

SB 6853 - S AMD 192

By Senator Rockefeller

1 On page 1, after line 5, insert the following:

2 NEW SECTION. **Sec. 2.** The legislature finds that tax preferences
3 are a method of allocating state resources to fulfill public
4 objectives. The legislature recognizes that tax preferences can be
5 important economic development tools but clear performance measures
6 must be established to ensure that they are providing value to the
7 state for the resources that are provided through the preference. The
8 legislature finds that the tax structure works best when it is fair and
9 equitable to everyone and the obligation to show that a tax preference
10 is justified should be on those receiving the benefit of the
11 preference. Just as the operating budget is reviewed annually and
12 biennially for effectiveness and continued public value in the context
13 of scarce resources, the legislature finds that tax preferences should
14 also be systematically reviewed in an open and transparent manner and
15 require a positive action by the legislature for continuation. It is
16 the intent of the legislature that a process be established to review
17 and evaluate tax preferences in a manner similar that used in
18 determining the priorities of government used to develop budget
19 proposals.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 44.04 RCW
21 to read as follows:

22 (1) Any legislation that creates, renews, or continues a tax
23 preference should include the following provisions:

24 (a) An intent statement that clearly provides the rationale for and
25 purpose for the tax preference, against which its effectiveness can be
26 measured;

27 (b) A requirement that the grant, renewal, continuance, or benefit
28 of any tax preference provided under this chapter is conditioned upon
29 full compliance with any reporting requirement;

1 (c) To ensure greater transparency, a requirement that the
2 recipient of any tax preference must provide the dollar amount of the
3 tax savings obtained as a result of the tax preference. Unless the
4 legislature has set forth, with particularity, the justification for
5 not providing such information, the information must be provided by the
6 recipient (i) upon request of the legislature or department of revenue
7 and (ii) in any report that the recipient is required to complete to
8 obtain the tax preference; and

9 (d) A sunset date that is no later than five years after the
10 enactment of the preference.

11 (2) In determining whether to create, renew, or continue a tax
12 preference, the legislature should consider those factors contained in
13 RCW 43.136.055, as well as the factors listed in section 5 of this act.

14 (3) For the purposes of this section, "tax preference" has the same
15 meaning as provided in RCW 43.136.021.

16 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.136 RCW
17 to read as follows:

18 (1) The task force for reform of executive and legislative
19 procedures dealing with tax preferences is hereby established.

20 (2) The task force must:

21 (a) Review current executive and legislative budget and policy
22 practices and procedures associated with the recommendation,
23 development, and consideration of tax preferences, assess the
24 effectiveness of budgeting requirements and practices, the general
25 rigor of justifications and evaluations typically provided during
26 legislative consideration of tax preferences, and the role and value of
27 methodologies currently used to measure the public benefits and costs,
28 including opportunity costs, of tax preferences, as defined in RCW
29 43.136.021.

30 (b) Consider, but not be limited to, the factors listed in section
31 5 of this act, in its analysis.

32 (3) The task force may make recommendations to improve the
33 effectiveness of the review process conducted by the citizen commission
34 on performance measurement of tax preferences process as described in
35 chapter 43.136 RCW. The task force must also recommend changes or
36 improvements in the manner in which both the executive branch and
37 legislative branch of state government address tax preferences

1 generally, including those in effect as well as those that may be
2 hereafter proposed, in order to protect the public interest and assure
3 transparency, fairness, and equity in the state tax code.

4 (4) The task force may recommend structural or procedural changes
5 that it feels will enhance both executive and legislative procedures
6 and ensure consistent and rigorous examination of such preferences.

7 (5) The task force must report its recommendations to the governor
8 and legislative fiscal committees by November 15, 2010. The task force
9 must ensure that its proceedings provide for maximum possible public
10 opportunity for public awareness and input.

11 (6) The task force has eleven voting members as follows:

12 (a) One member is the state treasurer;

13 (b) One member is the chair of the joint legislative audit and
14 review committee;

15 (c) One member is the director of the office of financial
16 management;

17 (d) The chair of each of the two largest caucuses of the senate and
18 the two largest caucuses of the house of representatives must each
19 appoint a member from their caucuses; and

20 (e) The chair of each of the two largest caucuses of the senate and
21 the two largest caucuses of the house of representatives must each
22 appoint a member. None of these appointees may be members of the
23 legislature.

24 (7) Persons appointed by the caucus chairs under subsection (6)(e)
25 of this section should be individuals who represent a balance of
26 perspectives and constituencies, and have a basic understanding of
27 state tax policy, government operations, and public services. These
28 appointees should have knowledge and expertise in performance
29 management, fiscal analysis, strategic planning, economic development,
30 performance assessments, or closely related fields.

31 (8) The task force must elect a chair from among its members.
32 Decisions of the task force must be made using the sufficient consensus
33 model. For the purposes of this subsection, "sufficient consensus"
34 means the point at which the substantial majority of the commission
35 favors taking a particular action. The chair may determine when a vote
36 must be taken. The task force must allow a minority report to be
37 included with a decision of the task force, if requested by a member of
38 the task force.

1 (9) The joint legislative audit and review committee must provide
2 clerical, technical, and management personnel to the task force to
3 serve as the task force's staff. The staff of the legislative fiscal
4 committees must also provide technical assistance to the task force.
5 The department of revenue must provide necessary support and
6 information to the joint task force.

7 (10) The task force must meet at least once a quarter and may hold
8 additional meetings at the call of the chair or by a majority vote of
9 the members of the task force. The members of the task force must be
10 compensated in accordance with RCW 43.03.220 and reimbursed for travel
11 expenses in accordance with RCW 43.03.050 and 43.03.060.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.136 RCW
13 to read as follows:

14 In addition to the factors listed in RCW 43.136.055, tax preference
15 reviews and evaluations must include, but not be limited to, the
16 following factors:

17 (1) The positive and negative impacts of the preference on the
18 taxpayer or taxpayers receiving the preference if the preference is
19 continued;

20 (2) The effective state tax rate of the beneficiary taxpayer or
21 taxpayers before and after the preference;

22 (3) The economic development impacts of the preference, including
23 any demonstrated multiplier effect and demonstrated impact on jobs,
24 wages, and benefits;

25 (4) The federal income tax benefits available under current federal
26 law to the beneficiary taxpayer or taxpayers and the probable effective
27 federal tax rate of those taxpayers;

28 (5) The availability of other tax benefits for the beneficiary
29 taxpayers under state law and the cumulative fiscal effects of such
30 benefits;

31 (6) If the beneficiary taxpayer is a nonprofit or public
32 institution, comparisons of those activities to private activity and if
33 so, the comparable tax burden between the two;

34 (7) A comparison of the preference with tax treatment of taxpayers
35 engaged in similar activities in neighboring states; and

36 (8) Consideration of the probable impact on overall uniformity and
37 fairness of the tax code.

1 **Sec. 6.** RCW 43.136.035 and 2006 c 197 s 3 are each amended to read
2 as follows:

3 (1) The citizen commission for performance measurement of tax
4 preferences is created.

5 (2) The commission has (~~seven~~) nine members as follows:

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

7 (b) One member is the state treasurer, who is a nonvoting member;

8 (c) One member is the chair of the joint legislative audit and
9 review committee, who is a nonvoting member;

10 (~~e~~) (d) The chair of each of the two largest caucuses of the
11 senate and the two largest caucuses of the house of representatives
12 (~~shall~~) must each appoint a member. None of these appointees may be
13 members of the legislature; and

14 (~~d~~) (e) The governor (~~shall~~) must select the (~~seventh~~
15 ~~member~~) eighth and ninth members, at least one of whom must be a
16 citizen representing working families or a nonprofit organization.

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

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

33 (5) Members serve for terms of four years, with the terms expiring
34 on June 30th on the fourth year of the term. However, in the case of
35 the initial terms, the members appointed by the chairs of senate
36 caucuses shall serve four-year terms, the members appointed by the
37 chairs of house of representatives caucuses (~~shall~~) must serve three-
38 year terms, and the member appointed by the governor (~~shall~~) must

1 serve a two-year term, with each of the terms expiring on June 30th of
2 the applicable year. Appointees may be reappointed to serve more than
3 one term.

4 (6) The joint legislative audit and review committee (~~(shall)~~) must
5 provide clerical, technical, and management personnel to the commission
6 to serve as the commission's staff. The department of revenue
7 (~~(shall)~~) must provide necessary support and information to the joint
8 legislative audit and review committee.

9 (7) The commission (~~(shall)~~) must meet at least once a quarter and
10 may hold additional meetings at the call of the chair or by a majority
11 vote of the members of the commission. The members of the commission
12 (~~(shall)~~) must be compensated in accordance with RCW 43.03.220 and
13 reimbursed for travel expenses in accordance with RCW 43.03.050 and
14 43.03.060.

15 NEW SECTION. Sec. 7. A new section is added to chapter 44.04 RCW
16 to read as follows:

17 (1) The legislature must use the process developed by the tax
18 preferences effectiveness review task force in section 4 of this act to
19 evaluate existing tax preferences in the year subsequent to the year in
20 which the tax preference is reviewed by the citizen's commission on the
21 performance measurement of tax preferences. The legislature must use
22 the citizen's commission's recommendations and review as part of its
23 own review and analysis. Each tax preference must be included as an
24 expenditure in the appropriate category of budget expenditures.

25 (2) For the purposes of this section, "tax preference" has the same
26 meaning as provided in RCW 43.136.021.

27 NEW SECTION. Sec. 8. A new section is added to chapter 43.88 RCW
28 to read as follows:

29 (1) When the governor submits a budget, revenue, or policy proposal
30 that includes a new or expanded tax preference, there must be a
31 recommended sunset date for the tax preference, a statement of the
32 anticipated and particular beneficiaries and benefits, a recommendation
33 of proposed methods for measurement and review of the effectiveness of
34 such tax preference, and a recommendation of existing tax preferences
35 that should be discontinued or modified sufficient to fully offset the

1 costs of the new or expanded tax preference during any biennium during
2 which the new or expanded tax preference is in effect.

3 (2) With each budget required to be submitted by the governor
4 pursuant to this chapter, there must also be a recommendation submitted
5 by the governor which describes the aggregate cost and expected
6 benefits of all proposals submitted with such budget for tax preference
7 extension, modification, or expansion, a statement of the manner in
8 which such proposals are intended to achieve economic development and
9 job creation, and a recommendation of the maximum amount which, in the
10 judgment of the governor, should be expended in each future biennium in
11 support of such proposals.

12 **Sec. 9.** RCW 43.06.400 and 1999 c 372 s 5 are each amended to read
13 as follows:

14 (1) Beginning in January 1984, and in January of every (~~fourth~~)
15 second year thereafter, the department of revenue (~~shall~~) must submit
16 to the legislature prior to the regular session a listing of the amount
17 of reduction for the current and next biennium in the revenues of the
18 state or the revenues of local government collected by the state as a
19 result of tax exemptions. The listing (~~shall~~) must include an
20 estimate of the revenue lost from the tax exemption, the purpose of the
21 tax exemption, the persons, organizations, or parts of the population
22 which benefit from the tax exemption, and whether or not the tax
23 exemption conflicts with another state program. The listing (~~shall~~)
24 must include but not be limited to the following revenue sources:

25 (~~(1)~~) (a) Real and personal property tax exemptions under Title
26 84 RCW;

27 (~~(2)~~) (b) Business and occupation tax exemptions, deductions, and
28 credits under chapter 82.04 RCW;

29 (~~(3)~~) (c) Retail sales and use tax exemptions under chapters
30 82.08, 82.12, and 82.14 RCW;

31 (~~(4)~~) (d) Public utility tax exemptions and deductions under
32 chapter 82.16 RCW;

33 (~~(5)~~) (e) Food fish and shellfish tax exemptions under chapter
34 82.27 RCW;

35 (~~(6)~~) (f) Leasehold excise tax exemptions under chapter 82.29A
36 RCW;

preferences be reviewed in the same manner as budget expenditures. Sets standards for what should be included in future tax preference legislation. Establishes a task force to provide a process for the legislature and governor to review and consider tax preferences. Increases the makeup of the Citizen's Commission on the Performance Review of Tax measures, and adds criteria to be used by the Commission in evaluating tax preferences. Requires the Governor, when submitting tax preference requests to the legislature, to offset the cost of any preferences by reductions or eliminations of existing preferences. Requires the department of revenue to provide the tax exemption report every two years rather than every four years.

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