
ENGROSSED HOUSE BILL 1069

State of Washington

59th Legislature

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By Representatives McIntire, Conway, Priest, Upthegrove, Kilmer, Moeller, Dickerson, Williams, Schual-Berke, Nixon, Springer, Sells, P. Sullivan, Green, Lovick, Kenney, Haigh, Wallace, Kagi, Simpson, Linville, Morris, Wood, Hunter, Lantz, Hudgins, Ericks, Darneille, Clibborn, Sommers, Morrell, Takko, O'Brien, Appleton, Hunt, Santos, Ormsby and Murray

Read first time 01/12/2005. Referred to Committee on Finance.

1 AN ACT Relating to performance audits of tax preferences; adding
2 new sections to chapter 43.136 RCW; and repealing RCW 43.136.010,
3 43.136.020, 43.136.030, 43.136.040, 43.136.050, and 43.136.070.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature recognizes that tax
6 preferences are enacted to meet objectives which are determined to be
7 in the public interest. However, some tax preferences may not be
8 efficient or equitable tools for the achievement of current public
9 policy objectives. Given the changing nature of the economy and tax
10 structures of other states, the legislature finds that periodic
11 performance audits of tax preferences are needed to determine if their
12 continued existence will serve the public interest.

13 NEW SECTION. **Sec. 2.** As used in this chapter, "tax preference"
14 means an exemption, exclusion, or deduction from the base of a state
15 tax; a credit against a state tax; a deferral of a state tax; or a
16 preferential state tax rate.

1 NEW SECTION. **Sec. 3.** (1) The citizen commission for performance
2 measurement of tax preferences is created.

3 (2) The commission has seven members as follows:

4 (a) One member is the state auditor, who is a nonvoting member;

5 (b) One member is the chair of the joint legislative audit and
6 review committee, who is a nonvoting member;

7 (c) The chair of each of the two largest caucuses of the senate and
8 the two largest caucuses of the house of representatives shall each
9 appoint a member. None of these appointees may be members of the
10 legislature; and

11 (d) The governor shall select the seventh member.

12 (3) Persons appointed by the caucus chairs should be individuals
13 who represent a balance of perspectives and constituencies, and have a
14 basic understanding of state tax policy, government operations, and
15 public services. These appointees should have knowledge and expertise
16 in performance management, fiscal analysis, strategic planning,
17 economic development, performance assessments, or closely related
18 fields.

19 (4) The commission shall elect a chair from among its voting or
20 nonvoting members. Decisions of the commission must be made using the
21 sufficient consensus model. For the purposes of this subsection,
22 "sufficient consensus" means the point at which the vast majority of
23 the commission favors taking a particular action. If the commission
24 determines that sufficient consensus cannot be reached, a vote must be
25 taken. The commission must allow a minority report to be included with
26 a decision of the commission, if requested by a member of the
27 commission.

28 (5) Members serve for terms of four years, with the terms expiring
29 on June 30th on the fourth year of the term. However, in the case of
30 the initial terms, the members appointed by the chairs of senate
31 caucuses shall serve four-year terms, the members appointed by the
32 chairs of house of representatives caucuses shall serve three-year
33 terms, and the member appointed by the governor shall serve a two-year
34 term, with each of the terms expiring on June 30th of the applicable
35 year. Appointees may be reappointed to serve more than one term.

36 (6) The joint legislative audit and review committee shall provide
37 clerical, technical, and management personnel to the commission to

1 serve as the commission's staff. The department of revenue shall
2 provide necessary support and information to the joint legislative
3 audit and review committee.

4 (7) The commission shall meet at least once a quarter and may hold
5 additional meetings at the call of the chair or by a majority vote of
6 the members of the commission. The members of the commission shall be
7 compensated in accordance with RCW 43.03.220 and reimbursed for travel
8 expenses in accordance with RCW 43.03.050 and 43.03.060.

9 NEW SECTION. **Sec. 4.** (1) The citizen commission for performance
10 measurement of tax preferences shall develop a schedule to accomplish
11 an orderly review of tax preferences at least once every ten years.
12 The commission shall schedule tax preferences for review in the order
13 the tax preferences were enacted into law, except that the commission
14 may elect to include, anywhere in the schedule, a tax preference that
15 has a statutory expiration date. The commission shall omit from the
16 schedule tax preferences that are required by constitutional law, sales
17 and use tax exemptions for machinery and equipment for manufacturing,
18 research and development, or testing, the small business credit for the
19 business and occupation tax, sales and use tax exemptions for food and
20 prescription drugs, property tax relief for retired persons, and
21 property tax valuations based on current use, and may omit any tax
22 preference that the commission determines is a critical part of the
23 structure of the tax system. As an alternative to the process under
24 section 5 of this act, the commission may recommend to the joint
25 legislative audit and review committee an expedited review process for
26 any tax preference that has an estimated biennial fiscal impact of ten
27 million dollars or less.

28 (2) The commission shall revise the schedule as needed each year,
29 taking into account newly enacted or terminated tax preferences. The
30 commission shall deliver the schedule to the joint legislative audit
31 and review committee by September 1st of each year.

32 (3) The commission shall provide a process for effective citizen
33 input during its deliberations.

34 NEW SECTION. **Sec. 5.** (1) The joint legislative audit and review
35 committee shall review tax preferences according to the schedule

1 developed under section 4 of this act. The committee shall consider,
2 but not be limited to, the following factors in the review:

3 (a) The classes of individuals, types of organizations, or types of
4 industries whose state tax liabilities are directly affected by the tax
5 preference;

6 (b) Public policy objectives that might provide a justification for
7 the tax preference, including but not limited to the legislative
8 history, any legislative intent, or the extent to which the tax
9 preference encourages business growth or relocation into this state,
10 promotes growth or retention of high wage jobs, or helps stabilize
11 communities;

12 (c) Evidence that the existence of the tax preference has
13 contributed to the achievement of any of the public policy objectives;

14 (d) The extent to which continuation of the tax preference might
15 contribute to any of the public policy objectives;

16 (e) The extent to which the tax preference may provide unintended
17 benefits to an individual, organization, or industry other than those
18 the legislature intended;

19 (f) The extent to which terminating the tax preference may have
20 negative effects on the category of taxpayers that currently benefit
21 from the tax preference, and the extent to which resulting higher taxes
22 may have negative effects on employment and the economy;

23 (g) The feasibility of modifying the tax preference to provide for
24 adjustment or recapture of the tax benefits of the tax preference if
25 the objectives are not fulfilled;

26 (h) Fiscal impacts of the tax preference, including past impacts
27 and expected future impacts if it is continued. For the purposes of
28 this subsection, "fiscal impact" includes an analysis of the general
29 effects of the tax preference on the overall state economy, including,
30 but not limited to, the effects of the tax preference on the
31 consumption and expenditures of persons and businesses within the
32 state;

33 (i) The extent to which termination of the tax preference would
34 affect the distribution of liability for payment of state taxes;

35 (j) Consideration of similar tax preferences adopted in other
36 states, and potential public policy benefits that might be gained by
37 incorporating corresponding provisions in Washington.

1 (2) For each tax preference, the committee shall provide a
2 recommendation as to whether the tax preference should be continued
3 without modification, modified, scheduled for sunset review at a future
4 date, or terminated immediately. The committee may recommend
5 accountability standards for the future review of a tax preference.

6 NEW SECTION. **Sec. 6.** (1) The joint legislative audit and review
7 committee shall report its findings and recommendations for scheduled
8 tax preferences to the citizen commission for performance measurement
9 of tax preferences by August 30th of each year. The commission may
10 review and comment on the report of the committee. The committee may
11 revise its report based on the comments of the commission. The
12 committee shall prepare a final report that includes the comments of
13 the commission and submit the final report to the finance committee of
14 the house of representatives and the ways and means committee of the
15 senate by December 30th.

16 (2) The joint legislative audit and review committee shall submit
17 a special report reviewing all tax preferences that have statutory
18 expiration dates between June 30, 2005, and January 1, 2007. For the
19 special report, the committee shall complete a review under section 5
20 of this act, and obtain comments of the citizen commission for
21 performance measurement of tax preferences under subsection (1) of this
22 section, to the extent possible. The committee shall submit the
23 special report to the finance committee of the house of representatives
24 and the ways and means committee of the senate by January 12, 2006.

25 (3) Following receipt of a report under this section, the finance
26 committee of the house of representatives and the ways and means
27 committee of the senate shall jointly hold a public hearing to consider
28 the final report and any related data.

29 NEW SECTION. **Sec. 7.** Upon request of the citizen commission for
30 performance measurement of tax preferences or the joint legislative
31 audit and review committee, the department of revenue and the
32 department of employment security shall provide information needed by
33 the commission or committee to meet its responsibilities under this
34 chapter.

1 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each
2 repealed:

3 (1) RCW 43.136.010 (Legislative findings--Intent) and 1982 1st
4 ex.s. c 35 s 39;

5 (2) RCW 43.136.020 ("Tax preference" defined) and 1982 1st ex.s. c
6 35 s 40;

7 (3) RCW 43.136.030 (Legislative budget committee and department of
8 revenue--Review of tax preferences--Reports) and 1982 1st ex.s. c 35 s
9 41;

10 (4) RCW 43.136.040 (Legislative budget committee review of tax
11 preferences--Factors for consideration) and 1982 1st ex.s. c 35 s 42;

12 (5) RCW 43.136.050 (Powers and duties of ways and means committees)
13 and 1982 1st ex.s. c 35 s 43; and

14 (6) RCW 43.136.070 (Report on existing tax preferences to be
15 provided--Additional information to be provided) and 1982 1st ex.s. c
16 35 s 45.

17 NEW SECTION. **Sec. 9.** Sections 1 through 7 of this act are each
18 added to chapter 43.136 RCW.

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