

HOUSE BILL REPORT

HB 2080

As Reported by House Committee On: Ways & Means

Title: An act relating to modifying tax refund and interest provisions.

Brief Description: Modifying tax refund and interest provisions.

Sponsors: Representatives Hasegawa and Moscoso.

Brief History:

Committee Activity:

Ways & Means: 5/5/11, 5/20/11 [DPS].

Brief Summary of Substitute Bill

- Increases the interest rate on tax deficiencies and refunds from the federal short-term rate plus 2 percent to the prime rate plus 3 percent.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Carlyle, Cody, Dickerson, Haigh, Hudgins, Hunt, Kagi, Kenney, Ormsby, Seaquist, Springer and Sullivan.

Minority Report: Do not pass. Signed by 10 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Chandler, Haler, Parker, Ross, Schmick and Wilcox.

Staff: Rick Peterson (786-7150).

Background:

The Department of Revenue is authorized to audit taxpayer records and make assessments if the taxpayer has failed to pay the entire amount of his or her tax obligation. The audit may cover the current year plus the past four calendar years. Interest charges are applied to any

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assessments of unpaid taxes. Penalties also apply as follows: 5 percent if taxes are not paid by the original due date; 15 percent if over one month late; and 25 percent if over two months late. Interest is not added to the amount of penalties assessed.

A taxpayer who pays taxes in excess of the amount due is entitled to a refund of the overpayment and interest on the amount of the overpayment. The interest rate is the same rate as charged on assessments. Refunds may be requested for the same period as the audit period.

The interest rate is the annualized average of the federal short-term rate plus two percentage points. This rate is calculated by taking an average of the federal short-term rate for the months of January, April, and July of the immediate preceding calendar year and October of the prior year. The rate for calendar year 2011 is 3 percent. The rate of interest is expected to be 3 percent for 2012 and 2013.

Summary of Substitute Bill:

The interest rate on excise tax deficiencies and refunds is increased to the prime rate published in the Federal Reserve Board's H.15 report. The interest rate change starts with interest imposed after December 31, 2011.

Substitute Bill Compared to Original Bill:

The substitute bill eliminates the provision that reduces the period for which tax refunds may be requested from four years to three years. The substitute bill makes the interest rate for tax deficiencies and refunds the same. The substitute bill reduces the interest rate to the prime rate plus 3 percent rather than the 24-month personal credit rate.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) None.

(Opposed) Retailers are struggling to survive in this recession. Retailers have reduced operating costs. Retail sales are down this year according to the Department of Revenue. This bill will further injure distressed retailers by adding higher interest rates for unpaid taxes and, at the same time, shortening the time in which they can receive a refund if they had made an overpayment. We encourage you to use the revenue from the tax amnesty program

to fund necessary state programs rather than passing this bill. This is a bad idea done only for money. It represents taxpayer unfairness. Washington previously had provisions like this that were changed under taxpayer fairness bills. Washington's excise taxes interrelate over a number of years. This bill will cause problems for taxpayers because of the difference in interest rates and time periods. In audit, if a taxpayer has paid tax a year early they will receive a refund but with interest at a lower rate than the interest charged on the underpayment for the following year. The taxpayer ends up paying an interest penalty for paying their tax early. Also, if this happened in the first year of a four-year audit, under this bill, the taxpayer would not receive a credit for paying the tax early and would not only owe extra interest charges but the tax as well. This bill does not work the way it was set up. You cannot change a system that was set up to have equal interest rates and time periods without causing problems. This is an administrative nightmare for those who work in the excise tax area. When the Department of Revenue does audit, they usually take a sample. In that sample there are underpayments and overpayments. It is not clear how this will be calculated out. This is basically an increase in revenue and probably violates Initiative 1053. With historically low interest rates, the state is picking up 11 percent interest and if it goes much higher, it will exceed the usury 12 percent rate cap in Washington.

Persons Testifying: Mark Johnson, Washington Retail Association; and Ron Bueing and Mike Bernard, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.