
SENATE BILL 5847

State of Washington 65th Legislature 2017 Regular Session

By Senators Carlyle, Hasegawa, and Hunt

Read first time 02/22/17. Referred to Committee on Ways & Means.

1 AN ACT Relating to the review process of the citizen commission
2 for performance measurement of tax preferences; and amending RCW
3 43.136.011, 43.136.055, and 82.32.808.

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

5 **Sec. 1.** RCW 43.136.011 and 2011 c 335 s 1 are each amended to
6 read as follows:

7 The legislature recognizes that tax preferences are enacted to
8 meet objectives which are determined to be in the public interest.
9 However, some tax preferences may not be efficient or equitable tools
10 for the achievement of current public policy objectives. Given the
11 changing nature of the economy and tax structures of other states,
12 the legislature finds that periodic performance audits of tax
13 preferences are needed to determine if their continued existence will
14 serve the public interest. The legislature further finds that tax
15 preferences that are enacted for economic development purposes must
16 demonstrate growth in personal income and full-time family-wage jobs
17 with health and retirement benefits. Given that an opportunity cost
18 exists with each economic choice, it is the intent of the legislature
19 (~~that the overall impact of~~) to understand how economic
20 development-focused tax preferences benefit the state's economy, both
21 statewide and regions within the state.

1 **Sec. 2.** RCW 43.136.055 and 2011 c 335 s 3 are each amended to
2 read as follows:

3 (1) The joint legislative audit and review committee must review
4 tax preferences according to the schedule developed under RCW
5 43.136.045. The committee must consider, but not be limited to, the
6 following factors in the review as relevant to each particular tax
7 preference:

8 (a) The classes of individuals, types of organizations, or types
9 of industries whose state tax liabilities are directly affected by
10 the tax preference;

11 (b) The overall effective tax rate for the industry groups
12 benefiting from the tax preference;

13 (c) Public policy objectives that might provide a justification
14 for the tax preference, including but not limited to the legislative
15 history, any legislative intent, or the extent to which the tax
16 preference encourages business growth or relocation into this state,
17 promotes growth or retention of high wage jobs, or helps stabilize
18 communities;

19 ~~((e))~~ (d) Evidence that the existence of the tax preference has
20 contributed to the achievement of any of the public policy
21 objectives;

22 ~~((d))~~ (e) The extent to which continuation of the tax
23 preference might contribute to any of the public policy objectives;

24 ~~((e))~~ (f) The extent to which the tax preference may provide
25 unintended benefits to an individual, organization, or industry other
26 than those the legislature intended;

27 ~~((f))~~ (g) The extent to which terminating the tax preference
28 may have negative effects on the category of taxpayers that currently
29 benefit from the tax preference, and the extent to which resulting
30 higher taxes may have negative effects on employment and the economy;

31 ~~((g))~~ (h) The feasibility of modifying the tax preference to
32 provide for adjustment or recapture of the tax benefits of the tax
33 preference if the objectives are not fulfilled;

34 ~~((h))~~ (i) Fiscal impacts of the tax preference, including past
35 impacts and expected future impacts if it is continued. For the
36 purposes of this subsection, "fiscal impact" includes an analysis of
37 the general effects of the tax preference on the overall state
38 economy(~~(, including, but not limited to, the effects of the tax~~
39 ~~preference on the consumption and expenditures of persons and~~
40 ~~businesses within the state;~~

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

3 ~~(j) The economic impact of the tax preference compared to the~~
4 ~~economic impact of government activities funded by the tax for which~~
5 ~~the tax preference is taken at the same level of expenditure as the~~
6 ~~tax preference. For purposes of this subsection the economic impact~~
7 ~~shall be determined using the Washington input-output model as~~
8 ~~published by the office of financial management)) and regions within~~
9 ~~the state including, but not limited to, the effects of the tax~~
10 ~~preference on the consumption and expenditures of persons and~~
11 ~~businesses within the state, employment, and personal income;~~

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

14 (k) Using economic modeling techniques, evaluate potential
15 economic impacts of the tax preference compared to the economic
16 impact of government activities funded at the same level as the
17 preference;

18 ~~((+k))~~ (l) Consideration of similar tax preferences adopted in
19 other states, and potential public policy benefits that might be
20 gained by incorporating corresponding provisions in Washington.

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

26 **Sec. 3.** RCW 82.32.808 and 2013 2nd sp.s. c 13 s 1702 are each
27 amended to read as follows:

28 (1) As provided in this section, every bill enacting a new tax
29 preference must include a tax preference performance statement.

30 (2) A tax preference performance statement must state the
31 legislative purpose for the new tax preference. The tax preference
32 performance statement must indicate one or more of the following
33 general categories, by reference to the applicable category specified
34 in this subsection, as the legislative purpose of the new tax
35 preference:

36 (a) Tax preferences intended to induce certain designated
37 behavior by taxpayers;

38 (b) Tax preferences intended to improve industry competitiveness;

1 (c) Tax preferences intended to increase or maintain personal
2 income, and to create or retain jobs;

3 (d) Tax preferences intended to reduce structural inefficiencies
4 in the tax structure;

5 (e) Tax preferences intended to provide tax relief for certain
6 businesses or individuals; or

7 (f) A general purpose not identified in (a) through (e) of this
8 subsection.

9 (3) In addition to identifying the general legislative purpose of
10 the tax preference under subsection (2) of this section, the tax
11 preference performance statement must provide additional detailed
12 information regarding the legislative purpose of the new tax
13 preference.

14 (4) A new tax preference performance statement must specify
15 clear, relevant, and ascertainable metrics and data requirements that
16 allow the joint legislative audit and review committee and the
17 legislature to measure the effectiveness of the new tax preference in
18 achieving the purpose designated under subsection (2) of this
19 section.

20 (5) If the tax preference performance statement for a new tax
21 preference indicates a legislative purpose described in subsection
22 (2)(b) or (c) of this section, any taxpayer claiming the new tax
23 preference must file an annual survey in accordance with RCW
24 82.32.585.

25 (6)(a) (~~Taxpayers claiming a new tax preference must report the~~
26 ~~amount of the tax preference claimed by the taxpayer~~) In order to be
27 eligible to claim a new tax preference, the taxpayer must report the
28 amount of the tax preference to the department as otherwise required
29 by statute or determined by the department as part of the taxpayer's
30 regular tax reporting responsibilities. For new tax preferences
31 allowing certain types of gross income of the business to be excluded
32 from business and occupation or public utility taxation, the tax
33 return must explicitly report the amount of the exclusion, regardless
34 of whether it is structured as an exemption or deduction, if the
35 taxpayer is otherwise required to report taxes to the department on a
36 monthly or quarterly basis. For a new sales and use tax exemption,
37 the total sales or uses subject to the exemption claimed by the buyer
38 must be reported on an addendum to the buyer's tax return if the
39 buyer is otherwise required to report taxes to the department on a

1 monthly or quarterly basis and the buyer is required to submit an
2 exemption certificate, or similar document, to the seller.

3 (b) This subsection does not apply to:

4 (i) Property tax exemptions;

5 (ii) Tax preferences required by constitutional law;

6 (iii) Tax preferences for which the tax benefit to the taxpayer
7 is less than one thousand dollars per calendar year; or

8 (iv) Taxpayers who are annual filers.

9 (c) The department may waive the filing requirements of this
10 subsection for taxpayers who are not required to file electronically
11 any return, report, or survey under this chapter.

12 (7)(a) Except as otherwise provided in this subsection, the
13 amount claimed by a taxpayer for any new tax preference is subject to
14 public disclosure and is not considered confidential tax information
15 under RCW 82.32.330, if the reporting periods subject to disclosure
16 ended at least twenty-four months prior to the date of disclosure and
17 the taxpayer is required to report the amount of the tax preference
18 claimed by the taxpayer to the department under subsection (6) of
19 this section.

20 (b)(i) The department may waive the public disclosure requirement
21 under (a) of this subsection (7) for good cause. Good cause may be
22 demonstrated by a reasonable showing of economic harm to a taxpayer
23 if the information specified under this subsection is disclosed. The
24 waiver under this subsection (7)(b)(i) only applies to the new tax
25 preferences provided in chapter 13, Laws of 2013 2nd sp. sess.

26 (ii) The amount of the tax preference claimed by a taxpayer
27 during a calendar year is confidential under RCW 82.32.330 and may
28 not be disclosed under this subsection if the amount for the calendar
29 year is less than ten thousand dollars.

30 (c) In lieu of the disclosure and waiver requirements under this
31 subsection, the requirements under RCW 82.32.585 apply to any tax
32 preference that requires a survey.

33 (8) If a new tax preference does not include the information
34 required under subsections (2) through (4) of this section, the joint
35 legislative audit and review committee is not required to perform a
36 tax preference review under chapter 43.136 RCW, and it is
37 legislatively presumed that it is the intent of the legislature to
38 allow the new tax preference to expire upon its scheduled expiration
39 date.

1 (9) For the purposes of this section, "tax preference" and "new
2 tax preference" have the same meaning as provided in RCW 82.32.805.

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