Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Finance Committee

HB 1864

Brief Description: Concerning economic development through advanced technology leadership and security.

Sponsors: Representative Boehnke.

Brief Summary of Bill

- Provides a business and occupation tax credit for clean technology research and development spending, expiring January 1, 2033.
- Establishes the Advanced Technology Leadership and Security Strategic Reserve Account to recruit or retain researchers or instructors to assist in clean technology innovation.

Hearing Date: 1/27/22

Staff: Kyle Raymond (786-7190).

Background:

Business & 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 the B&O tax even though they may not have any profits or may be operating at a loss.

A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent (businesses with taxable income of less than $1 million) or 1.75 percent (businesses with taxable income of $1 million or more) for

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services and for activities not classified elsewhere. Several preferential rates also apply to specific business activities.

In addition, a taxpayer may be eligible to utilize other tax preferences, including credits and deductions, to reduce their tax liability. For example, a taxpayer engaging in activities subject to different B&O tax rates may be eligible for a Multiple Activities Tax Credit. A taxpayer may also be eligible for a small business credit that will either eliminate or reduce their B&O tax liability. In general, the credit is $70 per month for service businesses and $35 per month for all other businesses, multiplied by the number of months in the reporting period. The amount of the credit available phases out based on the business's gross receipts.

A business does not have to file an annual B&O tax return if the business does not owe other taxes or fees to the Department of Revenue (DOR) and has annual gross proceeds of sales, gross income, or value of products for all B&O tax classifications of less than $28,000 per year, or less than $46,667 if at least 50 percent of its taxable income is from services or activities not classified elsewhere.

Tax Preference Performance Statement.
State law provides for a range of tax preferences that confer 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, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Summary of Bill:

Qualified Clean Technology Research and Development Tax Credit.
A business and occupation (B&O) tax credit is provided for taxpayers engaged in qualified clean technology research and development (R&D).

A taxpayer whose qualified clean technology R&D spending during the same calendar year in which the credit is claimed exceeds 0.92 percent of the taxpayer's taxable amount is eligible to receive the credit for qualified clean technology R&D expenditures.

The B&O tax credit is calculated by multiplying 1.5 percent times the greater of: (1) qualified clean technology R&D expenditures that exceed 0.92 percent of the taxpayer's taxable amount; or (2) 80 percent of the compensation received for conducting qualified clean technology R&D under contract.

The total tax credit that may be claimed by a person may not exceed the lesser of $900,000 or the amount of total B&O tax due for the calendar year. If the required qualified clean technology R&D spending does not exceed 0.92 percent of the taxable amount during the same calendar year, or the taxpayer is otherwise ineligible, taxes against which the credit was claimed are immediately due and payable. The Department of Revenue (DOR) must assess interest, but not penalties. The interest must be assessed at the rate provided for delinquent excise taxes, retroactive to the date the credit was claimed, and accruing until the taxes are repaid.

A taxpayer who qualifies for the credit as a result of the qualified clean technology R&D conducted under contract may assign all or part of the credit to the taxpayer contracting for the performance of the R&D. Any credit assigned to such a taxpayer that is disallowed may be claimed by the person who performed the qualified clean technology R&D, provided the credit is claimed against the taxes due in the same calendar year and does not exceed the maximum allowable credit.

If the taxpayer's reporting period is less than annual, the taxpayer may use an estimated average tax rate for the calendar year. Such a taxpayer must adjust the total credit claimed using their actual average tax rate for the calendar year.

A taxpayer claiming the credit must file an annual tax performance report with the DOR.

The B&O credit for qualified clean technology R&D spending expires January 1, 2033.

A number of terms are defined, including the following:

"Qualified clean technology research and development" means R&D activity pursuing innovations that are key to success in achieving a net zero greenhouse gas emissions economy in Washington.

Examples of qualified clean technology R&D include clean hydrogen that is produced without emitting carbon, next generation nuclear fission, nuclear fusion, grid-scale electricity storage, electrofuels, advanced biofuels, zero- carbon steel, plant and cell-based meat and dairy, zero-carbon fertilizer, carbon capture, underground electricity transmission, zero- carbon plastics, geothermal energy, pumped hydropower, thermal storage, drought and flood-tolerant food crops, zero- carbon alternatives to palm oil, and coolants that do not contain F-gases.

"Qualified clean technology research and development expenditures" means certain operating expenses directly incurred in qualified clean technology R&D by a person claiming the B&O credit. Qualified clean technology R&D expenditures does not include amounts paid to a person other than a public educational or research institution to conduct clean technology R&D.

"Research and development spending" means qualified clean technology R&D expenditures plus 80 percent of amounts paid to a person other than a public educational or research institution to conduct qualified clean technology R&D.

Advanced Technology Leadership and Security Strategic Reserve Account.
The Advanced Technology Leadership and Security Strategic Reserve Account (Account) is created in the State Treasury. Expenditures from the Account may be made solely for the purpose of recruiting or retaining a researcher or instructor with the requisite skills to assist in clean technology innovation at a Washington state academic institution, state, or national laboratory.

The President of any Washington state academic institution, state, or national laboratory may request funding from the account to the Director of the Department of Commerce (Department), and the request must submit a signed declaration and any required supporting materials from the Department. The Department may award funds requested by the academic institution or award funds the Director deems necessary. When an award is provided, the Director is required to make factual findings establishing the nexus between the amount awarded and the furtherance of the purposes of advanced technology leadership and security for Washington's economy.

The Department is required to annually report the economic development committees of the Legislature any funding awarded from the account and findings to support the funding.

Tax Preference Performance Statement.
A TPPS is included, stating the Legislature's intent to create and retain businesses that are forming to take on the challenge of creating a modern net zero greenhouse gas emissions economy that outperforms fossil fuel-dependent economies. The Legislature also intends to extend the expiration of the tax preference if there is growth in the clean technology industry cluster in Washington, as measured by the number of businesses claiming the tax credit year over year.

Appropriation: None.

Fiscal Note: Requested on January 18, 2022.

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