
Ways & Means Committee

HB 2531

Brief Description: Requiring a rate of return analysis for state tax preferences.

Sponsors: Representatives Carlyle, Kelley, Anderson, Morris, Pedersen, Jinkins, Darneille and Pollet.

Brief Summary of Bill

- Adds the rate of return of the tax preference to the list of factors for Joint Legislative Audit and Review Committee consideration when evaluating tax preferences.

Hearing Date: 2/1/12

Staff: Rick Peterson (786-7150).

Background:

State law requires a periodic review of most excise and property tax preferences to determine if their continued existence or modification serves the public interest. The enabling legislation assigns specific roles in the review process to two different entities. The job of scheduling tax preferences, holding public hearings, and commenting on the reviews is assigned to the Citizen Commission for Performance Measurement of Tax Preferences (Commission). The responsibility for conducting the reviews is assigned to the staff of the Joint Legislative Audit and Review Committee (JLARC).

The Commission develops a schedule to accomplish a review of tax preferences at least once every 10 years. The Commission is authorized to omit certain tax preferences from the schedule such as those required by constitutional law, the sales and use tax exemptions for machinery and equipment and food, the small business credit for the business and occupation tax, the property tax relief program for retired persons, and tax preferences that the Commission determines are a critical part of the tax structure. Tax preferences that have a statutory expiration date are scheduled for review before the preference expires.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Each year, the JLARC prepares a final report containing its recommendations as to whether tax preferences reviewed that year should be continued without modification, modified, or terminated. Through 2011, 120 tax preferences have been reviewed.

When reviewing tax preferences, the JLARC must consider the following factors, if relevant, to each particular tax preference:

- the classes of individuals, types of organizations, or types of industries whose state tax liabilities are directly affected by the tax preference;
- the public policy objectives that might provide a justification for the tax preference including, but not limited to, legislative history, legislative intent, or the extent to which the tax preference encourages business growth or relocation into this state, promotes growth or retention of high wage jobs, or helps stabilize communities;
- evidence that the existence of the tax preference has contributed to the achievement of any of its public policy objectives;
- the extent to which continuation of the tax preference might contribute to any of the public policy objectives;
- the extent to which the tax preference may provide unintended benefits to an individual, organization, or industry other than those the Legislature intended;
- the extent to which terminating the tax preference may have negative effects on the category of taxpayers that currently benefit from the tax preference, and the extent to which resulting higher taxes may have negative effects on employment and the economy;
- the feasibility of modifying the tax preference to provide for adjustment or recapture of the tax benefits of the tax preference if the objectives are not fulfilled;
- the fiscal impacts of the tax preference, including past impacts and expected future impacts if it is continued. The fiscal impact includes an analysis of the general effects of the tax preference on the state economy including the effects on the consumption and expenditures of persons or businesses;
- the extent to which termination would affect the distribution of the liability for payment of state taxes;
- the economic impact of the tax preference compared to the economic impact of government activities funded at the same level of expenditure as the tax preference; and
- consideration of similar tax preferences adopted in other states.

As an alternative, the Commission is authorized to recommend an expedited review process for any tax preference that has an estimated biennial fiscal impact of \$10 million or less. Generally, an expedited review process is limited to the identification of public policy objectives of the tax preference and its primary beneficiaries as well as revenue impacts.

Summary of Bill:

The rate of return of a tax preference is added to the list of factors for JLARC consideration when evaluating tax preferences. The rate of return is the ratio of the amount of state taxes that are paid as a result of the tax preference to the amount of state tax savings claimed by taxpayers. Local taxes may be included in the analysis if the tax preference reduces local taxes. The rate of return may be considered only for exemptions where the purpose of the tax expenditure is job creation or retention. The rate of return analysis begins with tax preference reviews starting in 2013.

Appropriation: None.

Fiscal Note: Requested on January 30, 2012.

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