SENATE BILL REPORT
SB 5843

As of February 27, 2013

Title: An act relating to strengthening the review of the legislature's goals for tax preferences by requiring that every new tax preference provide an expiration date and statement of legislative intent.

Brief Description: Strengthening the review of the legislature's goals for tax preferences by requiring that every new tax preference provide an expiration date and statement of legislative intent.

Sponsors: Senators Tom, Billig, Hill, Hobbs, Murray, Darneille, Kohl-Welles, Conway and Frockt.

Brief History:
Committee Activity: Ways & Means: 2/27/13.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Juliana Roe (786-7438)

Background: Washington State derives most of its revenue from various excise taxes and the state property tax. The major excise taxes are the state sales and use tax and the business and occupation (B&O) tax. Washington law also provides numerous reductions in these various taxes through tax exemptions, deductions, credits, deferrals, and preferential tax rates. Collectively, these tax reductions are referred to as tax preferences.

State law requires a periodic review of most excise and property tax preferences to determine if their continued existence or modification services the public interest. The enabling legislation assigns specific roles in the review process to two different entities. The job of scheduling the review of 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 ten 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, equipment, and food; the small business credit for the B&O tax; the property tax

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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. When reviewing tax preferences, JLARC considers a number of factors including the following: the public policy objectives of the exemption; whether terminating the tax preference may have negative effects on the category of taxpayers that currently benefit from the tax preference; the extent to which resulting higher taxes may have negative effects on employment and the economy; and 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.

Each year JLARC prepares a final report containing its recommendations as to whether the tax preferences review that year should be continued without modification, modified, or terminated. The fiscal committees of the Legislature must jointly hold a public hearing to consider the final report.

Summary of Bill: For any bill enacting a new tax preference or expanding or extending an existing tax preference, the enacted bill must include legislative intent provisions that establish policy goals and related metrics that provide context or data for the tax preference review process by JLARC. A bill enacted without the legislative intent provisions does not take effect. JLARC must provide written notice of a bill's failure to meet the requirements to the Department of Revenue (DOR). DOR must then provide written notice that such bill did not take effect to the affected parties, the Chief Clerk of the House of Representatives, the Secretary of the Senate, the Office of the Code Reviser, and others as deemed appropriate.

Tax preferences taking effect on or after July 1, 2013, must include a specific expiration date. Tax preferences without a specified date expire five years after taking effect.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2013.

Staff Summary of Public Testimony: PRO: This bill will provide more state accountability and transparency. It will provide a consistent message regarding taxes and tax preferences. So many of the JLARC reports provide that because no intent section was included in the legislation, it cannot determine whether the bill is meeting the Legislature's objectives. This bill will help provide better reports and require that more tax preferences get reviewed. Tax breaks amount to state spending. The state should prove that the tax breaks work.

OTHER: This is a good bill that could benefit from some clarification. The intent sections in many bills are vetoed by the Governor's office. That is an issue to consider. There are other improvements that can be made, including but not limited to setting forth what type of information should be included in an intent section such as its purpose, measurement, and reporting requirements.

Persons Testifying: PRO: Senator Tom, prime sponsor; Andy Nicholas, WA Budget & Policy Center; Jennifer Estroff, Children's Alliance; Nick Federici, Our Economic Future Coalition; Mark Johnson, WA Retail Assn.

OTHER: Amber Carter, Assn. of WA Business.