

SENATE BILL REPORT

SB 5569

As Reported by Senate Committee On:
Ways & Means, February 24, 2009

Title: An act relating to improving the administration of state and local tax programs without impacting tax collections by providing greater consistency in numerous tax incentive programs, revising provisions relating to the confidentiality and disclosure of tax information, and amending statutes to improve clarity and consistency, eliminate obsolete provisions, and simplify administration.

Brief Description: Concerning the administration of state and local tax programs.

Sponsors: Senators Hobbs and Kastama; by request of Department of Revenue.

Brief History:

Committee Activity: Ways & Means: 2/19/09, 2/24/09 [DPS].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5569 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Fairley, Hewitt, Hobbs, Honeyford, Keiser, Kohl-Welles, McDermott, Murray, Oemig, Parlette, Pridemore, Rockefeller and Schoesler.

Staff: Dianne Criswell (786-7433)

Background: Accountability Reports and Surveys. Businesses claiming certain tax incentives must provide data on annual accountability reports or surveys filed with the Department of Revenue (DOR). In general, accountability reports and surveys require information about employment and economic activities related to the tax incentives. While there are many similarities between the surveys and reports, there are also inconsistencies, including differences in the information reported, penalties for failure to file, due dates, filing extensions, filing requirements, and the entities which report back to the Legislature on the specific tax incentive program.

Confidential Taxpayer Information. The Secrecy Clause, RCW 82.32.330, is the law that prohibits DOR employees from disclosing excise tax returns or tax information about

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specific taxpayers to unauthorized persons. This law defines the circumstances under which documents may be disclosed and to whom. All tax information is confidential and may not be disclosed to the public without the taxpayer's permission or other statutory authorization.

Property Tax. All real and personal property in Washington State is subject to property tax, unless a specific exemption is provided by law. In general, the property tax is administered on a local level by county assessors, who assess property for tax purposes, and county treasurers, who are responsible for collection of the property tax. However, DOR is responsible for the general supervision and control over the administration of property tax.

Technical Corrections and Clarifications. Legislation frequently includes statutory references to link new laws or amendments to existing definitions or related statutory provisions. If changes are subsequently made to these statutes, the references may become incorrect. Also when statutes include provisions tied to expiration dates, they may later become obsolete for purposes of any statutory references. Agencies which administer statutes with incorrect or obsolete references often suggest statutory revisions for the purpose of increasing clarity or improving administration.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Substitute): Part I: Providing Uniformity in Tax Incentive Accountability Provisions.

- create a uniform annual survey and annual report, which recipients of certain tax incentives must file with DOR on an annual basis;
- amend various tax incentive statutes that require recipients to file a uniform annual survey or a uniform annual report, as the case may be; and
- eliminate references to all of the existing annual report and annual survey statutes, which are repealed and replaced with the uniform annual report and annual survey.

Part II: Confidentiality.

- allows cities to make taxpayer information for municipal business and occupation (B&O) taxes confidential;
- adds the estate tax to the list of confidential tax returns;
- authorizes DOR to disclose tax information in a contractor bond action;
- removes the \$5,000 threshold for when DOR can disclose names of taxpayers with unpaid tax warrants;
- authorizes DOR to disclose tax information to the federal Alcohol and Tobacco Tax and Trade Bureau of the U.S. Department of the Treasury;
- limits the real estate excise tax (REET) information DOR can disclose to filed REET affidavits;
- authorizes disclosing tax information to a person whom DOR has asserted liability against under the estate tax; and
- authorizes DOR to disclose return or tax information to the Streamlined Sales Tax Governing Board for official board purposes.

Part III: Clarifications and Technical Corrections.

- clarify that the motor vehicle fuel tax and the special fuel tax do not preempt other state taxes, such as the B&O tax, on the business of manufacturing, selling, or distributing motor vehicle fuel;
- expand the B&O tax exemption for fundraising sales to include public libraries;
- clarify that vending-machine sales of soft drinks and dietary supplements are taxed on 100 percent of the gross sales;
- stipulate that sellers are not required to collect use tax from purchasers on sales that are exempt from sales tax but not use tax;
- change the responsibility to administer any local fuel taxes from the Department of Licensing to DOR; and
- eliminate tangible personal property from the estate tax deduction for property used for farming.

Part IV: Property Tax.

- allows DOR to convert informal appeals before the State Board of Tax Appeals to formal appeals;
- allows the transfer of property to a surviving domestic partner without triggering the higher farm income thresholds in the farm and agricultural current use program;
- defines child day care center for property tax exemptions;
- extends the property tax exemption for property leased to a county hospital;
- eliminates duplicate audits by the Joint Legislative Audit and Review Committee and makes the reporting consistent with the review of tax preferences schedule for the low income property tax deferral program;
- eliminates the requirement for county assessors to furnish the State Auditor with an abstract of the tax rolls;
- removes the requirement that the county legislative authority levy taxes “at its October session,” making it consistent with another law that states counties have until November 30 to certify their levy to the county assessor;
- repeals language that adjusts the 1 percent limit calculation for a now unused tax increment financing law; and
- conforms the law to the 2007 change that eliminated the February 15 date and allows property taxes to be paid as soon as the county treasurer has completed the tax roll for the current year's collection.

Part V: Miscellaneous.

- contains miscellaneous provisions such as a severability clause, application date clauses, effective and expiration dates, and codification directions.

Technical Corrections in Parts I-V. In addition to these changes, technical corrections are made to various provisions related to excise, estate, and property tax laws. These changes include:

- correcting drafting errors, structural problems such as RCW strings that are not in numeric order, inaccurate references to terms that have been changed, and inaccurate cross-references;
- adding or modifying language to clarify statutory provisions; and
- repealing several obsolete provisions of code.

Appropriation: None.

Fiscal Note: A partial fiscal note is available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The bill provides uniform accountability data requirements by creating two new sections, while repealing or amending the 17 statutes that currently impose the accountability data requirements. Also, the bill updates and clarifies taxpayer confidentiality provisions. It allows DOR to seek formal property tax appeals when the agency is a party to the appeal. Further, it makes necessary technical corrections and other clarifications.

Persons Testifying: PRO: Senator Hobbs, prime sponsor; Drew Shirk, Mark Mullin, DOR.