SENATE BILL REPORT
SSB 5844

As Passed Senate, March 3, 2017

Title: An act relating to adopting citizen commission 2016 recommendations and making adjustments to the commission's review process.

Brief Description: Adopting citizen commission 2016 recommendations and making adjustments to the commission's review process.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senator Braun).

Brief History:
Committee Activity: Ways & Means: 2/22/17, 2/24/17 [DPS].
Floor Activity:
Passed Senate: 3/03/17, 45-0.

Brief Summary of First Substitute Bill

- Terminates six tax preferences as recommended by the Citizen Commission for Performance Measurement of Tax Preferences (Commission) and the legislative auditor as they have never been used.
- Provides five tax preference performance statements where the Commission recommended the Legislature to review and clarify
- Provides that for each tax preference that does not have metrics or accountability standards the Joint Legislative Audit and Review Committee (JLARC) or the Commission must recommend to the Legislature statutory metrics or accountability standards that will help determine the effectiveness of the tax preference in a future review.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5844 be substituted therefor, and the substitute bill do pass.

Signed by Senators Braun, Chair; Brown, Vice Chair; Rossi, Vice Chair; Honeyford, Vice Chair, Capital Budget ; Ranker, Ranking Minority Member; Rolfes, Assistant Ranking Minority Member, Operating Budget; Frockt, Assistant Ranking Minority Member, Capital

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.

Budget; Bailey, Becker, Billig, Conway, Darneille, Fain, Hasegawa, Keiser, Miloscia, Pedersen, Rivers, Schoesler, Warnick and Zeiger.

Staff: Dean Carlson (786-7305)

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 Commission. The responsibility for conducting the reviews is assigned to the staff of 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 and equipment and food, the small business credit for the business and occupation (B&O) tax, the property tax relief program for retired persons, and tax preferences that the Commission determines are a critical part of the tax structure. The Commission 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.

When reviewing tax preferences, 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;
- the 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;
- the fiscal impacts of the tax preference, including past impacts and expected future impacts if it is continued; and
- an economic impact analysis using the Washington input-output model.

After evaluating these factors, 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.

Summary of First Substitute Bill: Six tax preferences are terminated as recommended by the Commission and the legislative auditor as they have never been used. They are as follows:

- a sales and use tax exemption for the construction of a new building used for manufacturing semiconductor materials;
- a property tax exemption for machinery and equipment used for manufacturing semiconductor materials when located in a building exempted from sales tax;
- a B&O tax credit of $3,000 for each manufacturing job located in a building exempted from sales tax;
- a reduced B&O tax rate of 0.275 percent for the manufacturing of semiconductor materials;
- a sales and used tax exemption for the purchases of gases and chemicals used in the production of semiconductor materials; and
- a full B&O tax exemption for manufacturing of semiconductor microchips.

Five tax preference performance statements are added to tax preferences where the Commission recommended the Legislature to review and clarify. They are as follows:

- The sales tax exemption for clay targets purchased by a nonprofit gun club. - The tax performance statement categorizes this as one intended to provide tax relief to certain businesses. If a review finds that nonprofit gun clubs would face financial distress in the absence of the tax preference and the fiscal impact reasonable conforms to the fiscal note, the Legislature intends to extend the expiration date of the preference.
- The preferential B&O rate for the manufacturing of solar energy systems. - The tax performance statement categorizes this as one intended to improve industry competiveness and to create and retain jobs. If a review finds that the number of people employed by a business utilizing the tax preference is the same or more than in 2015 and that at least 60 percent of the employees earn at least $60,000 per year and 80 percent receive health benefits, the Legislature intends to extend the expiration date of the preference.
- The preferential B&O tax rate for the manufacturing of semiconductor materials. - The tax performance statement categorizes this as one intended to improve industry competiveness and to create and retain jobs. If a review finds that the number of people employed by a business utilizing the tax preference is the same or more than in 2015 and that at least 50 percent of the employees earn at least $20 dollars per hour and 80 percent receive health benefits, the Legislature intends to extend the expiration date of the preference.
- The sales tax exemption for gases and chemicals used by a manufacturer in the production of semiconductor materials. - The tax performance statement categorizes this as one intended to improve industry competiveness and to create and retain jobs. If a review finds that the number of people employed by a business utilizing the tax preference is the same or more than in 2015 and that at least 50 percent of the employees earn at least $20 dollars per hour and 80 percent receive health benefits, the Legislature intends to extend the expiration date of the preference.
- The preferential B&O tax rate for the manufacturing/extracting of timber and wood products. - The tax performance statement categorizes this as one intended to improve industry competiveness and to create and retain jobs. If a review finds that the state of Washington remains above the national average for lumber production by board

feet and timber job wages in rural counties remain higher than the county median income, the Legislature intends to extend the expiration date of the preference.

For each tax preference that does not have metrics or accountability standards, JLARC or the Commission must recommend to the Legislature statutory metrics or accountability standards that will help determine the effectiveness of the tax preference in a future review.

The Commission must review tax preferences at least one year prior to the expiration date.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* OTHER: We have concerns regarding the forest products part of the bill. We don't think the language provides meaningful metrics. We have provided language to staff that would.

Persons Testifying: OTHER: John Ehrenreich, WA Forest Protection Association.

Persons Signed In To Testify But Not Testifying: No one.