Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Ways & Means Committee

SB 5044

Brief Description: Concerning the tax preference review process.

Sponsors: Senators Rockefeller, Zarelli and Regala.

Brief Summary of Bill

- Replaces the mandatory requirement to schedule tax preferences according to the date of enactment with a more flexible approach.
- Eliminates the $10 million threshold for the Citizen Commission for Performance Measurement of Tax Preferences to recommend an expedited review of a tax preference.
- Provides the Joint Legislative Audit Review with flexibility in determining which factors to evaluate for a particular tax preference.

Hearing Date:

Staff: Jeffrey Mitchell (786-7139).

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. A "tax preference" is a tax exemption, deduction, credit, or preferential tax rate. 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 B&O tax credit, the property tax relief program for retired persons, and tax preferences that the Commission

---

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.

determines are a critical part of the tax structure. The Commission considers two additional factors in developing its schedule. First, as a general matter, the Commission must schedule tax preferences for review in the order in which the preferences were enacted into law. Second, the Commission must schedule tax preferences that have a statutory expiration date before the preference expires. Through 2010, 95 tax preferences have been reviewed.

When reviewing tax preferences, the JLARC is required to consider the following factors:
- 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; and
- the fiscal impacts of the tax preference, including past impacts and expected future impacts if it is continued.

After evaluating these factors, the JLARC provides a recommendation as to whether the tax preference should be continued without modification, modified, scheduled for sunset review at a future date, or terminated immediately.

As an alternative to the process described above, the Commission is authorized to recommend an expedited review process for any tax preference that has an estimated biennial fiscal impact of $10 million dollars 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 mandatory requirement that the Citizen Commission for Performance Measurement of Tax Preferences (Commission) schedule tax preferences in the order tax preferences are enacted into law is replaced with a more flexible approach. The modified approach allows the JLARC to consider the date of enactment as one factor. However, the JLARC is allowed to consider other factors including, but not limited to, grouping preferences for review by type of industry, economic sector, or policy area in determining the schedule.

The requirement that an expedited a review can only be applied to preferences with a biennial fiscal impact of $10 million or less is eliminated. The Commission is authorized to recommend an expedited review for any tax preference.
In evaluating tax preferences, the JLARC may determine which factors should be included in the review of a particular preference based on the factor's relevance to that preference.

Appropriation: None.

Fiscal Note: Available for House companion bill, HB 1286.

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