SENATE BILL REPORT
SB 5557

As of February 5, 2009

Title: An act relating to adopting the recommendations of the citizen commission for performance measurement of tax preferences to clarify the legislative intent of certain deductions and exemptions.

Brief Description: Adopting the recommendations of the citizen commission for performance measurement of tax preferences.

Sponsors: Senator Pridemore.

Brief History:
Committee Activity: Ways & Means: 2/04/09.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dianne Criswell (786-7433)

Background: The Citizen Commission for Performance Measurement of Tax Preferences (Commission) was established by the 2006 Legislature (EHB 1069). The primary role of the Commission is to review all tax preferences at least once every ten years, based on the order the tax preferences were enacted, or on tax preferences with upcoming expiration dates.

The Commission takes into account any newly enacted or terminated tax preferences and revises the schedule as needed each year. The schedule is delivered to the Joint Legislative Audit and Review Committee (JLARC). Tax preference reviews are conducted by the JLARC according to the schedule established by the Commission. For each tax preference, the JLARC will provide recommendations to continue, modify, schedule for future review, or terminate the preference. The JLARC must report its findings and recommendations for scheduled tax preferences to the Commission by August 30 of each year. The Commission reviews and comments on the JLARC report. The final JLARC tax preference review reports are submitted to the House Finance and Senate Ways & Means Committees by December 30 and the committees hold a joint public hearing on the report. The first two tax preference review reports were submitted to the Legislature in 2007 and 2008.

Radio and Television Broadcasting: Business and Occupation Tax Deduction. 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

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the costs of doing business. There are a number of different rates. The main rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for professional and personal services, and activities not classified elsewhere.

The gross income received from advertising by radio and television broadcasting is subject to the B&O tax at a rate of 0.484 percent. Broadcasters receive advertising income from local sources, as well as network, national, and regional sources.

Under current law, radio and television broadcasters may deduct income derived from network, national, and regional advertising sources. This statutory deduction is computed by: (1) a standard deduction from total gross advertising income based on the national average of network, national, and regional advertising as a percent of total advertising income as reported annually by the Federal Communications Commission (FCC); (2) itemizing actual network, national, and regional advertising income received by the individual broadcasting station; or (3) by apportioning income earned from local advertising sources between the in-state and out-of-state listening/viewing audience of the broadcaster. However, for the first method, the FCC no longer publishes these figures, though the last FCC standard deduction for 1970 of 64 percent has been adopted by Department of Revenue (DOR) rule.

<u>Property Tax.</u> Property taxes are imposed by state and local governments. All real and personal property in this state is subject to the property tax based on its value, unless a specific exemption is provided by law. There are exemptions for certain properties, including property owned by federal, state, and local governments, churches, farm machinery, and business inventory.

<u>Nonprofit Orphanages Property Tax Exemption.</u> Since 1891 property owned by nonprofit orphanages is exempt from the property tax. There are two orphanages claiming this exemption, according to the "2007 Expedited Tax Preference Performance Reviews" report: Seattle Children's Home in King County and Hutton Settlement in Spokane County.

This exemption was reviewed in the "2007 Expedited Tax Preference Performance Reviews," with a recommendation that this exemption should be terminated and to allow orphanages to qualify for the nonsectarian property tax exemption.

<u>Nonprofit Nursing Homes and Hospitals Property Tax Exemptions.</u> The property of nonprofit homes for the sick or infirm and nonprofit hospitals for the sick is exempt from the property tax. Prior to 1973 both exemptions were available to nonprofits and for-profits which received public money for care or provided charity care. In 1973 both exemptions were narrowed to exempt only nonprofit homes for the sick or infirm and nonprofit hospitals. Currently, there is no statutory requirement to provide charity care to qualify for these nonprofit property tax exemptions.

These exemptions were reviewed in the 2007 Expedited or Full "Tax Preference Performance Reviews," with a recommendation that these exemptions should be modified if it was the Legislature's intent to require charity care as a condition for the exemptions.

Out-of-State Municipal Airport Property Tax Exemption. Since 1941 property belonging to out-of-state municipal airports is exempt from property tax. Two regional airports claimed for this exemption are the Moscow-Pullman Airport and the Dalles Regional Airport in Klickitat County. In 1998 this exemption was amended to restrict the exemption to airports with 500 acres or less, and the Dalles Regional Airport no longer qualified. The Moscow-Pullman Airport is owned by the city of Pullman and is jointly managed by the cities of Pullman and Moscow and the Port of Whitman County. Thus, the Moscow-Pullman Airport is property tax exempt as a municipal corporation of Washington.

This exemption was reviewed in the "2008 Expedited Tax Preference Performance Reviews," with a recommendation that this exemption should be terminated.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): The standard B&O radio and broadcast deduction for network, national, and regional advertising income will be based on a DOR study to establish the out-of-state audience computed as a radio. The first study must be completed by August 1, 2009. The deduction must be published by rule by December 1, 2009. The study must be repeated every fifth year by March 30 and the deduction published in rule by September 30.

The property tax exemption for orphanages is deleted and the nonsectarian property tax exemption is amended to include nonprofits which provide housing and care for children.

Nonprofit homes for the sick or infirm and nonprofit hospitals for the sick claiming the property tax exemption must file by March 31, on an annual basis, data with DOR identifying the charity care provided. If a nonprofit home for the sick or infirm must file a cost report with the Department of Social and Health Services, it must file a copy of the report with DOR. If a nonprofit hospital for the sick is required to report to the Department of Health, it must file the same charity care data required by RCW 43.70.052(1) with DOR. If the reports are not submitted, the tax exemption will be removed. JLARC must study the charity care provided from 2003 to 2013 by nonprofit homes for the sick or infirm and nonprofit hospitals for the sick by comparing charity care provided by these nonprofits with the for-profit facilities. JLARC will report to the Legislature by December 1, 2014, on the comparison of charity care, as well as the annual property tax savings, options for the measurement of charity care for future reports and studies, and any other recommendations JLARC may have to improve the provision of charity care by homes for the sick or infirm and hospitals by modifying property tax preferences.

The property tax exemption for out-of-state municipal airports is repealed.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: None.

Effective Date: Section 103 of the bill contains an emergency clause and takes effect on July 1, 2009. The other sections take effect ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill takes action on the recommendations of the Citizen Commission for Performance Measurement of Tax Preferences and getting input on the draft from nonprofit nursing homes and hospitals will be useful. The standard deduction for radio and broadcasters should be modernized.

CON: The JLARC-Citizen Commission study on the nonprofit hospital property tax exemption raised some concerns by the groups affected by the study, in respect to the methodology used by the study. The Department of Revenue (DOR) should do these studies. There are concerns about requiring nonprofit nursing homes and hospitals to file duplicative information with the DOR to maintain the property tax exemption. There are many ways to measure "charity care," including community benefits. Some counties do not maintain the assessed value of the land underlying some nonprofit nursing homes.

Persons Testifying: PRO: Senator Pridemore, prime sponsor; Mark Allen, Washington State Association of Broadcasters.

CON: Len McComb, Washington State Hospital Association; Deb Murphy, Linda Hull, Aging Services of Washington - Providence.