Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Finance Committee

HB 1703

Brief Description: Increasing tax exemption transparency and accountability.

Sponsors: Representatives Pollet, Paul, Tarleton, Valdez, Gregerson, Orwall, Stanford, Ryu, Santos, Doglio, Pettigrew, Thai, Kloba, Wylie, Goodman, Bergquist, Senn, Peterson, Fitzgibbon, Riccelli, Lekanoff, Tharinger, Jinkins, Frame, Mead, Ramos, Appleton, Fey, Dolan, Walen, Macri, Callan, Kirby, Ortiz-Self, Pellicciotti, Cody, Ormsby and Hudgins.

Brief Summary of Bill

- Creates the tax transparency and accountability act.

Hearing Date: 2/26/19

Staff: Tracey O'Brien (786-7152).

Background:

State Operating Budget.
The state government operates on a fiscal biennium that begins on July 1 of each odd-numbered year. A two-year biennial operating budget is adopted every odd-numbered year. Appropriations are made in the biennial budgets for the operation of state government and its various agencies and institutions, including higher education and kindergarten through twelfth-grade public schools.

Governor's Budget Proposal.
The Budget and Accounting Act establishes various requirements for the budget documents that the Governor must submit to the Legislature before each regular legislative session. The required documents include: the Governor's budget message, which explains the budget and outlines proposed fiscal policies for the period covered by the budget; the budget bill; and other supporting information.

Tax Preferences.

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.

A tax preference confers reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences.

Annual Surveys and Reports.
Over the last 10 years, the Legislature has required taxpayers to file the Annual Survey (Survey) or the Annual Report (Report) in order to qualify for a variety of new economic development-related tax preferences, or in some cases, to extend existing economic development-related preferences. There are currently 32 economic development-related tax preferences that require one of these supplemental filings.

Exemption Study.
The Department of Revenue (DOR) must produce and submit to the Legislature a Tax Exemption Report every four years. The report includes a listing of all tax exemptions, including the estimated revenue lost from, and the beneficiary of, each exemption. The report also includes the estimated revenue lost for other tax preferences including preferential rates, deductions, and credits. The next report is due in January 2020.

The Citizen Commission for Performance Measurement of Tax Preferences and Joint Legislative Audit and Review Committee: Tax Preference Reports.
The Citizen Commission for Performance Measurement of Tax Preferences (Commission) was established by the Legislature in 2006. The Commission develops a schedule to review nearly all tax preferences at least once every 10 years. The Commission also schedules preferences with expiration dates to be reviewed two years before the tax preference expires. Tax preference reviews are conducted by the Joint Legislative Audit and Review Committee (JLARC) according to the schedule established by the Commission. For each tax preference, the JLARC provides recommendations to continue, modify, schedule for future review, or terminate the preference. The Commission reviews and comments on the JLARC report.

Budget Outlook.
A state budget outlook workgroup is required to prepare an official state budget outlook for the current and subsequent biennium. The outlook must estimate revenues to and expenditures from the State General Fund and related funds. The estimate must include maintenance items including, but not limited to, continuation of current programs, forecasted growth of current entitlement programs, and actions required by law, including legislation with a future implementation date.

Summary of Bill:

The Tax Exemption Transparency and Accountability Act is created.

The Operating Budget enacted by the Legislature must include a discretionary tax expenditure budget. The four-year state budget outlook may utilize revenues from expenditures that will expire absent re-adoption by the Legislature that are listed in the discretionary tax expenditure report prepared by the Department of Revenue (DOR). If the tax expenditures are used for the purposes of calculating available resources, the omnibus operating appropriations act must identify the expiring tax expenditures.

A discretionary state tax expenditure means a tax preference which impacts revenues appropriated in the Operating Budget that has no expiration date and is not required by the U.S. or state constitution or federal law. It also includes tax preferences that have been recommended by the JLARC for review and clarification, but the Legislature has not taken steps to do so.

Beginning December 2020, the DOR Tax Expenditure Report must be updated every two years instead of every four years. The report must also include recommendations by the JLARC and the Commission if the tax preference has been reviewed. It must be submitted to and reviewed by the Governor as part of the development of biennial budget requests.

The DOR must also prepare a discretionary tax expenditure report and transmit it to the Governor. The Governor must submit a proposed discretionary expenditure budget to the Legislature as part of the Governor's proposed operating budget documents, including the estimated revenue impact.

The Governor must include recommendations either to continue or to end each discretionary tax expenditure that either:
- Has no expiration date established in law;
- Has been recommended by the JLARC for clarification, but the Legislature has not clarified or added performance measures; or
- Has a revenue reduction of less than $50,000 per fiscal year or $100,000 per biennium.

The fiscal committees of the Legislature must hold public hearings and adopt a discretionary tax expenditure budget as part of the omnibus appropriations act. Failure to include a required discretionary tax expenditure in the enacted omnibus appropriations act will result in the omitted tax expenditure expiring at the end of that calendar year.

Tax expenditures in the discretionary tax expenditure budget must be treated as any other state expenditure and be reauthorized with each biennial budget. In addition, tax expenditures must have an expiration date of 10 years of less. Any discretionary tax expenditures created or extended may not be approved for more than 10 years and must be subject to the JLARC review. The Legislature can expire a tax expenditure earlier than its expiration date by a majority vote or by inclusion in the enacted omnibus appropriations act.

The JLARC must report its findings and recommendations for schedule tax expenditures to the Commission by June 30 of each even-numbered year. The JLARC must submit a final report, including the comments from the Commission, to the House Finance Committee, the Senate Ways and Means Committee, the DOR, and the Governor by September 30 of each even-numbered year for use in the preparation of the discretionary tax expenditure report.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.