

HOUSE BILL REPORT

HB 2226

As Reported by House Committee On:
Technology & Economic Development

Title: An act relating to extending specific aerospace tax preferences to include spacecrafts to encourage the migration of good wage jobs in the state.

Brief Description: Extending specific aerospace tax preferences to include spacecrafts to encourage the migration of good wage jobs in the state.

Sponsors: Representative Morris.

Brief History:

Committee Activity:

Technology & Economic Development: 4/15/15, 1/26/16 [DPS].

Brief Summary of Substitute Bill

- Extends the existing aerospace industry preferential business and occupation tax rates and credits, and sales and use tax exemptions, to manufacturers of spacecraft and spacecraft components and to spacecraft product development, effective July 1, 2016, and expiring on July 1, 2025.
- Extends a preferential business and occupation tax rate of 0.2904 percent to persons engaging in satellite communications in the state, effective July 1, 2016, and expiring on July 1, 2025.
- Requires taxpayers claiming the tax preferences to file a tax preference annual report with the Department of Revenue.
- Establishes tax preference performance metrics to assist the Joint Legislative Audit and Review Committee with their review of the tax preferences.

HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Morris, Chair; Tarleton, Vice Chair; Smith, Ranking Minority Member; DeBolt, Assistant Ranking Minority Member; Fey, Hudgins, Magendanz, Nealey, Rossetti, Santos, Wylie and Young.

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.

Staff: Nikkole Hughes (786-7156).

Background:

Business and Occupation Tax.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay a B&O tax even though they may not have any profits or may be operating at a loss. A business may have more than one B&O tax rate, depending on the types of activities conducted. Major tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for services and activities not classified elsewhere. Several lower rates also apply to specific business activities.

Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes apply to the value of property, digital products, or service when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent and local sales and use tax rates vary from 0.5 percent to 3.1 percent, depending on the location.

Property Tax.

Property taxes are imposed by state and local governments. All real and personal property in this state is subject to property tax based on its value, unless a specific exemption is provided by law. Property owned by federal, state, or local governments is exempt from the property tax. However, private lessees of government property are subject to the leasehold excise tax. The purpose of the leasehold excise tax is to impose a tax burden on persons using publicly owned, tax-exempt property similar to the property tax that they would pay if they owned the property. The tax is collected by public entities that lease property to private parties.

Aerospace Tax Preferences.

Tax preferences are available for the engineering, manufacturing, and repairing of commercial airplanes as well as research and design pertaining to commercial airplanes and other aerospace products. "Commercial airplane" means an airplane certified by the Federal Aviation Administration (FAA) for transporting persons or property and any military derivative of such an airplane.

Examples of preferences available to the aerospace industry until July 1, 2040, include the following:

- a preferential B&O tax rate of 0.2904 percent for the manufacturing of commercial airplanes and components and the tooling used in manufacturing commercial airplanes and components;
- a preferential services and other activities B&O tax rate of 0.9 percent for aerospace product development;
- a B&O tax credit of 1.5 percent for aerospace product development expenditures;

- a B&O tax credit for property taxes and leasehold excise taxes on property used exclusively for manufacturing commercial airplanes or components, for the manufacturing of tooling, aerospace product development, or aerospace services provided by Federal Aviation Regulation (FAR) Part 145 certificated repair stations;
- a sales and use tax exemption for computer equipment and software, and its installation, used primarily in the development of aerospace products or for aerospace services provided by FAR Part 145 certificated repair stations; and
- a sales and use tax exemption for the construction of facilities used in the manufacturing of superefficient airplanes.

Tax Preference Performance Statement.

All new tax preference legislation must include a tax preference performance statement. Tax preferences include deductions, exemptions, preferential tax rates, and tax credits. The performance statement must clearly specify the public policy objectives of the tax preference, and the specific metrics and data that will be used by the Joint Legislative Audit and Review Committee (JLARC) to evaluate the efficacy of the tax preference.

Summary of Substitute Bill:

Business and Occupation Tax Preferences.

Certain aerospace tax preferences are extended to the spacecraft industry. Beginning July 1, 2016, eligible taxpayers may apply for:

- a preferential B&O tax rate of 0.2904 for the manufacturing of spacecraft or spacecraft components;
- a preferential services and other activities B&O tax rate of 0.9 percent for spacecraft product development for others;
- a preferential services and other activities B&O tax rate of 0.9 percent for space exploration for others;
- a B&O tax credit of 1.5 percent for spacecraft product development expenditures;
- a B&O tax credit for property taxes and leasehold taxes on property used exclusively for manufacturing spacecraft or spacecraft components, or for spacecraft product development;
- a sales and use tax exemption for computer equipment and software, and its installation, used primarily in development of spacecraft products or for spacecraft services; and
- a sales and use tax exemption for the construction of facilities used in the manufacturing of spacecraft or spacecraft components, and facilities used to launch, control, or monitor spacecraft.

A preferential B&O tax rate of 0.2904 is also extended to persons engaging in satellite communications in the state. "Satellite communications" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or other information or signals to a point or between points occurring wholly through a satellite, and includes telecommunications services, radio and television programming services, and Internet access service.

A taxpayer claiming a sales and use tax exemption for the construction of facilities under the bill must agree to create 100 jobs within three years or, if located within a distressed county, 20 jobs within three years of claiming the exemption. "Distressed county" means counties where the unemployment rate is at least 20 percent higher than the statewide average for the immediately previous three years. If a taxpayer claiming the exemption does not meet the job creation requirement, the taxpayer must repay the amount of the exemption to the Department of Revenue (DOR).

Businesses that exercise any of these preferences must file an annual report with the DOR.

The spacecraft tax preferences expire on July 1, 2025.

Payload Transparency.

A person claiming a sales or use tax exemption for charges made for labor and services rendered in respect to the construction of new buildings used primarily for launching, controlling, or monitoring spacecraft must disclose the intended payload of the spacecraft. A person reporting the preferential services and other activities B&O tax rate for engaging in space exploration for others must also disclose the payload of the spacecraft used for the purpose of space exploration.

Tax Preference Performance Statement.

The tax preference performance statement specifies that the public policy objective is to create economic growth and jobs. The JLARC is required to assess employment changes and tax revenue changes in the spacecraft and spacecraft component industry in comparison to employment and tax revenues prior to the extension of spacecraft related tax preferences. If the JLARC finds that the number of jobs in the spacecraft industry has increased by 10 percent during the term of the tax preferences, then the Legislature intends for the JLARC to recommend extending the expiration date of the tax preferences. To the extent practicable, the JLARC must use data provided by state agencies responsible for administering unemployment insurance and collecting tax revenue and data statistics provided by the Bureau of Labor Statistics.

Definitions.

The following definitions are added:

"Payload" means crew, instruments, materials, components, or equipment carried by spacecraft.

"Satellite" means a man-made object or vehicle intended to orbit the Earth, the Moon, or other celestial object, that is used to collect information and provide communications services, or perform repair, manufacturing, assembly, or transport services in the space environment.

"Space exploration" means the use of spacecraft to explore the region beyond Earth's atmosphere.

"Spacecraft" means satellites and all types of manned or unmanned transportation vehicles intended to be used for the purpose of operating in, or transporting a payload to, from, or within outer space, or in suborbital trajectory.

"Spacecraft component" means a part or system specifically designed for installation or assembly into spacecraft.

Substitute Bill Compared to Original Bill:

The substitute bill:

- expands tax preferences for spacecraft and spacecraft component manufacturing and for spacecraft product development to include satellite communications, satellite manufacturing, and space exploration activities;
- requires exempted sales and use taxes for the construction of facilities used in the manufacturing of spacecraft or spacecraft components to be paid back to the DOR if the taxpayer is unable to meet a job creation requirement;
- requires a person claiming a sales or use tax exemption for charges made for labor and services rendered in respect to the construction of new buildings used primarily for launching, controlling, or monitoring spacecraft to disclose the intended payload of the spacecraft;
- requires a person reporting the preferential services and other activities B&O tax rate for engaging in space exploration for others to disclose the payload of the spacecraft used for the purpose of space exploration;
- adds "satellite" to the definition of spacecraft;
- defines "satellite," "satellite communications," and "space exploration";
- amends the intent section; and
- changes the effective dates of the tax preferences to July 1, 2016.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Substitute Bill: The bill takes effect on July 1, 2016.

Staff Summary of Public Testimony:

See Committee Records from the 2015 Legislative Session.

Persons Testifying: See Committee Records from the 2015 Legislative Session.

Persons Signed In To Testify But Not Testifying: None.