

HB 2120 - H AMD 543

By Representative Nealey

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) This section is the tax preference
4 performance statement for the tax preference provided in section 2 of
5 this act. The performance statement is only intended to be used for
6 subsequent evaluation of the tax preference. It is not intended to
7 create a private right of action by any party or be used to determine
8 eligibility for preferential tax treatment.

9 (2) The legislature categorizes this tax preference as one
10 intended to reduce structural inefficiencies in the state tax
11 structure, as indicated in RCW 82.32.808(2)(d).

12 (3) It is the legislature's specific public policy objective to
13 reduce the leasehold excise tax for certain taxpayers where the
14 amount of leasehold excise tax exceeds what would be owed in property
15 taxes if the property was owned by the taxpayer.

16 (4) To measure the effectiveness of the tax preference provided
17 in section 2 of this act in achieving the specific public policy
18 objective described in subsection (3) of this section, the joint
19 legislative audit and review committee must determine the amount of
20 leasehold excise tax paid by taxpayers claiming the credit under
21 section 2 of this act in comparison with the amount of leasehold
22 excise taxes or property taxes paid by a sample of taxpayers
23 occupying property geographically proximate to taxpayers claiming the
24 credit under section 2 of this act. The amount of leasehold excise
25 tax or property tax must be expressed in dollars per thousand dollars
26 of assessed value and any other way the joint legislative audit and
27 review committee deems necessary to clearly convey the data.

28 (5)(a) The information provided by taxpayers to the department of
29 revenue and publicly available property tax data is intended to
30 provide the informational basis for the evaluation under subsection
31 (4) of this section.

1 (b) In addition to the data source described under (a) of this
2 subsection, the joint legislative audit and review committee may use
3 any other data it deems necessary in performing the evaluation under
4 subsection (4) of this section.

5 (6) The amount of credit reported by a taxpayer to the department
6 is not confidential tax information under RCW 82.32.330 and is
7 disclosable.

8 **Sec. 2.** RCW 82.29A.120 and 2013 c 235 s 3 are each amended to
9 read as follows:

10 After computation of the taxes imposed pursuant to RCW 82.29A.030
11 and 82.29A.040, the following credits are allowed in determining the
12 tax payable:

13 (1) For lessees and sublessees who would qualify for a property
14 tax exemption under RCW 84.36.381 if the property were privately
15 owned, the tax otherwise due after this credit (~~(shall)~~) must be
16 reduced by a percentage equal to the percentage reduction in property
17 tax that would result from the property tax exemption under RCW
18 84.36.381; and

19 (2) A credit of thirty-three percent of the tax otherwise due is
20 allowed with respect to a product lease.

21 (3)(a) For a leasehold interest in real property owned by a state
22 university, a credit is allowed equal to the amount that the tax
23 under this chapter exceeds the property tax that would apply if the
24 real property were privately owned by the taxpayer.

25 (b) The credit under this section is available only if the tax
26 parcel that is subject to the leasehold interest has a market value
27 in excess of ten million dollars. If the leasehold interest attaches
28 to two or more parcels, the credit is available if at least one of
29 the tax parcels has a market value in excess of ten million dollars.
30 The market value must be determined as of January 1st of the year
31 prior to the year for which the credit is claimed and may be used for
32 the next two years unless a more recent appraisal or current assessed
33 value is available.

34 (c) For purposes of calculating the credit:

35 (i) If a tax parcel does not have current assessed value in
36 accordance with RCW 84.40.020, a market value appraisal performed by
37 a Washington state-certified general real estate appraiser, as
38 defined in RCW 18.140.010, is sufficient to establish the market
39 value. If the underlying real property that is the subject of the

1 leasehold interest consists of a part of one or more tax parcels,
2 this appraisal must include the market value of the part of the
3 parcel or parcels to which the leasehold interest applies.

4 (ii) The property tax that would otherwise apply to the real
5 property that is the subject of the leasehold interest is calculated
6 using the existing consolidated levy rate for the property's tax code
7 area.

8 (d) The definitions in this subsection apply throughout this
9 subsection (3) unless the context clearly requires otherwise.

10 (i) "Real property" has the same meaning as in RCW 84.04.090 and
11 also includes all improvements upon the land the fee of which is
12 still vested in the public owner.

13 (ii) "Market value" means the true and fair value of the property
14 as that term is used in RCW 84.40.030, based on the property's
15 highest and best use and determined by any reasonable means approved
16 by the department.

17 (iii) "State university" has the same meaning as "state
18 universities" as provided in RCW 28B.10.016.

19 NEW SECTION. Sec. 3. The credit provided under section 2 of
20 this act may not be claimed for tax reporting periods beginning on or
21 after September 20, 2020.

22 NEW SECTION. Sec. 4. This act takes effect October 1, 2015.

23 NEW SECTION. Sec. 5. This act expires October 1, 2020."

24 Correct the title.

EFFECT: Provides a tax preference performance statement. Expires
the leasehold excise tax credit after 5 years. Allows the market
value determination of property to be used for the current and
subsequent calendar years.

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