SENATE BILL REPORT
ESB 6690

As Amended by House, March 11, 2020

Title: An act relating to aerospace business and occupation taxes and world trade organization compliance.

Brief Description: Concerning aerospace business and occupation taxes and world trade organization compliance.

Sponsors: Senators Liias and King.

Brief History:
Committee Activity: Ways & Means: 2/26/20, 3/02/20 [DP, w/oRec].
Floor Activity:
Passed Senate: 3/10/20, 43-5.
Passed House: 3/11/20, 73-24.

Brief Summary of Bill

- Eliminates the preferential B&O tax rate for the manufacturing, wholesaling, and retailing of commercial airplanes and airplane components beginning April 1, 2020.
- Allows for the reinstatement of a 0.357 percent preferential rate if the world trade organization disputes regarding large commercial airplanes are resolved, expressly allows preferential tax rates, and at least a 0.3 percent aerospace apprenticeship utilization rate is achieved.
- Subjects the aerospace industry to an aerospace apprenticeship utilization rate of 1.5 percent within five years of the 0.357 percent preferential rate being implemented.
- Creates an aerospace workforce council.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.
Signed by Senators Rolfes, Chair; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking

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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.

Member, Capital; Becker, Billig, Carlyle, Dhingra, Hunt, Liias, Muzzall, Rivers, Schoesler, Van De Wege, Wagoner, Warnick and Wilson, L..

Minority Report: That it be referred without recommendation.
Signed by Senators Frockt, Vice Chair, Operating, Capital Lead; Conway, Darneille, Hasegawa, Keiser and Pedersen.

Staff: Jeffrey Mitchell (786-7438)

Background: Business and Occupation Tax. Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay B&O tax even though they may not have any profits or may be operating at a loss. A business may have more than one B&O tax rate, depending on the types of activities conducted. Major tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for services, and activities not classified elsewhere. Several lower rates also apply to specific business activities, including preferential tax rates for the aerospace industry.

Legislative Background of Aerospace Tax Incentives. In 2003, the Legislature adopted tax incentives that were limited to aerospace manufacturers. The incentives included: a 40 percent reduction in the B&O tax rate; a B&O tax credit for aerospace product development expenditures; and a B&O tax credit for property taxes paid on property used in the manufacture of commercial airplanes and airplane components. A leasehold tax exemption for port district facilities is available to manufacturers of superefficient airplanes that are not using the B&O tax credit for property taxes. Also included were sales and use tax exemptions for computer equipment and software, and its installation, used primarily in the development of commercial airplanes and airplane components. These tax preferences were originally scheduled to expire in 2024.

In 2006, the Legislature extended the sales and use tax exemption for computer equipment and software to nonmanufacturing firms engaged in the development, design, and engineering of commercial airplanes and components of commercial airplanes. The B&O tax credit for preproduction development expenditures related to commercial aircraft was also extended to nonmanufacturing firms. Businesses that use these incentives file an annual report with the DOR.

In 2008, the Legislature extended aerospace tax programs to other manufacturers, Federal Aviation Regulation (FAR) repair stations, and design/engineering services. Sales and use tax exemptions were provided for computer equipment and software, and its installation, which are used primarily in aerospace products or providing aerospace services. Until July 1, 2024, the B&O tax rate is 0.2904 percent for: sales, either retail or wholesale, of commercial airplanes or components; the manufacturing or sales of tooling used in the manufacturing of commercial airplanes and components of airplanes; or persons classified by the Federal Aviation Administration as a FAR 145 certified repair station. Persons claiming this rate must file an annual survey with the Department of Revenue (DOR). Persons performing aerospace product development are qualified for a 0.9 percent B&O rate and must file an annual survey with DOR. The preproduction 1.5 percent B&O tax credit on qualified expenditures was expanded to include aerospace product development. The B&O tax credit for property taxes paid was extended to aerospace product development, the manufacturing of tooling, and FAR Part 145 certified repair stations.

During a special session in November of 2013, the expiration date was extended from 2024 to 2040 for the following aerospace tax preferences:

- the preferential business and occupation (B&O) tax rate for the manufacturing, wholesaling, and retailing of commercial airplanes and airplane components;
- the preferential B&O tax rate for the manufacturing, wholesaling, and retailing of tooling used in the manufacturing of commercial airplanes and airplane components;
- the preferential B&O tax rate for retail sales by a FAR Part 145 certificated repair station;
- the preferential B&O tax rate for businesses performing aerospace product development for others;
- the B&O tax credit for aerospace product expenditures;
- the B&O tax credit for property taxes and leasehold taxes on property used exclusively in manufacturing commercial airplanes or components of airplanes;
- the sales and use tax exemptions for computer hardware, computer peripherals, and software used primarily in the development, design, and engineering of aerospace products; and
- the leasehold excise tax exemption for lessees of port facilities used exclusively in manufacturing commercial airplanes.

The extension of these tax incentives in the 2013 special session was contingent upon the DOR making a determination that a final decision to locate a significant commercial airplane manufacturing program in the state had occurred by June 30, 2017. DOR made the required determination on July 9, 2014.

World Trade Organization Dispute. For approximately the last 15 years, the European Union and the United States have been involved in a corporate trade dispute between Airbus and Boeing. The World Trade Organization has found that world's two largest aerospace companies received billions of dollars of unfair subsidies.

Summary of Bill: Beginning April 1, 2020, the preferential B&O tax rate for the manufacturing, wholesaling, and retailing of commercial airplanes and airplane components is eliminated.

After March 31, 2021, a preferential rate of 0.357 percent could be implemented if the following conditions are met:

- the United States and European Union reach an agreement resolving their World Trade Organization disputes regarding large civil airplanes that expressly allows preferential tax rates;
- the Department of Commerce notifies the Department of Revenue in writing that such agreement has been reached, and which includes a copy of the notice to the Department of Commerce from the United States trade representative regarding the agreement; and

- the Department of Labor and Industries notifies the Department of Revenue that a significant commercial airplane manufacturer has at least a 0.3 percent aerospace apprenticeship utilization rate of its qualified apprenticeable workforce.

If the 0.357 percent tax rate is implemented, the aerospace industry is subject to an aerospace apprenticeship utilization rate of 1.5 percent of its qualified apprenticeable workforce by July 1, 2026, or five years after the effective date of the 0.357 percent rate.

An aerospace workforce council is created within the Department of Labor and Industries to establish a framework for apprenticeship utilization reporting and to establish efficient pathways to achieve apprenticeship targets in the bill. The council will meet at least twice a year beginning in calendar year 2020 until the apprenticeship utilization levels are achieved.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: PRO: My family was dependent on the Boeing company growing up like many families in Snohomish County. The aerospace preferential rate needs to be eliminated to comply with World Trade Organization. We have to take this action to protect the jobs in our community and protect our state's economy. Almost a million jobs in Washington are supported by international trade in Washington State. We have nearly $69 billion in goods and another $20 billion in services that we export overseas. Our economy is tied to international trade so we have to satisfy this dispute. This bill eliminates the preferential aerospace rate as required by the WTO decision. Aerospace supports hundreds of thousand of jobs in the state and add tens of billions of dollars to the economy. Boeing fully supports the repeal of the B&O tax rate. If Washington does not find a solution that ensures that WTO compliance, tariffs will likely start later this year. Tariffs would impact not just Boeing and our state's robust aerospace industry, but many other industries in Washington. Therefore, even though repealing the preferential rate will add costs to our company, this bill will resolve the sole finding against the United States in this long running trade dispute between with Europe and it will also clearly demonstrate the commitment of Washington and the United States to fair and rules based trade and to compliance with the WTO rulings. Retaliatory tariffs do not help anybody. We want the best for Boeing because we are all tied to them one way or another. We need to do everything in our power right now to encourage a strong Boeing company. They are the largest employer in the state. They create a lot of jobs outside of aerospace.

OTHER: The European Union is threatening to impose tariffs on $22 billion of U.S. exports. Washington State is uniquely affected by this because about one-third of our jobs are tied in some way to international trade. Tariffs definitely threaten Washington exports, which could include $7 billion of tariffs on aerospace exports. We have over 1400 aerospace companies operating in Washington State. There could be as much as $260 million in non aerospace exports, which could include seafood, lentils oils, and wine. We support eliminating the preferential B&O tax tax rates for commercial airline manufacturers in Washington State in order to avoid the damaging tariffs; however, we oppose the provision in the bill automatically reinstating the program in the event that a agreement is reached with the European Union. From our perspective, the tax subsidy program has failed to achieve one of its primary objectives set by the Legislature, which was to maintain and grow Washington's aerospace industry workforce. We believe these resources would be much more beneficial if they are redirected to schools, health care, child care, infrastructure, and a range of other things that have a much more proven economic bang for the buck.

Persons Testifying: PRO: Senator Marko Liias, Prime Sponsor; Mark Johnson, Washington Retail Association; Bill McSherry, Boeing; Alex McGregor, The McGregor Company; Rosemary Brester, Hobart Machined Products; Melinda Jenks, Skookum; Jim Lee, Tool Gauge; Mike Brown, Aero-Plastics; Steve Lynn, Janicki Industries; Josh McDonald, Washington Wine Institute; Lori Punke, Washington Council on International Trade; Terry Ryan, Snohomish County; Tommy Gantz, Association of Washington Business; Erik Ashlie-Vinke, Economic Alliance of Snohomish County.

OTHER: Andy Nicholas, Washington State Budget and Policy Center; Brandon Anderson, Society of Professional Engineering Employees in Aerospace; Chelsea Mason, IAM District 751; Larry Brown, Washington State Labor Council AFL-CIO; Lisa Brown, Director, Department of Commerce.

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

EFFECT OF HOUSE AMENDMENT(S):

- Updates intent language.
- Clarifies that the snap-back B&O tax rate of 0.357 percent applies only if the agreement between the United States and the European Union allows for a B&O tax rate of 0.357 percent or lower.
- Clarifies that a copy of the agreement between the United States and the European Union, or another document, that contains the B&O tax rate reduction will be sent to the Department of Revenue by the Department of Commerce.