND	2000	2001	2002
None			
TOTAL			

One-time \$ _____ On-going \$ _____

Estimated Revenue Impacts:

FUND	2000	2001	2002
General Fund		\$450,000	450,000
TOTAL		\$450,000	450,000

One-time \$ _____ On-going \$ see above

Estimated FTE Impacts:

FUND	2000	2001	2002
None			
TOTAL			

Full Time 0 # Part Time 0 # TES 0

Do positions sunset in the future? If so, when?

N/A

Other Issues (including long-term implications of the legislation):



STATE OF WASHINGTON – KING COUNTY

--SS.

125488
City of Seattle, Clerk's Office

No. ORDINANCE IN

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:120182 ORD IN FUL

was published on

12/13/00

The amount of the fee charged for the foregoing publication is the sum of \$0.00, which amount has been paid in full.

Melvin M. Pascoe

Subscribed and sworn to before me on

12/13/00

Colvin Wenzel
Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle

ORDINANCE 120182

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SMC 5.48.020 DEFINITIONS.

3. "Cellular telephone service" is a ((two (2) way)) voice data telephone/telecommunications system based in whole or substantial part on wireless radio communication, whether or ((and which is)) not the communications are subject to regulation by the Washington Utilities and Transportation Commission (WUTC). This includes cellular mobile service. Cellular mobile service includes other wireless radio communications services such as specialized mobile radio (SMR), personal communication services (PCS), and any other evolving wireless radio communications technology which accomplishes the same purpose as cellular mobile service. Cellular telephone service is included within the definition of "telephone business" for purposes of this chapter and Chapter 5.44.

21. "Telephone business" means the business of providing access to a local telephone network, local telephone network switching service, toll service, coin telephone services, telephonic, video, data, cellular telephone service, ((two way)) pager(s) service, or similar communication, or transmission for hire, via a local telephone network, toll line or channel, cable, microwave or similar communication or transmission system. The term includes cooperative or farmer line telephone companies or associations operating exchanges. "Telephone business" does not include the providing of competitive telephone service, or providing of cable television service, or other providing of broadcast services by radio or television stations.

Section 2. Effective January 1, 2001, Section 5.48.020(A) is amended by adding a new subsection as follows: