

2SHB 2117 - H AMD 415

By Representative Frame

NOT CONSIDERED 12/23/2019

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that the
4 Washington tax structure, developed at the turn of the twentieth
5 century, is no longer aligned with our twenty-first century economy.
6 Therefore the legislature intends to analyze if the tax structure is
7 equitable, adequate, stable, transparent, and meeting the needs of
8 the people of Washington state.

9 (a) In the early 1930s, the Washington supreme court overturned
10 an initiative of the people that approved a tax intended to reduce
11 the over-reliance on the property tax, in the midst of the great
12 depression. In response to the court decision, the 1933 legislature
13 adopted a gross receipts tax on businesses as a temporary measure to
14 balance the state budget. This temporary tax measure, now referred to
15 as the business and occupation tax, remains in law to this day.
16 Because this tax does not allow a deduction for the cost of doing
17 business, the tax penalizes small businesses, start-up businesses,
18 and low margin businesses with high capital costs.

19 (b) Two years after the enactment of the temporary business tax
20 and amidst deepening financial crisis, the legislature enacted the
21 most comprehensive tax bill in state history, the revenue act of
22 1935. The act shifted the state's primary revenue source from
23 property tax to excise taxes, making permanent the business and
24 occupation tax and enacting the retail sales and use tax. Excise
25 taxes have resulted in our state tax code being overly regressive. In
26 other words, with a heavy reliance on sales tax and other excise
27 taxes, households at the lowest end of the income spectrum pay more
28 of their income in taxes compared to the wealthiest households in the
29 state.

30 (c) Since the creation of our regressive tax structure,
31 individual taxpayers and businesses have sought relief from the
32 business and occupation tax, retail sales and use tax, property tax,

1 and other taxes. Over the years, the legislature adopted
2 approximately seven hundred tax preferences including exemptions,
3 deductions, deferrals, credits, exclusions, and preferential tax
4 rates. While some of those tax preferences have a broad and positive
5 impact, such as the voter-approved decision not to charge sales tax
6 on food, many of them benefit just a few at the expense of the
7 majority. The reliance on tax preferences to mitigate the
8 consequences of the state tax structure has resulted in structural
9 deficits and a system that chooses "winners" and "losers" within the
10 code. According to the 2016 tax exemption study completed by the
11 department of revenue, these tax preferences forego 50.4 billion
12 dollars in revenue per biennium. This means the state foregoes more
13 revenue in tax preferences than it collects from its remaining
14 revenue sources, leaving those taxpayers without preferential tax
15 treatment to assume a disproportionate share of the responsibility to
16 fund critical local and state investments.

17 (2) The legislature further finds that in 2001, the Washington
18 state tax structure study committee under section 138, chapter 7,
19 Laws of 2001 2nd sp. sess., was established to study the elasticity,
20 equity, and adequacy of the state's tax structure.

21 (a) The tax structure study committee produced a comprehensive
22 report of their research, economic modeling, and resulting tax policy
23 prescriptions. The legislature has adopted some of the recommended
24 changes, including establishing the budget stabilization account,
25 limiting new tax preferences with ten-year expiration dates, and
26 streamlining online retail sales tax administration. While these
27 incremental changes were made, none of the major revenue replacement
28 alternatives have been adopted, including the recommendation to
29 replace the business and occupation tax with a business value added
30 tax.

31 (b) Since the tax structure study committee's final report was
32 published in November 2002, Washington's population, economy, and
33 communities have changed dramatically. Our state population has
34 increased by more than twenty percent (an estimated 1.3 million
35 additional people). In the decade since the great recession, new
36 economic sectors have been created and global markets have reshaped
37 trade and commerce. Some business sectors have rebounded, stronger
38 than ever, while some sectors have struggled. The evidence of unequal
39 economic recovery is in the details. Five Washington counties have
40 captured seventy-four percent of all new jobs created since 2001.

1 Economic analysis indicates state revenues are decoupling from the
2 state's economic activity, creating structural revenue declines that
3 undermine the state's ability to provide essential services to the
4 people and communities of the state. Washington state and local
5 revenue collections as a share of personal income has dropped
6 approximately ten percent since the late 1990s. Legislative policy
7 choices, voter initiatives, consumer behavior, federal changes,
8 globalization of the trade-based economy, and our transition from a
9 manufacturing economy to a service and information technology-based
10 economy have all contributed to the erosion of the tax base and, in
11 turn, the state general fund revenue.

12 (3) The legislature further finds that in 2017, the Washington
13 state house tax structure work group under section 101, chapter 1,
14 Laws of 2017 3rd sp. sess., was established to facilitate public
15 discussions throughout the state about the advantages and
16 disadvantages of the state's current tax structure and potential
17 options to improve the current structure for the benefit of
18 individuals, families, and businesses in Washington state.
19 Legislators traveled across the state to hear directly from taxpayers
20 about key challenges in the tax structure that should be studied and
21 addressed in the future.

22 (a) The taxpayers recommended finding solutions to address the:
23 (i) Regressive nature of the tax code;
24 (ii) Negative impact of the business and occupation tax on small,
25 start-up, and low-margin businesses;
26 (iii) Need to modernize the tax structure to reflect the changing
27 economy; and
28 (iv) Excessive number of tax preferences and exemptions;
29 (b) The taxpayers also recommended conducting economic modeling
30 and comparative research of major alternatives to current revenue
31 sources, including but not limited to replacing:
32 (i) The business and occupation tax with an alternative taxing
33 mechanism such as corporate income tax or margins tax;
34 (ii) The one percent revenue growth limit on regular property
35 taxes with a limit based on population growth and inflation;
36 (iii) A portion of the state property tax with a capital gains
37 tax; and
38 (iv) Other existing revenue sources with alternative revenue
39 sources.

1 (4) Therefore, it is the intent of the legislature to modernize
2 and rebalance our state tax structure. To accomplish this, the
3 legislature will:

4 (a) Directly engage in robust conversations with taxpayers,
5 stakeholders, and experts across the state about how to ensure our
6 tax structure is equitable, adequate, stable, and transparent;

7 (b) Implement the recommendations of the 2017 tax structure work
8 group to continue direct engagement with taxpayers and other
9 stakeholders by adopting a multiyear public engagement process with
10 individuals, communities, and businesses across the state;

11 (c) Reevaluate the state tax structure, taking into particular
12 consideration the modernizing economy and changing economic reality
13 we currently face as individuals, communities, businesses, and the
14 state as our population grows;

15 (d) Develop alternatives to our current tax structure for
16 consideration by taxpayers and policymakers, considering the
17 principles of equity, adequacy, stability, and transparency, while
18 also taking into consideration the effect on economic vitality and
19 the harmony with neighboring states' tax systems; and

20 (e) Recommend policies that consider the principles named in (d)
21 of this subsection and reduce the tax burden on low-income and
22 middle-class households and small, start-up, and low-margin
23 businesses.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.32
25 RCW to read as follows:

26 (1) The tax structure work group created within the 2017-2019
27 operating budget (chapter 1, Laws of 2017 3rd sp. sess. (Substitute
28 Senate Bill No. 5883)) is reauthorized and expanded to include nine
29 voting members, appointed as follows:

30 (a) The president of the senate must appoint two members from
31 each of the two largest caucuses of the senate;

32 (b) The speaker of the house of representatives must appoint two
33 members from each of the two largest caucuses of the house of
34 representatives; and

35 (c) The governor must appoint one member who represents the
36 office of the governor.

37 (2) The work group must also include the following nonvoting
38 members:

39 (a) One representative of the department of revenue;

1 (b) One representative of the association of Washington cities;
2 and

3 (c) One representative of the Washington state association of
4 counties.

5 (3) All voting members of the work group must indicate, in
6 writing, their interest in serving on the tax structure work group
7 and provide a statement of understanding that the commitment to serve
8 on the tax structure work group is through December 31, 2024. Elected
9 officials not reelected to their respective offices may be relieved
10 of their responsibilities on the tax structure work group.

11 (4) Vacancies on the tax structure work group must be filled
12 within sixty days of notice of the vacancy.

13 (5) The work group must choose a chair or cochairs from among its
14 legislative membership. The chair is, or cochairs are, responsible
15 for convening the meetings of the work group no less than quarterly
16 each year.

17 (6) Voting on recommendations and other decisions of the work
18 group are to be agreed upon by a simple majority vote. All work group
19 members may have a representative attend meetings of the tax
20 structure work group in lieu of the member, but voting by proxy is
21 not permitted.

22 (7) The duties of the department of revenue, with assistance of a
23 technical advisory group(s), are to:

24 (a) With respect to the final report of findings and alternatives
25 submitted by the Washington state tax structure study committee to
26 the legislature under section 138, chapter 7, Laws of 2001 2nd sp.
27 sess.:

28 (i) Update the data and research that informed the
29 recommendations and other analysis contained in the final report;

30 (ii) Estimate how much revenue all the revenue replacement
31 alternatives recommended in the final report would have generated for
32 the 2017-2019 biennium if the state had implemented the alternatives
33 on January 1, 2003;

34 (iii) Estimate the tax rates necessary to implement all
35 recommended revenue replacement alternatives in order to achieve the
36 revenues generated during the 2017-2019 biennium as reported by the
37 economic and revenue forecast council;

38 (iv) Estimate the impact on taxpayers, including tax paid as a
39 share of household income for various income levels, and tax paid as

1 a share of total business revenue for various business activities,
2 for (a)(ii) and (iii) of this subsection; and

3 (v) Estimate how much revenue would have been generated in the
4 2017-2019 biennium, if the incremental revenue alternatives
5 recommended in the final report would have been implemented on
6 January 1, 2003, excluding any recommendations implemented before the
7 effective date of this section;

8 (b) With respect to the recommendations in the final report of
9 the 2018 tax structure work group:

10 (i) Conduct economic modeling or comparable analysis of replacing
11 the business and occupation tax with an alternative, such as
12 corporate income tax or margins tax, and estimate the impact on
13 taxpayers, such as tax paid as a share of total business revenue for
14 various business activities, assuming the same revenues generated by
15 business and occupation taxes during the 2017-2019 biennium as
16 reported by the economic and revenue forecast council; and

17 (ii) Estimate how much revenue would have been generated for the
18 2017-2019 biennium if the one percent revenue growth limit on regular
19 property taxes was replaced with a limit based on population growth
20 and inflation if the state had implemented this policy on January 1,
21 2003;

22 (c) To analyze our economic competitiveness with border states:

23 (i) Estimate the revenues that would have been generated during
24 the 2017-2019 biennium, had Washington adopted the tax structure of
25 those states, assuming the economic tax base for the 2017-2019
26 biennium as reported by the economic and revenue forecast council;
27 and

28 (ii) Estimate the impact on taxpayers, including tax paid as a
29 share of household income for various income levels, and tax paid as
30 a share of total business revenue for various business activities for
31 (c)(i) of this subsection;

32 (d) To analyze our economic competitiveness in the context of a
33 national and global economy, provide comparisons of the effective
34 state and local tax rate of the tax structure during the 2017-2019
35 biennium and various alternatives under consideration, as they
36 compare to other states and the federal government, as well as
37 consider implications of recent changes to federal tax law;

38 (e) To the degree it is practicable, conduct tax incidence
39 analysis of the various alternatives under consideration to account

1 for the impacts of tax shifting, such as business taxes passed along
2 to consumers and property taxes passed along to renters;

3 (f) To the degree it is practicable, present findings and
4 alternatives by geographic area, in addition to statewide; and

5 (g) Conduct other analysis as directed by the work group.

6 (8) To assist the work group with its duties, the department of
7 revenue must create one or more technical advisory group(s) that:

8 (a) Must include at least one:

9 (i) Academic scholar from research institutions in the fields of
10 economics, taxation, business administration, public administration,
11 public policy, or other relevant disciplines as determined by the
12 work group;

13 (ii) Academic scholar or other recognized expert in the fields of
14 artificial intelligence, the automated economy, or labor primarily
15 provided on a freelance or temporary basis;

16 (iii) Expert in international trade;

17 (iv) Expert in economic theory; and

18 (v) Tax law practitioner, such as a certified public accountant,
19 tax attorney, or other tax preparation professional; and

20 (b) May include academic scholars and experts from regional
21 universities and community and technical colleges from diverse
22 regions across the state in the fields of economics, taxation,
23 business administration, public administration, and public policy.
24 The department must ensure that the perspective of different regional
25 economies are represented by members of the technical advisory group.

26 (9) Per the recommendations of the 2018 tax structure work group,
27 the work group is required to develop policy proposals for
28 consideration by the appropriate fiscal committees of the
29 legislature. Any policy proposals developed by the work group may
30 include the analysis done under subsection (7) of this section but
31 proposals are not limited to only the analysis done by the
32 department. Any policy proposals made to the legislature may not
33 result in a loss of revenue to the state as compared to the most
34 recent biennial revenue forecast published by the economic and
35 revenue forecast council. In developing the policy proposals, the
36 work group must be guided by principles for a well-designed tax
37 system, namely, equity, adequacy, stability, and transparency, and
38 address the following key challenges of the Washington state tax
39 structure, as identified by the 2018 report of the tax structure work
40 group:

1 (a) Regressive nature of the tax code;

2 (b) Negative impact of the business and occupation tax on small,
3 start-up, and low-margin businesses;

4 (c) Need to modernize the tax structure to reflect the changing
5 economy; and

6 (d) Excessive number of tax preferences and exemptions.

7 (10) The work group must complete its duties on the following
8 schedule:

9 (a) By December 31, 2019, convene no less than one meeting to
10 elect a chair, or cochairs, and conduct other business of the work
11 group;

12 (b) By December 1, 2020, the department of revenue and technical
13 advisory group must prepare a summary report of their preliminary
14 findings and alternatives as described in subsection (7) of this
15 section.

16 (c) By May 1, 2021, the work group must:

17 (i) Hold no less than one meeting in Olympia to review the
18 preliminary findings described in subsection (7) of this section. At
19 least one meeting must engage stakeholder groups. These stakeholder
20 groups must include, at a minimum, organizations and individuals
21 representing the following:

22 (A) Small, start-up, or low-margin business owners and employees
23 and/or associations expressly dedicated to representing these
24 businesses; and

25 (B) Individual taxpayers with income at or below one hundred
26 percent of area median income in their county of residence and/or
27 organizations expressly dedicated to representing low-income and
28 middle-income taxpayers;

29 (ii) Begin to plan strategies to engage taxpayers and key
30 stakeholder groups to encourage participation in the public meetings
31 described in (d) of this subsection;

32 (iii) Present the summary report described in (b) of this
33 subsection in compliance with RCW 43.01.036 to the appropriate
34 committees of the legislature;

35 (iv) Be available to deliver a presentation to the appropriate
36 committees of the legislature including:

37 (A) The findings and alternatives included in the summary report
38 described in (b) of this subsection; and

39 (B) The preliminary plan to engage taxpayers directly in a robust
40 conversation about the state's tax structure, including presenting

1 the findings and alternatives described in (b) of this subsection,
2 and collecting feedback to inform development of recommendations; and
3 (v) Finalize the logistics of the engagement strategies described
4 in (d) of this subsection;
5 (d) Between the conclusion of the 2021 legislative session and
6 December 31, 2021, the work group must:
7 (i) Hold no less than five public meetings in geographically
8 dispersed areas of the state;
9 (ii) Present the findings described in (b) of this subsection and
10 alternatives to the state's current tax structure at the public
11 meetings;
12 (iii) Provide an opportunity at the public meetings for taxpayers
13 to engage in a conversation about the state tax structure, including
14 but not limited to, providing feedback on possible recommendations
15 for changes to the state tax structure and asking questions about the
16 report and findings and alternatives to the state's current tax
17 structure presented by the work group;
18 (iv) Utilize methods to collect taxpayer feedback before, during,
19 or after the public meetings that may include, but is not limited to:
20 Small group discussions, in-person written surveys, in-person visual
21 surveys, online surveys, written testimony, and public testimony;
22 (v) Encourage legislators to inform their constituents about the
23 public meetings that occur within and near their legislative
24 districts;
25 (vi) Inform local elected officials about the public meetings
26 that occur within and near their communities; and
27 (vii) Summarize the feedback that taxpayers and other
28 stakeholders communicated during the public meetings and other public
29 engagement methods, and submit a final summary report, in accordance
30 with RCW 43.01.036, to the appropriate committees of the legislature.
31 This report may be submitted as an appendix or update to the summary
32 report described in (b) of this subsection;
33 (e) During the 2022 legislative session, the work group must:
34 (i) Present the findings and reports described in (b) and (d) of
35 this subsection to the appropriate committees of the legislature; and
36 (ii) Be available to deliver a presentation to and/or participate
37 in a work session for the appropriate committees of the legislature;
38 (f) (i) Between the conclusion of the 2022 legislative session and
39 December 31, 2022, the work group is directed to finalize policy
40 recommendations and develop legislation to implement modifications to

1 the tax structure, informed by the findings described in (b) of this
2 subsection and the feedback received from taxpayers as reflected in
3 the report described in (d) of this subsection;

4 (ii) During the 2023 legislative session, it is the intent of the
5 legislature to consider the proposal described in (f)(i) of this
6 subsection;

7 (iii) If the proposal is not adopted during the 2023 legislative
8 session, the work group is directed to host no less than three public
9 meetings to collect feedback on the legislation proposed in the 2023
10 session, and may also collect feedback on other proposals under
11 consideration by the work group. The work group is directed to modify
12 the proposal to address the feedback collected during the public
13 meetings;

14 (iv) During the 2024 legislative session, it is the intent of the
15 legislature to consider the modified proposal described in (f)(iii)
16 of this subsection; and

17 (g) By December 31, 2024, the work group is directed to submit a
18 final report that is a compilation of all other reports previously
19 submitted since July 1, 2019, and may include additional content to
20 summarize final activities of the tax structure work group and
21 related legislation, in compliance with RCW 43.01.036, to the
22 appropriate committees of the legislature.

23 (11) Staff support for the work group must be provided by the
24 department of revenue, subject to the degree such support is funded
25 through appropriation. The department of revenue may engage one or
26 more outside consultant(s) to assist in providing support for the
27 work group.

28 (12) Members of the work group must serve without compensation
29 but may be reimbursed for travel expenses under RCW 44.04.120,
30 43.03.050, and 43.03.060.

31 (13) This section expires December 31, 2024.

32 NEW SECTION. **Sec. 3.** If specific funding for the purposes of
33 this act, referencing this act by bill or chapter number, is not
34 provided by June 30, 2019, in the omnibus appropriations act, this
35 act is null and void."

36 Correct the title.

EFFECT: (1) Modifies the intent language.

(2) Provides additional detail and specificity about the required analysis from the Department of Revenue (Department) and the technical advisory group(s).

(3) Adds requirements for the technical advisory group(s):

(a) Each advisory group must include specific types of academic scholars, experts, and a tax practitioner, as provided by the bill.

(b) The Department must ensure that the perspective of different regional economies are represented by members of the technical advisory group.

(4) Makes the following modifications to the work group schedule:

(a) Requires no less than one meeting to elect a chair, or cochairs, and conduct other business of the work group by December 31, 2019.

(b) Changes the due date for the Department and the technical advisory group to submit a summary report of preliminary findings and alternatives from July 1, 2020, to December 1, 2020.

(c) By May 1, 2021, the work group must:

(i) Hold at least one meeting in Olympia, instead of requiring the work group to hold at least two meetings in Olympia between July 1, 2020, and December 31, 2020;

(ii) Present the summary report to appropriate committees of the legislature, instead of during the 2021 legislative session;

(iii) Be available to deliver a presentation to the appropriate committees of the legislature regarding the preliminary plan for taxpayer engagement, instead of during the 2021 legislative session; and

(iv) Finalize logistics on taxpayer engagement strategies, instead of during the 2021 legislative session.

(5) Removes the requirement that the expenses of the work group must be jointly paid by the senate and the house of representatives.

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