
SUBSTITUTE SENATE BILL 5844

State of Washington 65th Legislature 2017 Regular Session

By Senate Ways & Means (originally sponsored by Senator Braun)

READ FIRST TIME 02/24/17.

1 AN ACT Relating to adopting citizen commission 2016
2 recommendations and making adjustments to the commission's review
3 process; amending RCW 82.04.240, 43.136.045, and 43.136.055; creating
4 new sections; repealing RCW 82.08.965, 82.12.965, 84.36.645,
5 82.04.448, 82.08.970, 82.12.970, 82.04.426, and 82.32.790; and
6 repealing 2010 c 114 s 104 and 2003 c 149 s 3.

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

8 NEW SECTION. **Sec. 1.** The following acts or parts of acts are
9 each repealed:

- 10 (1) RCW 82.08.965 (Exemptions—Semiconductor materials
11 manufacturing) and 2010 c 114 s 123 & 2003 c 149 s 5;
- 12 (2) RCW 82.12.965 (Exemptions—Semiconductor materials
13 manufacturing) and 2010 c 114 s 129 & 2003 c 149 s 6;
- 14 (3) RCW 84.36.645 (Semiconductor materials) and 2010 c 114 s 150
15 & 2003 c 149 s 10;
- 16 (4) RCW 82.04.448 (Credit—Manufacturing semiconductor materials)
17 and 2010 c 114 s 117 & 2003 c 149 s 9;
- 18 (5) RCW 82.08.970 (Exemptions—Gases and chemicals used to
19 manufacture semiconductor materials) and 2010 c 114 s 125 & 2003 c
20 149 s 7;

1 (6) RCW 82.12.970 (Exemptions—Gases and chemicals used to
2 manufacture semiconductor materials) and 2010 c 114 s 131 & 2003 c
3 149 s 8;

4 (7) RCW 82.04.426 (Exemptions—Semiconductor microchips) and 2010
5 c 114 s 110 & 2003 c 149 s 2;

6 (8) RCW 82.32.790 (Tax incentives contingent upon semiconductor
7 microchip fabrication facility siting and operation) and 2010 c 114 s
8 201, 2010 c 106 s 401, 2009 c 461 s 9, 2006 c 300 s 12, & 2003 c 149
9 s 12;

10 (9) 2010 c 114 s 104; and

11 (10) 2003 c 149 s 3.

12 **Sec. 2.** RCW 82.04.240 and 2004 c 24 s 4 are each amended to read
13 as follows:

14 (1) Upon every person engaging within this state in business as a
15 manufacturer, except persons taxable as manufacturers under other
16 provisions of this chapter; as to such persons the amount of the tax
17 with respect to such business (~~shall be~~) is equal to the value of
18 the products, including byproducts, manufactured, multiplied by the
19 rate of 0.484 percent.

20 (2) The measure of the tax is the value of the products,
21 including byproducts, so manufactured regardless of the place of sale
22 or the fact that deliveries may be made to points outside the state.

23 NEW SECTION. **Sec. 3.** (1) This section is the tax preference
24 performance statement for the tax preferences contained in sections
25 402 and 403, chapter 13, Laws of 2013 2nd sp. sess. This performance
26 statement is only intended to be used for subsequent evaluation of
27 the tax preferences. It is not intended to create a private right of
28 action by any party or be used to determine eligibility for
29 preferential tax treatment.

30 (2) The legislature categorizes these tax preferences as ones
31 intended to provide tax relief for certain businesses or individuals,
32 as indicated in RCW 82.32.808(e).

33 (3) It is the legislature's specific public policy objective to
34 provide tax relief to nonprofit gun clubs on purchases of clay
35 targets used to provide recreational shooting activities to customers
36 or members for a fee, and it is the legislature's intent for the
37 preference to be temporary so that the legislature can assess if the

1 actual fiscal impact reasonably conforms with the department of
2 revenue's fiscal estimate.

3 (4) If a review finds that nonprofit gun clubs face financial
4 distress in absence of these tax preferences, and that the actual
5 fiscal impact reasonably conforms to the fiscal estimate, then the
6 legislature intends to extend the expiration date of the tax
7 preferences.

8 (5) In order to obtain the data necessary to perform the review
9 in subsection (4) of this section, the joint legislative audit and
10 review committee may refer to the department of revenue's annual
11 survey data.

12 NEW SECTION. **Sec. 4.** (1) This section is the tax preference
13 performance statement for the tax preference contained in section
14 902, chapter 13, Laws of 2013 2nd sp. sess.; section 1, chapter 179,
15 Laws of 2011; section 109, chapter 114, Laws of 2010; section 501,
16 chapter 469, Laws of 2009; section 8, chapter 54, Laws of 2007; and
17 section 2, chapter 301, Laws of 2005. This performance statement is
18 only intended to be used for subsequent evaluation of the tax
19 preference. It is not intended to create a private right of action by
20 any party or be used to determine eligibility for preferential tax
21 treatment.

22 (2) The legislature categorizes this tax preference as one
23 intended to improve industry competitiveness and to create and retain
24 jobs as indicated in RCW 82.32.808(2) (b) and (c).

25 (3) It is the legislature's specific public policy objective to
26 maintain and grow jobs in the solar energy systems manufacturing
27 industry. Trade disputes currently threaten employment in this
28 sector. It is the legislature's intent to continue the preferential
29 tax rates for manufacturers and wholesalers of specific solar energy
30 material and parts in order to maintain and grow jobs in the solar
31 silicon industry.

32 (4) If a review finds that the number of people employed by the
33 businesses utilizing this tax preference is the same or more than in
34 2015, and that at least sixty percent of employees earn sixty
35 thousand dollars a year or more with at least eighty percent
36 receiving health benefits, then the legislature intends to extend the
37 expiration date of the tax preference.

38 (5) In order to obtain the data necessary to perform the review
39 in subsection (4) of this section, the joint legislative audit and

1 review committee may refer to data provided to the department of
2 revenue and employment data from the employment security department.

3 NEW SECTION. **Sec. 5.** (1) This section is the tax preference
4 performance statement for the tax preference contained in section
5 105, chapter 114, Laws of 2010 and section 2, chapter 84, Laws of
6 2006. This performance statement is only intended to be used for
7 subsequent evaluation of the tax preference. It is not intended to
8 create a private right of action by any party or be used to determine
9 eligibility for preferential tax treatment.

10 (2) The legislature categorizes this tax preference as one
11 intended to induce certain designated behavior by taxpayers, improve
12 industry competitiveness, and create or retain jobs, as indicated in
13 RCW 82.32.808(2) (a) through (c).

14 (3) It is the legislature's specific public policy objective to
15 encourage significant construction projects in the semiconductor
16 manufacturing industry; retain, expand, and attract semiconductor
17 business; and encourage and expand family-wage jobs. It is the
18 legislature's intent to continue the preferential tax rate for the
19 manufacture of semiconductor materials, in order to encourage the
20 growth and retention of the semiconductor business in Washington,
21 thereby strengthening Washington's competitiveness with other states
22 for manufacturing investment.

23 (4) If a review finds that total employment by businesses
24 utilizing this tax preference has remained the same or increased
25 since 2015, and at least fifty percent of employees earn twenty
26 dollars per hour or more with at least eighty percent receiving
27 health benefits, then the legislature intends to extend the
28 expiration dates of the tax preference.

29 (5) In order to obtain the data necessary to perform the review
30 in subsection (4) of this section, the joint legislative audit and
31 review committee may refer to the data provided to the department of
32 revenue and employment security department data.

33 NEW SECTION. **Sec. 6.** (1) This section is the tax preference
34 performance statement for the tax preferences contained in sections
35 405 and 406, chapter 97, Laws of 2014; sections 124 and 130, chapter
36 114, Laws of 2010; sections 502 and 503, chapter 469, Laws of 2009;
37 and sections 3 and 4, chapter 84, Laws of 2006. This performance
38 statement is only intended to be used for subsequent evaluation of

1 the tax preferences. It is not intended to create a private right of
2 action by any party or be used to determine eligibility for
3 preferential tax treatment.

4 (2) The legislature categorizes these tax preferences as ones
5 intended to induce certain designated behavior by taxpayers, improve
6 industry competitiveness, and create or retain jobs, as indicated in
7 RCW 82.32.808(2) (a) through (c).

8 (3) It is the legislature's specific public policy objective to
9 encourage significant construction projects in the semiconductor
10 manufacturing industry; retain, expand, and attract semiconductor
11 business; and encourage and expand family-wage jobs.

12 (4) If a review finds that total employment by businesses
13 utilizing these tax preferences has remained the same or increased
14 since 2015, and at least fifty percent of employees earn twenty
15 dollars per hour or more with at least eighty percent receiving
16 health benefits, then the legislature intends to extend the
17 expiration dates of the tax preferences.

18 (5) In order to obtain the data necessary to perform the review
19 in subsection (4) of this section, the joint legislative audit and
20 review committee may refer to data reported to the department of
21 revenue and employment security job and wage data.

22 NEW SECTION. **Sec. 7.** (1) This section is the tax preference
23 performance statement for the tax preferences contained in RCW
24 82.04.260(12). This performance statement is only intended to be used
25 for subsequent evaluation of the tax preferences. It is not intended
26 to create a private right of action by any party or be used to
27 determine eligibility for preferential tax treatment.

28 (2) The legislature categorizes these tax preferences as ones
29 intended to induce certain designated behaviors by taxpayers, improve
30 industry competitiveness, and create or retain jobs, as indicated in
31 RCW 82.32.808(2) (a) through (c).

32 (3) It is the legislature's specific public policy objective to
33 reduce the cost of doing business in Washington for the timber
34 industry, thereby strengthening Washington's competitiveness
35 nationally and internationally and retaining good paying jobs,
36 particularly in rural areas Washington's forest products industry is
37 a key economic driver for the state of Washington, especially in
38 rural communities. The legislature finds that it is necessary to
39 ensure the success of both the state's working forests and the

1 industry's manufacturing infrastructure in order to maintain a
2 productive forest products industry. Working forests and the
3 manufacturing infrastructure are interdependent and necessary for the
4 continued success of the forest products industry and the overall
5 economy of the state of Washington.

6 (4) The legislature intends to extend the expiration dates of the
7 tax preference if a review finds that:

8 (a) The state of Washington remains above the national average
9 for lumber production by board feet; and

10 (b) Forest product job wages in rural counties remain higher than
11 the county median income. A review of this measure must include, and
12 be limited to, job sectors identified by the code numbers 113, 321,
13 and 322 in the United States' department of labor's North American
14 industry classification system, as the code numbers existed on the
15 effective date of this section.

16 (5) In order to obtain the data necessary to perform the review
17 in subsection (4) of this section, the joint legislative audit and
18 review committee may refer to data submitted to the department of
19 revenue.

20 **Sec. 8.** RCW 43.136.045 and 2011 c 335 s 2 are each amended to
21 read as follows:

22 (1) The citizen commission for performance measurement of tax
23 preferences must develop a schedule to accomplish an orderly review
24 of tax preferences at least once every ten years. In determining the
25 schedule, the commission must consider the order the tax preferences
26 were enacted into law, in addition to other factors including but not
27 limited to grouping preferences for review by type of industry,
28 economic sector, or policy area. The commission (~~may elect to~~
29 ~~include, anywhere in the schedule, a tax preference that has a~~
30 ~~statutory expiration date~~) must include a review of any tax
31 preferences that have a statutory expiration date at least one year
32 prior to the expiration of the tax preference. The commission must
33 omit from the schedule tax preferences that are required by
34 constitutional law, sales and use tax exemptions for machinery and
35 equipment for manufacturing, research and development, or testing,
36 the small business credit for the business and occupation tax, sales
37 and use tax exemptions for food and prescription drugs, property tax
38 relief for retired persons, and property tax valuations based on
39 current use, and (~~may~~) must omit any tax preference that the

1 commission determines is a critical part of the structure of the tax
2 system. As an alternative to the process under RCW 43.136.055, the
3 commission may recommend to the joint legislative audit and review
4 committee an expedited review process for any tax preference.

5 (2) The commission must revise the schedule as needed each year,
6 taking into account newly enacted or terminated tax preferences. The
7 commission must deliver the schedule to the joint legislative audit
8 and review committee by September 1st of each year.

9 (3) The commission must provide a process for effective citizen
10 input during its deliberations.

11 **Sec. 9.** RCW 43.136.055 and 2011 c 335 s 3 are each amended to
12 read as follows:

13 (1) The joint legislative audit and review committee must review
14 tax preferences according to the schedule developed under RCW
15 43.136.045. The committee must consider, but not be limited to, the
16 following factors in the review as relevant to each particular tax
17 preference:

18 (a) The classes of individuals, types of organizations, or types
19 of industries whose state tax liabilities are directly affected by
20 the tax preference;

21 (b) Public policy objectives that might provide a justification
22 for the tax preference, including but not limited to the legislative
23 history, any legislative intent, or the extent to which the tax
24 preference encourages business growth or relocation into this state,
25 promotes growth or retention of high wage jobs, or helps stabilize
26 communities;

27 (c) Evidence that the existence of the tax preference has
28 contributed to the achievement of any of the public policy
29 objectives;

30 (d) The extent to which continuation of the tax preference might
31 contribute to any of the public policy objectives;

32 (e) The extent to which the tax preference may provide unintended
33 benefits to an individual, organization, or industry other than those
34 the legislature intended;

35 (f) The extent to which terminating the tax preference may have
36 negative effects on the category of taxpayers that currently benefit
37 from the tax preference, and the extent to which resulting higher
38 taxes may have negative effects on employment and the economy;

1 (g) The feasibility of modifying the tax preference to provide
2 for adjustment or recapture of the tax benefits of the tax preference
3 if the objectives are not fulfilled;

4 (h) Fiscal impacts of the tax preference, including past impacts
5 and expected future impacts if it is continued. For the purposes of
6 this subsection, "fiscal impact" includes an analysis of the general
7 effects of the tax preference on the overall state economy,
8 including, but not limited to, the effects of the tax preference on
9 the consumption and expenditures of persons and businesses within the
10 state;

11 (i) The extent to which termination of the tax preference would
12 affect the distribution of liability for payment of state taxes;

13 (j) The economic impact of the tax preference compared to the
14 economic impact of government activities funded by the tax for which
15 the tax preference is taken at the same level of expenditure as the
16 tax preference. For purposes of this subsection the economic impact
17 shall be determined using the Washington input-output model as
18 published by the office of financial management. The committee may
19 use a different economic model if that model is approved by the
20 committee and the office of financial management as a more relevant
21 economic model than the input-output model;

22 (k) Consideration of similar tax preferences adopted in other
23 states, and potential public policy benefits that might be gained by
24 incorporating corresponding provisions in Washington.

25 (2) For each tax preference, the committee must provide a
26 recommendation as to whether the tax preference should be continued
27 without modification, modified, scheduled for sunset review at a
28 future date, or terminated immediately. The committee may recommend
29 accountability standards for the future review of a tax preference.

30 (3) For each tax preference that does not have statutory metrics
31 or accountability standards associated with the tax preference, the
32 committee must recommend to the legislature statutory metrics or
33 accountability standards that will help determine the effectiveness
34 of the tax preference in a future review.

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