

# SENATE BILL REPORT

## SB 5863

---

---

As Reported By Senate Committee On:  
Ways & Means, February 28, 2005

**Title:** An act relating to improving consistency among tax incentives enacted during the 2003-2005 biennium.

**Brief Description:** Improving consistency among tax incentives enacted during the 2003-2005 biennium.

**Sponsors:** Senators Prentice, Zarelli and Shin; by request of Department of Revenue.

**Brief History:**

**Committee Activity:** Ways & Means: 2/24/05, 2/28/05 [DPS].

---

### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5863 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Doumit, Vice Chair; Fraser, Vice Chair; Zarelli, Ranking Minority Member; Brandland, Fairley, Hewitt, Kohl-Welles, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Thibaudeau.

**Staff:** Terry Wilson (786-7433)

**Background:** In recent years, the Legislature has enacted, extended, or reauthorized a number of business tax incentives for the purposes of economic development or tax relief. These incentives have included the following:

- business and occupation (B&O) tax credit for high-technology research and development (R&D) spending;
- sales tax and use tax deferral/waiver program for high-technology construction projects ("high-technology deferral");
- sales and use tax deferral/waiver program for construction projects for manufacturing, R&D, and computer service businesses in rural counties and community empowerment zones ("rural county deferral");
- aerospace incentive program;
- semiconductor incentive program;
- aluminum smelter program;
- electrolytic processor public utility tax incentive;
- B&O tax credit for businesses in rural counties that provide information technology help desk services to third parties; and
- B&O tax credit for businesses engaged in computer software manufacturing or programming in rural counties that create new jobs.

All of these tax incentives include reporting requirements; however, the contents of the reports and the penalties for failing to file the reports differ. For example, the aerospace, aluminum, electrolytic processing, and semiconductor incentives require program participants to provide detailed economic information relating to the incentive. This information is publicly disclosable, but the amount of incentive taken is confidential. The B&O tax credit for high technology R&D, the high technology deferral program, and rural county deferral program requires program participants to provide aggregate employment information according to wage bands. The aggregate information is not subject to disclosure, but the amount of the credit or tax deferred is disclosable. Persons taking less than ten thousand dollars of the high technology B&O tax credit for R&D may request the amount to be confidential. For the B&O tax credit for computer software programming or manufacturing and the B&O tax credit for information technology help desk services, the amount of statutorily required information is minimal, voluntary, and entirely confidential.

Reports and surveys are mandatory and failure to submit a report or survey results in repayment of the tax upon which the incentive was based; or in the case of a deferral, repayment of 12.5 percent of the deferred tax. However, reports are voluntary for the B&O tax credit for information technology help desk services and for computer software manufacturing and programming. Interest is assessed on the repayment amount except for the rural county deferral.

Reports are due by March 31, following the year the incentives were taken, but reports for the B&O tax credits for information technology help desk services and computer software manufacturing and programming are due at the end of January.

In 2004 legislation, the Legislature modified the high-technology deferral to require that an application for the program be filed before the initiation of construction, defined to be the date that a building permit is issued. For the rural county deferral, the Department of Revenue (Department) has interpreted "initiation of construction" as the date on which on-site construction commences. The Legislature also required for high-technology deferral that initiation of construction be applied to each phase of a "phased project." "Phased projects" were not addressed in legislation to extend the rural county deferral.

For the high-technology deferral, sales tax on construction projects is deferred and then waived in 12.5 percent increments over the course of eight years so long as the project is used in a qualifying activity. In the rural county deferral, sales tax is deferred and then waived after the third year of operation in increments of 10 percent, 15 percent, 20 percent, 25 percent, and 30 percent over the course of five years.

**Summary of Substitute Bill:** Reports are re-designated as surveys. The Department must extend the time for filing for a taxpayer who fails to submit a survey as a result of circumstances beyond the control of the taxpayer. Starting in January 2006, all surveys and other forms must be filed with the Department in electronic format, unless the taxpayer's cumulative tax relief from all tax incentives for which surveys are required is less than \$1,000.

*High-technology Deferral/Rural County Deferral.* If the investment project involves more than one building, "initiation of construction" applies separately to each building. Deferrals may be transferred to new owners if the new owner maintains eligibility and assumes the

liability for the deferred taxes. Taxpayers that fail to file an annual survey must repay the amount of deferred tax that was waived in the previous calendar year with interest. Taxpayers found ineligible for the deferral do not have to file annual surveys.

The rural county deferral is changed to be consistent with the high-technology deferral. Parking facilities qualify for the high-technology deferral and the rural county deferral. For the rural deferral, "initiation of construction" is defined as the issuance of a building permit like the high-technology deferral. For outstanding and future deferral recipients, the repayment schedule for eligible projects in the rural county deferral is conformed to the schedule used in the high-technology deferral.

*Computer Software Manufacturing or Programming Credit and Information Technology Help Desk Credit.* An annual survey is required with information equivalent to and subject to the same disclosure requirements as that required for the high-technology B&O tax credit for R&D. The due date is changed to March 31. Taxpayers that fail to file an annual survey must repay the credit claimed in the prior calendar year with interest. The Department must report to the legislature by September 1 providing summary descriptive statistics.

Terminology is harmonized for the semiconductor incentives, aerospace industry incentives, electrolytic processing, and aluminum smelter incentives.

**Substitute Bill Compared to Original Bill:** The original bill was not considered.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect immediately. The provision concerning the requirement to file the surveys electronically (section 2) takes effect January 1, 2006.

**Testimony For:** This makes other incentives like the changes made to the high-tech B&O tax credit. Some changes are purely technical. There are 2 policy issues. The rural program is conformed to the high-tech program. This makes it simpler and more predictable and is more favorable than the current requirements to the taxpayer. More information is required of the help desk and computer software manufacturing credits.

**Testimony Against:** None.

Other: There should be more reasons for extensions to file a survey after the due date.

**Who Testified:** PRO: Julie Sexton, Department of Revenue. OTHER: Tom McBride, AWB.