

SHB 2762 - H AMD 1336

By Representative Orcutt

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 82.32 RCW  
4 to read as follows:

5 (1) Unless otherwise provided by statute, any tax preference that  
6 is passed by the legislature after the effective date of this section:

7 (a) Requires the beneficiaries of the tax preference to file a  
8 complete annual survey with the department under RCW 82.32.585 if the  
9 beneficiary is a business required to be registered with the  
10 department;

11 (b)(i) Except as otherwise provided in this subsection, expires on  
12 the date that is ten years after the date the tax preference became  
13 effective. However, if the date that is ten years after the date the  
14 tax preference became effective is not the first day of a fiscal year,  
15 the tax preference expires on the first day of the next fiscal year.

16 (ii) If a tax preference is a property tax exemption and the date  
17 that is ten years after the date the exemption became effective is not  
18 the first day of a calendar year, the exemption expires on the first  
19 day of the next calendar year; and

20 (c) Requires a statement of legislative intent describing the  
21 context making the tax preference necessary and providing clear and  
22 measurable public policy objectives.

23 (2) For purposes of subsection (1) of this section:

24 (a) Except as provided in this subsection (2)(a), the beneficiary  
25 of a tax preference is the taxpayer entitled to claim the tax  
26 preference. However, when the ability of a taxpayer to claim a tax  
27 preference is conditioned in this title on the taxpayer passing the  
28 economic benefit of that tax preference to someone else, the individual  
29 or entity receiving the economic benefit of the tax preference is the  
30 beneficiary of the tax preference, not the taxpayer.

1 (b) "Tax preference that is passed by the legislature" does not  
2 include the continuation or expansion of any tax preference originally  
3 enacted by the legislature on or before the effective date of this  
4 section. For purposes of this subsection (2)(b):

5 (i) "Continuation" means that the legislature has taken affirmative  
6 action to eliminate or extend an expiration date or otherwise extend  
7 the effective period for claiming a tax preference; and

8 (ii) "Expansion" means that the legislature has made a change to a  
9 tax preference that either increases the number of persons eligible for  
10 the tax preference or reduces state tax revenue or the amount of  
11 taxable property on the property tax rolls, even if fewer taxpayers  
12 will be eligible to claim the tax preference. For purposes of this  
13 subsection (2)(b)(ii), the department is responsible for determining  
14 whether a change to a tax preference constitutes an expansion and is  
15 based on the department's estimate of the impact of the change as  
16 reflected in the department's final fiscal note for the legislation  
17 that changed the tax preference or in the department's workpapers for  
18 such fiscal note. However, if the department did not prepare a fiscal  
19 note for the legislation that changed the tax preference or the  
20 department is unable to determine from the fiscal note whether the  
21 change constitutes an expansion of the tax preference, the department  
22 must perform an estimate of the impact of the change within ninety days  
23 following the effective date of the change to determine whether the  
24 change constitutes an expansion of the tax preference.

25 (3) For purposes of this section, the following definitions apply:

26 (a) "Fiscal year" means the year beginning July 1st and ending the  
27 following June 30th.

28 (b) "Tax preference" means the following tax benefits for any state  
29 tax administered by the department, including property taxes levied by  
30 the state: Exemptions, including exemptions in the form of a  
31 remittance or refund of tax paid; deductions; credits; deferrals; or  
32 reduced tax rates.

33 **Sec. 2.** RCW 82.32.585 and 2011 c 23 s 6 are each amended to read  
34 as follows:

35 (1)(a) Unless the department extends the due date as provided in  
36 RCW 82.32.590, every person claiming a tax preference that requires a

1 survey under this section must file a complete annual survey with the  
2 department by the due date as provided in (b) of this subsection.

3 (b)(i) Except as provided in ((+a)) (b)(ii) of this subsection,  
4 the survey is due by April 30th of the year following any calendar year  
5 in which a person becomes eligible to claim the tax preference that  
6 requires a survey under this section. If a person remains eligible to  
7 claim a tax preference in subsequent calendar years, the person must  
8 file additional surveys by April 30th of each year following each  
9 calendar year that the person remains eligible to claim the tax  
10 preference.

11 (ii) If the tax preference is a deferral of tax, the first survey  
12 must be filed by April 30th of the calendar year following the calendar  
13 year in which the investment project is certified by the department as  
14 operationally complete, and a survey must be filed by April 30th of  
15 each of the seven succeeding calendar years.

16 ~~((b) The department may extend the due date for timely filing of~~  
17 ~~annual surveys under this section as provided in RCW 82.32.590.))~~

18 (2)((+a)) The survey must include information as required in this  
19 subsection for the calendar year preceding the calendar year in which  
20 the survey is due.

21 (a)(i) The amount of the tax preference claimed ((for the calendar  
22 year covered by)) must be reported on the survey.

23 (ii) For a person that claimed an exemption provided in RCW  
24 82.08.025651 or 82.12.025651, the survey must include the amount of tax  
25 exempted under those sections in the prior calendar year for each  
26 general area or category of research and development for which exempt  
27 machinery and equipment and labor and services were acquired in the  
28 prior calendar year.

29 (b) The survey must also include the following information for  
30 employment positions in Washington, not to include names of  
31 employees(~~, for the year that the tax preference was claimed~~):

32 (i) The number of total employment positions;

33 (ii) Full-time, part-time, and temporary employment positions as a  
34 percent of total employment;

35 (iii) The number of employment positions according to the following  
36 wage bands: Less than thirty thousand dollars; thirty thousand dollars  
37 or greater, but less than sixty thousand dollars; and sixty thousand

1 dollars or greater. A wage band containing fewer than three  
2 individuals may be combined with another wage band; and

3 (iv) The number of employment positions that have employer-provided  
4 medical, dental, and retirement benefits, by each of the wage bands.

5 (c) For persons claiming the tax preference provided under chapter  
6 82.60 or 82.63 RCW, the survey must also include the number of new  
7 products or research projects by general classification, and the number  
8 of trademarks, patents, and copyrights associated with activities at  
9 the investment project.

10 (d) For persons claiming the credit provided under RCW 82.04.4452,  
11 the survey must also include the qualified research and development  
12 expenditures (~~during the calendar year for which the credit was~~  
13 ~~claimed~~), the taxable amount (~~during the calendar year for which the~~  
14 ~~credit was claimed~~), the number of new products or research projects  
15 by general classification, the number of trademarks, patents, and  
16 copyrights associated with the research and development activities for  
17 which the credit was claimed, and whether the tax preference has been  
18 assigned, and who assigned the credit. The definitions in RCW  
19 82.04.4452 apply to this subsection (2)(d).

20 (e) For persons claiming the tax exemption in RCW 82.08.025651 or  
21 82.12.025651, the survey must also include the general areas or  
22 categories of research and development for which machinery and  
23 equipment and labor and services were acquired, exempt from tax under  
24 RCW 82.08.025651 or 82.12.025651(~~, in the prior calendar year~~).

25 (f) If the person filing a survey under this section did not file  
26 a survey under this section with the department in the previous  
27 calendar year, the survey filed under this section must also include  
28 the employment, wage, and benefit information required under (b)(i)  
29 through (iv) of this subsection for the calendar year immediately  
30 preceding the calendar year for which a tax preference was claimed.

31 (3) As part of the annual survey, the department may request  
32 additional information necessary to measure the results of, or  
33 determine eligibility for, the tax preference.

34 (4)(a) All information collected under this section, except the  
35 information required in subsection (2)(a) of this section, is deemed  
36 taxpayer information under RCW 82.32.330. Information required in  
37 subsection (2)(a) of this section is not subject to the confidentiality

1 provisions of RCW 82.32.330 and may be disclosed to the public upon  
2 request, except as provided in subsection (5) of this section.

3 (b) If the amount of the tax preference claimed as reported on the  
4 survey is different than the amount actually claimed or otherwise  
5 allowed by the department based on the taxpayer's excise tax returns or  
6 other information known to the department, the amount actually claimed  
7 or allowed may be disclosed.

8 (5) Persons for whom the actual amount of the tax reduced or saved  
9 is less than ten thousand dollars during the period covered by the  
10 survey (~~((may request the department to treat the amount of the tax  
11 reduction or savings as confidential under RCW 82.32.330))~~) are not  
12 required to file an annual survey for the period.

13 (6)(a) Except as otherwise provided by law, if a person claims a  
14 tax preference that requires an annual survey under this section but  
15 fails to submit a complete annual survey by the due date of the survey  
16 or any extension under RCW 82.32.590, the department must declare the  
17 amount of the tax preference claimed for the previous calendar year to  
18 be immediately due. If the tax preference is a deferral of tax, twelve  
19 and one-half percent of the deferred tax is immediately due. If the  
20 economic benefits of the deferral are passed to a lessee, the lessee is  
21 responsible for payment to the extent the lessee has received the  
22 economic benefit.

23 (b) The department must assess interest, but not penalties, on the  
24 amounts due under this subsection. The interest must be assessed at  
25 the rate provided for delinquent taxes under this chapter,  
26 retroactively to the date the tax preference was claimed, and accrues  
27 until the taxes for which the tax preference was claimed are repaid.  
28 Amounts due under this subsection are not subject to the  
29 confidentiality provisions of RCW 82.32.330 and may be disclosed to the  
30 public upon request.

31 (7) The department must use the information from this section to  
32 prepare summary descriptive statistics by category. No fewer than  
33 three taxpayers may be included in any category. The department must  
34 report (~~((these))~~) summary descriptive statistics to the legislature each  
35 year by (~~((October))~~) December 1st.

36 (8) For the purposes of this section:

37 (a) "Person" has the meaning provided in RCW 82.04.030 and also  
38 includes the state and its departments and institutions.

1 (b) "Tax preference" has the meaning provided in RCW 43.136.021 and  
2 includes only the tax preferences requiring a survey under this  
3 section.

4 NEW SECTION. **Sec. 3.** RCW 82.32.534 (Annual report requirement for  
5 tax preferences) and 2010 c 114 s 103 are each repealed.

6 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.32 RCW  
7 to read as follows:

8 For the purposes of this title and Title 84 RCW, "annual report"  
9 means the annual survey required under RCW 82.32.585."

10 Correct the title.

EFFECT: Strikes the bill except for the provisions:  
Consolidating the annual accountability reports, exempting taxpayers  
claiming taxpayer savings of less than \$10,000 from the annual survey  
requirement, and requiring a statement of legislative intent for all  
new tax preferences. Requires taxpayers to file an annual survey for  
all new tax preferences. Expires all new tax preferences ten years  
after enactment.

--- END ---