HOUSE BILL 2753

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State of Washington   **62nd Legislature**   **2012 Regular Session**

By Representatives Orcutt and McCune

Read first time 01/31/12. Referred to Committee on Ways & Means.

1   AN ACT Relating to strengthening the review process for tax
2 incentives; amending RCW 43.136.055; adding a new section to chapter
3 43.135 RCW; adding a new section to chapter 82.04 RCW; adding a new
4 section to chapter 82.08 RCW; adding a new section to chapter 82.12
5 RCW; adding a new section to chapter 84.36 RCW; adding a new section to
6 chapter 83.100 RCW; and providing an effective date.

7   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8   NEW SECTION. **Sec. 1.** A new section is added to chapter 43.135 RCW
9 to read as follows:
10   (1) For any bill enacted by the legislature that creates a new tax
11 preference or expands or extends an existing tax preference, the bill
12 must include legislative intent provisions, establishing the policy
13 goals and any related metrics that might provide context and/or data
14 for purposes of reviewing the tax preference under chapter 43.136 RCW.
15   (2) Any bill that is enacted without the legislative intent
16 provisions required by subsection (1) of this section must be reviewed
17 under chapter 43.136 RCW within five years of its enactment unless the
18 bill contains an expiration date specified in the enacting legislation

1 that is sooner than the five year review provided for in this
2 subsection.
3   (3) For the purposes of this section, "tax preference" has the same
4 meaning as in RCW 43.136.021.

5   NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW
6 to read as follows:
7   (1) Except as provided in subsection (2) of this section, any tax
8 preference, as defined in RCW 43.136.021, that takes effect on or after
9 July 1, 2012, expires on the June 30th that is the tenth June 30th
10 subsequent to the effective date of the tax preference.
11   (2) Subsection (1) of this section does not apply to any tax
12 preference:
13   (a) Enacted with a separate expiration date; or
14   (b) Specifically exempted from the requirements of (a) of this
15 subsection.

16   NEW SECTION. **Sec. 3.** A new section is added to chapter 82.08 RCW
17 to read as follows:
18   (1) Except as provided in subsection (2) of this section, any tax
19 preference, as defined in RCW 43.136.021, that takes effect on or after
20 July 1, 2012, expires on the June 30th that is the tenth June 30th
21 subsequent to the effective date of the tax preference.
22   (2) Subsection (1) of this section does not apply to any tax
23 preference:
24   (a) Enacted with a separate expiration date; or
25   (b) Specifically exempted from the requirements of (a) of this
26 subsection.

27   NEW SECTION. **Sec. 4.** A new section is added to chapter 82.12 RCW
28 to read as follows:
29   (1) Except as provided in subsection (2) of this section, any tax
30 preference, as defined in RCW 43.136.021, that takes effect on or after
31 July 1, 2012, expires on the June 30th that is the tenth June 30th
32 subsequent to the effective date of the tax preference.
33   (2) Subsection (1) of this section does not apply to any tax
34 preference:
35   (a) Enacted with a separate expiration date; or

1   (b) Specifically exempted from the requirements of (a) of this
2 subsection.

3   NEW SECTION. **Sec. 5.** A new section is added to chapter 84.36 RCW
4 to read as follows:
5   (1) Except as provided in subsection (2) of this section, any tax
6 preference, as defined in RCW 43.136.021, that takes effect on or after
7 July 1, 2012, expires on the June 30th that is the tenth June 30th
8 subsequent to the effective date of the tax preference.
9   (2) Subsection (1) of this section does not apply to any tax
10 preference:
11   (a) Enacted with a separate expiration date; or
12   (b) Specifically exempted from the requirements of (a) of this
13 subsection.

14   NEW SECTION. **Sec. 6.** A new section is added to chapter 83.100 RCW
15 to read as follows:
16   (1) Except as provided in subsection (2) of this section, any tax
17 preference, as defined in RCW 43.136.021, that takes effect on or after
18 July 1, 2012, expires on the June 30th that is the tenth June 30th
19 subsequent to the effective date of the tax preference.
20   (2) Subsection (1) of this section does not apply to any tax
21 preference:
22   (a) Enacted with a separate expiration date; or
23   (b) Specifically exempted from the requirements of (a) of this
24 subsection.

25   **Sec. 7.** RCW 43.136.055 and 2011 c 335 s 3 are each amended to read
26 as follows:
27   (1) The joint legislative audit and review committee must review
28 tax preferences according to the schedule developed under RCW
29 43.136.045. The committee must consider, but not be limited to, the
30 following factors in the review as relevant to each particular tax
31 preference:
32   (a) The classes of individuals, types of organizations, or types of
33 industries whose state tax liabilities are directly affected by the tax
34 preference;

1   (b) Public policy objectives that might provide a justification for
2 the tax preference, including but not limited to the legislative
3 history, any legislative intent, or the extent to which the tax
4 preference encourages business growth or relocation into this state,
5 promotes growth or retention of high wage jobs, or helps stabilize
6 communities. However, when reviewing a tax preference with a specific
7 expiration date, the committee may not conclude that the legislative
8 intent was for the tax preference to be temporary in nature unless the
9 legislative history or legislative intent expressly provides that it is
10 temporary;
11   (c) Evidence that the existence of the tax preference has
12 contributed to the achievement of any of the public policy objectives;
13   (d) The extent to which continuation of the tax preference might
14 contribute to any of the public policy objectives;
15   (e) The extent to which the tax preference may provide unintended
16 benefits to an individual, organization, or industry other than those
17 the legislature intended;
18   (f) The extent to which terminating the tax preference may have
19 negative effects on the category of taxpayers that currently benefit
20 from the tax preference, and the extent to which resulting higher taxes
21 may have negative effects on employment and the economy;
22   (g) The feasibility of modifying the tax preference to provide for
23 adjustment or recapture of the tax benefits of the tax preference if
24 the objectives are not fulfilled;
25   (h) Fiscal impacts of the tax preference, including past impacts
26 and expected future impacts if it is continued. For the purposes of
27 this subsection, "fiscal impact" includes an analysis of the general
28 effects of the tax preference on the overall state economy, including,
29 but not limited to, the effects of the tax preference on the
30 consumption and expenditures of persons and businesses within the
31 state;
32   (i) The extent to which termination of the tax preference would
33 affect the distribution of liability for payment of state taxes;
34   (j) The economic impact of the tax preference compared to the
35 economic impact of government activities funded by the tax for which
36 the tax preference is taken at the same level of expenditure as the tax
37 preference. For purposes of this subsection the economic impact shall

1 be determined using the Washington input-output model as published by
 2 the office of financial management;
 3   (k) Consideration of similar tax preferences adopted in other
 4 states, and potential public policy benefits that might be gained by
 5 incorporating corresponding provisions in Washington.
 6   (2) For each tax preference, the committee must provide a
 7 recommendation as to whether the tax preference should be continued
 8 without modification, modified, scheduled for sunset review at a future
 9 date, or terminated immediately. The committee may recommend
10 accountability standards for the future review of a tax preference.

11   NEW SECTION. **Sec. 8.** This act takes effect July 1, 2012.

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