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**SUBSTITUTE SENATE BILL 5513**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Frockt, Hasegawa, Miloscia, Rolfes, Saldaña, Keiser, Wellman, Conway, Chase, Billig, Kuderer, Hunt, McCoy, and Darneille)

AN ACT Relating to increasing tax exemption transparency and accountability; amending RCW 43.06.400, 82.33.060, 43.88.030, and 43.88.055; and creating a new section.

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

NEW SECTION. **Sec.**  It is the legislature's intent to incorporate a more explicit recognition of the fiscal impact of tax preferences on the state budget. This act reforms the tax preference expenditure process by explicitly including the fiscal impact of tax preference expenditures in the budget outlook document that is created as part of the biennial state budget process. This brings tax expenditures into the state budget process to protect the public's interest, make them more transparent and accountable, and help ensure they are producing results to meet the priorities of government.

**Sec.**  RCW 43.06.400 and 2013 c 225 s 605 are each amended to read as follows:

(1) Beginning in January ((~~1984~~)) 2019, and in January of every ((~~fourth~~)) second year thereafter, the department of revenue must submit to the legislature prior to the regular session a listing of the amount of reduction for the current and next biennium in the revenues of the state or the revenues of local government collected by the state as a result of tax ((~~exemptions~~)) preferences. The listing must include an estimate of the revenue lost from the tax ((~~exemption~~)) preference, the purpose of the tax ((~~exemption~~)) preference, the persons, organizations, or parts of the population which benefit from the tax ((~~exemption~~)) preference, recommendations by the legislative auditor and citizen commission for performance measurement of tax preferences for any review of the tax preference under chapter 43.136 RCW, and whether or not the tax ((~~exemption~~)) preference conflicts with another state program. The listing must include but not be limited to the following revenue sources:

(a) Real and personal property tax exemptions under Title 84 RCW;

(b) Business and occupation tax exemptions, deductions, and credits under chapter 82.04 RCW;

(c) Retail sales and use tax exemptions under chapters 82.08, 82.12, and 82.14 RCW;

(d) Public utility tax exemptions and deductions under chapter 82.16 RCW;

(e) Food fish and shellfish tax exemptions under chapter 82.27 RCW;

(f) Leasehold excise tax exemptions under chapter 82.29A RCW;

(g) Motor vehicle and special fuel tax exemptions and refunds under chapter 82.38 RCW;

(h) Aircraft fuel tax exemptions under chapter 82.42 RCW;

(i) Motor vehicle excise tax exclusions under chapter 82.44 RCW; and

(j) Insurance premiums tax exemptions under chapter 48.14 RCW.

(2) The department of revenue must prepare the listing required by this section with the assistance of any other agencies or departments as may be required.

(3) The department of revenue must present the listing to the ways and means committees of each house in public hearings.

(4) Beginning in January ((~~1984~~)) 2019, and every ((~~four~~)) two years thereafter the governor is requested to review the report from the department of revenue and may submit recommendations to the legislature with respect to the repeal or modification of any tax ((~~exemption. The ways and means committees of each house and the appropriate standing committee of each house must hold public hearings and take appropriate action on the recommendations submitted by the governor~~)) preference.

(5) As used in this section, "tax ((~~exemption~~)) preference" means an exemption, exclusion, or deduction from the base of a tax; a credit against a tax; a deferral of a tax; or a preferential tax rate.

((~~(6) For purposes of the listing due in January 2012, the department of revenue does not have to prepare or update the listing with respect to any tax exemption that would not be likely to increase state revenue if the exemption was repealed or otherwise eliminated.~~))

**Sec.**  RCW 82.33.060 and 2012 1st sp.s. c 8 s 4 are each amended to read as follows:

(1) To facilitate compliance with, and subject to the terms of, RCW 43.88.055, the state budget outlook work group ((~~shall~~)) must prepare, subject to the approval of the economic and revenue forecast council under RCW 82.33.010, an official state budget outlook for state revenues and expenditures for the general fund and related funds. In odd‑numbered years, the period covered by the November state budget outlook ((~~shall~~)) must be the current fiscal biennium and the next ensuing fiscal biennium. In even‑numbered years, the period covered by the November state budget outlook ((~~shall~~)) must be the next two ensuing fiscal biennia. The revenue and caseload projections used in the outlook must reflect the most recent official forecasts adopted by the economic and revenue forecast council and the caseload forecast council for the years for which those forecasts are available.

(2) The outlook must:

(a) Estimate revenues to and expenditures from the state general fund and related funds. The estimate of ensuing biennium expenditures 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. Estimates of ensuing biennium expenditures must exclude policy items including, but not limited to, legislation not yet enacted by the legislature, collective bargaining agreements not yet approved by the legislature, and changes to levels of funding for employee salaries and benefits unless those changes are required by statute. Estimated maintenance level expenditures must also exclude costs of court rulings issued during or within fewer than ninety days before the beginning of the current legislative session;

(b) Address major budget and revenue drivers, including trends and variability in these drivers;

(c) Clearly state the assumptions used in the estimates of baseline and projected expenditures and any adjustments made to those estimates;

(d) Clearly state the assumptions used in the baseline revenue estimates and any adjustments to those estimates; and

(e) Include the impact of previously enacted legislation with a future implementation date.

(3) The outlook must also separately include projections based on the revenues and expenditures proposed in the governor's budget documents submitted to the legislature under RCW 43.88.030.

(4) Budget outlooks must also separately estimate forgone state revenues from discretionary tax preferences and the expenditure impact of continuing those tax preferences.

(5) The economic and revenue forecast council ((~~shall~~)) must submit state budget outlooks prepared under this section to the governor and the members of the committees on ways and means of the senate and house of representatives, including one copy to the staff of each of the committees, as required by this section.

((~~(5)~~)) (6) Each January, the state budget outlook work group ((~~shall~~)) must also prepare, subject to the approval of the economic and revenue forecast council, a state budget outlook for state revenues and expenditures that reflects the governor's proposed budget document submitted to the legislature under chapter 43.88 RCW. Within thirty days following enactment of an operating budget by the legislature, the work group ((~~shall~~)) must prepare, subject to the approval of the economic and revenue forecast council, a state budget outlook for state revenues and expenditures that reflects the enacted budget.

((~~(6)~~)) (7) All agencies of state government ((~~shall~~)) must provide to the supervisor immediate access to all information relating to state budget outlooks.

((~~(7)~~)) (8) The state budget outlook work group must publish its proposed methodology on the economic and revenue forecast council web site. The state budget outlook work group, in consultation with the economic and revenue forecast work group and outside experts if necessary, must analyze the extent to which the proposed methodology for projecting expenditures for the ensuing fiscal biennia may be reliably used to determine the future impact of appropriations and make recommendations to change the outlook process to increase reliability and accuracy. The recommendations are due by December 1, 2013, and every five years thereafter.

(9)(a) The state budget outlook work group must maintain a current listing of discretionary tax preferences on the economic and revenue forecast council web site. The listing must include the following information:

(i) A description of the discretionary tax preference;

(ii) Prior and estimated future fiscal impacts;

(iii) Any stated public policy objective of the discretionary tax preference;

(iv) The expiration date of the discretionary tax preference or the lack thereof; and

(v) The most recently available recommendations to continue, modify, or eliminate the discretionary tax preference by the legislative auditor and the citizen commission for performance measurement of tax preferences under chapter 43.136 RCW.

(b) The department must provide the information contained in the listing under RCW 43.06.400 to the state budget outlook work group.

(10) For the purpose of this section, "discretionary tax preference" means a tax preference, as defined in RCW 43.136.021, which is not required by the state Constitution, United States Constitution, or federal law.

**Sec.**  RCW 43.88.030 and 2006 c 334 s 43 are each amended to read as follows:

(1) The director of financial management ((~~shall~~)) must provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. The budget document or documents ((~~shall~~)) must consist of the governor's budget message which ((~~shall~~)) must be explanatory of the budget and ((~~shall~~)) must contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and ((~~shall~~)) must describe in connection therewith the important features of the budget. The biennial budget document or documents ((~~shall~~)) must also describe performance indicators that demonstrate measurable progress towards priority results. The message ((~~shall~~)) must set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and ((~~shall~~)) must explain any major changes in financial policy. Attached to the budget message ((~~shall~~)) must be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor ((~~shall~~)) deems to be useful to the legislature. The budget document or documents ((~~shall~~)) must set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues and caseloads as approved by the economic and revenue forecast council and caseload forecast council or upon the estimated revenues and caseloads of the office of financial management for those funds, accounts, sources, and programs for which the forecast councils do not prepare an official forecast. Revenues ((~~shall~~)) must be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues and caseloads for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue and caseload estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues and caseloads must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

The budget document or documents ((~~shall~~)) must also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, and those anticipated for the ensuing biennium;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor ((~~shall~~)) deems pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, and agency;

(f) The expenditures that include nonbudgeted, nonappropriated accounts outside the state treasury;

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.71 RCW, shown by agency and in total; ((~~and~~))

(h) A listing of discretionary tax preferences in the form and manner provided in RCW 82.33.060(9). The budget portion of the web site of the governor and office of financial management must also provide a prominent link to the listing; and

(i) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents ((~~shall~~)) must include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and ((~~shall~~)) must also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves ((~~shall~~)) must equal or exceed the total of proposed applicable expenditures. The budget document or documents ((~~shall~~)) must further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments, and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium;

(g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and

(j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation.

(3) The governor's operating budget document or documents ((~~shall~~)) must reflect the statewide priorities as required by RCW 43.88.090.

(4) The governor's operating budget document or documents ((~~shall~~)) must identify activities that are not addressing the statewide priorities.

(5) A separate capital budget document or schedule shall be submitted that will contain the following:

(a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;

(b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Insomuch as is practical, and recognizing emergent needs, the capital program ((~~shall~~)) must reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;

(c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;

(d) A strategic plan for reducing backlogs of maintenance and repair projects. The plan ((~~shall~~)) must include a prioritized list of specific facility deficiencies and capital projects to address the deficiencies for each agency, cost estimates for each project, a schedule for completing projects over a reasonable period of time, and identification of normal maintenance activities to reduce future backlogs;

(e) A statement of the reason or purpose for a project;

(f) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;

(g) A statement about the proposed site, size, and estimated life of the project, if applicable;

(h) Estimated total project cost;

(i) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs ((~~shall~~)) must be displayed in a standard format defined by the office of financial management to allow comparisons between projects;

(j) Estimated total project cost for each phase of the project as defined by the office of financial management;

(k) Estimated ensuing biennium costs;

(l) Estimated costs beyond the ensuing biennium;

(m) Estimated construction start and completion dates;

(n) Source and type of funds proposed;

(o) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

(p) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, ((~~shall~~)) must identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions ((~~shall~~)) must include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document ((~~shall~~)) must identify the source of funds from which the operation and maintenance costs are proposed to be funded;

(q) Such other information bearing upon capital projects as the governor deems to be useful;

(r) Standard terms, including a standard and uniform definition of normal maintenance, for all capital projects;

(s) Such other information as the legislature may direct by law or concurrent resolution.

(6) For purposes of ((~~this~~)) subsection (5) of this section, the term "capital project" ((~~shall~~)) must be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative evaluation and accountability program committee, and office of financial management.

((~~(6)~~)) (7) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel ((~~shall~~)) may be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence ((~~shall~~)) must consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.

**Sec.**  RCW 43.88.055 and 2012 1st sp.s. c 8 s 1 are each amended to read as follows:

(1) The legislature must adopt a four-year balanced budget as follows:

(a) Beginning in the 2013-2015 fiscal biennium, the legislature shall enact a balanced omnibus operating appropriations bill that leaves, in total, a positive ending fund balance in the general fund and related funds.

(b) Beginning in the 2013-2015 fiscal biennium, the projected maintenance level of the omnibus appropriations bill enacted by the legislature shall not exceed the available fiscal resources for the next ensuing fiscal biennium.

(2) For purposes of this section:

(a) "Available fiscal resources" means the beginning general fund and related fund balances and any fiscal resources estimated for the general fund and related funds, adjusted for enacted legislation, and with forecasted revenues adjusted to the greater of (i) the official general fund and related funds revenue forecast for the ensuing biennium, or (ii) the official general fund and related funds forecast for the second fiscal year of the current fiscal biennium, increased by 4.5 percent for each fiscal year of the ensuing biennium. "Available fiscal resources" does not include forgone state revenues from discretionary tax preferences, as defined in RCW 82.33.060;

(b) "Projected maintenance level" means estimated appropriations necessary to maintain the continuing costs of program and service levels either funded in that appropriations bill or mandated by other state or federal law, and the amount of any general fund moneys projected to be transferred to the budget stabilization account pursuant to Article VII, section 12 of the state Constitution, but does not include in the 2013-2015 and 2015-2017 fiscal biennia the costs related to the enhanced funding under the new definition of basic education as established in chapter 548, Laws of 2009, and affirmed by the decision in *Mathew McCleary et al., v. The State of Washington*, 173 Wn.2d 477, 269 P.3d 227, (2012), from which the short-term exclusion of these obligations is solely for the purposes of calculating this estimate and does not in any way indicate an intent to avoid full funding of these obligations;

(c) "Related funds," as used in this section, means the Washington opportunity pathways account and the education legacy trust account.

(3) Subsection (1)(a) and (b) of this section does not apply to an appropriations bill that makes net reductions in general fund and related funds appropriations and is enacted between July 1st and February 15th of any fiscal year.

(4) Subsection (1)(b) of this section does not apply in a fiscal biennium in which money is appropriated from the budget stabilization account.

**--- END ---**