

HOUSE BILL REPORT

HB 1094

As Reported by House Committee On:
Finance

Title: An act relating to accountability for tax incentives.

Brief Description: Establishing reporting requirements to monitor the effectiveness of tax incentives.

Sponsors: Representatives Santos, Hasegawa, Conway, Darneille, Chase, Hudgins, Dickerson, Schual-Berke, Morrell, Wood and McCoy.

Brief History:

Committee Activity:

Finance: 1/19/05, 3/7/05 [DPS].

Brief Summary of Substitute Bill

- Modifies annual survey information taxpayers must submit about high-tech, rural county, aluminum smelter, and electrolytic processor tax incentives.
- Provides definitions and specifications for information that must be provided about employment, wage, health benefits, and retirement benefits.
- Makes survey responses for all of these incentives public information.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives McIntire, Chair; Hunter, Vice Chair; Conway, Hasegawa and Santos.

Minority Report: Do not pass. Signed by 4 members: Representatives Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern and Ericksen.

Staff: Bob Longman (786-7139).

Background:

During the 2003-2005 fiscal biennium, the Legislature enacted, extended, or reauthorized a number of business tax incentives for the purposes of economic development or providing tax relief to certain industries. The incentives include the following:

- high-tech business and occupation (B&O) tax credit for research and development spending;
- sales tax and use tax deferral/waiver program for high-tech construction projects;
- sales and use tax deferral/waiver program for construction projects for certain businesses in rural counties and community empowerment zones ("rural county sales/use tax deferral");
- aerospace incentive program;
- semiconductor incentive program;
- aluminum smelter program;
- electrolytic processor public utility tax (PUT) tax incentive;
- B&O tax credit for businesses in rural counties that provide information technology help desk services to third parties; and
- B&O tax credit for businesses engaged in computer software manufacturing or programming in rural counties that create new jobs.

With the passage of the incentives, the Legislature included a number of administrative provisions relating to accountability. In several instances, these provisions are not consistent between incentive programs, particularly with respect to survey, penalties, and tax deferral repayment requirements. For most programs, survey responses are due by March 31 following the year in which the incentives were claimed. For most of the incentives, the survey is mandatory, and failure to submit a survey results in a requirement to pay an amount equal to the tax for which the incentive was claimed. Survey responses may be transmitted in electronic or hard copy format. For some incentives, survey responses are public information. For other incentives, the responses are confidential with the Department of Revenue.

Summary of Substitute Bill:

Accountability provisions are modified for the high-tech, rural county, aluminum smelter, and electrolytic processor tax incentive programs. Individual accountability provisions for each of these programs are replaced with one set of uniform accountability provisions for all the programs.

A taxpayer receiving the benefit of a tax incentive under one or more of these programs must file annual surveys with the Department of Revenue. Surveys are not confidential information and may be disclosed to the public upon request. Definitions are provided for information requested in the survey. The survey must include information about the taxpayer, the taxpayer's business activities, the tax incentives being taken, and the amount or value of the incentives. The survey must also provide the total number of employees by occupational categories; the percentage of total employees earning wages according to wage bands by occupational categories; and the percentage of total employees in full-time, part-time, and temporary positions, by occupational categories. For full-time employees, the following information must be provided: the percentage eligible to participate in employer-provided health care plans, dental care plans, and retirement plans, by occupational categories; and the

percentage actually participating in those plans, by occupational categories. The survey must indicate whether part-time employees and temporary employees are eligible to participate in employer-provided health care, dental, and retirement plans. For employment positions filled by temporary staffing firms, the following information must be provided: the total number of employment positions; the percentage of total employment positions in each occupational category; the percentage of total employment positions that were full-time, part-time, and temporary employment positions; and the average duration of the positions. The Department of Revenue may request additional information necessary for review of, or to determine eligibility for, a tax incentive.

In addition, if the taxpayer is benefitting from the aluminum smelter or electrolytic processing incentives, the taxpayer must report the quantity of product produced at the manufacturing site, actual levels of employment, and the number of jobs affected by publicly-announced employment reductions.

Surveys are due March 31 of each year. Failure to file a survey results in the amount of taxes covered by an incentive becoming immediately due, with interest and penalties. The Department of Revenue may extend the deadline for circumstances beyond the control of the taxpayer. Taxpayers who first claim a tax incentive through a refund or audit may receive refund or credit for overpayment of taxes if the taxpayer files all required annual surveys for prior years.

Surveys must be filed electronically. The Department of Revenue may waive the electronic filing requirement for small businesses.

Substitute Bill Compared to Original Bill:

The original bill applied to a larger list of tax incentives. The substitute bill provides much more detail as to the requirements of the survey.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The purpose of this bill is to get information, not terminate any tax incentives. The state has a moral responsibility to fund its budget needs, and tax incentives that reduce revenue have the same fiscal impact as budget expenditures. Therefore, tax incentives should be reviewed carefully. The public has the right to know if it is being well served by tax incentives, and information on incentives should be open to public review. Information requested for various incentives should be as uniform as possible.

Testimony Against: Information provided by taxpayers about tax incentives should be confidential with the Department of Revenue. Publicly releasing proprietary information may

put a company at a competitive disadvantage. The Department of Revenue should evaluate the incentives without releasing individual company information to the public.

Persons Testifying: (In support) Representative Santos, prime sponsor; John Boonstra Washington Tax Fairness Coalitions and Washington Association of Churches; Jennifer Allen, Pierce County Human Services Coalition; Paul Benz, Director, Lutheran Public Policy; Shawn Cantrell, Washington Citizen Action; and Steve Zemke, Taxpayers for Washington's Future.

(Opposed) Lew McMurrin, Washington Software Alliance.

Persons Signed In To Testify But Not Testifying: None.