

SB 6853 - S AMD 386

By Senator Rockefeller

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** This act shall be known and cited as the
4 accountability for tax preferences act of 2010.

5 NEW SECTION. **Sec. 2.** For the purposes of this act, "tax
6 preference" has the same meaning as provided in RCW 43.136.021.

7 NEW SECTION. **Sec. 3.** The legislature finds that properly designed
8 and justified tax preferences may be an effective method of allocating
9 state resources to fulfill public objectives for job, community, and
10 economic development. However, the legislature also recognizes that
11 tax preferences can become tools for tax avoidance or preferential
12 treatment that puts the burden of paying for common government services
13 and functions disproportionately on nonfavored taxpayers. Therefore,
14 clear performance measures must be established to ensure that they are
15 providing value to the citizens of the state and carefully evaluated
16 before and after being enacted. The legislature finds that the tax
17 structure works best when it is fair and equitable to everyone and the
18 burden of proof that a tax preference is warranted is on those
19 receiving the direct benefit of the preference. The legislature finds
20 that tax preferences should be regularly reviewed in an open and
21 transparent manner and require a positive action by the legislature for
22 continuation. It is the intent of the legislature that a process be
23 established to review and evaluate tax preferences equivalent to the
24 review of proposed expenditures for other public benefits, services, or
25 programs.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 44.04 RCW
27 to read as follows:

1 (1) Any legislation that creates, modifies, or extends a tax
2 preference should include the following provisions:

3 (a) An intent statement that clearly provides the rationale and
4 purpose for the tax preference, against which its effectiveness can be
5 measured;

6 (b) A reporting requirement for beneficiaries, if the legislature
7 determines reporting will be necessary to evaluate the effectiveness of
8 the tax preference;

9 (c) A requirement that the grant, renewal, continuance, or benefit
10 of any tax preference provided under this chapter is conditioned upon
11 full compliance with any reporting requirement;

12 (d) To ensure greater transparency, a requirement that the
13 recipient of any tax preference must provide the dollar amount of the
14 tax savings obtained as a result of the tax preference. Unless the
15 legislature has set forth, with particularity, the justification for
16 not providing such information, the information must be provided by the
17 recipient (i) upon request of the legislature or department of revenue
18 and (ii) in any report that the recipient is required to complete to
19 obtain the tax preference; and

20 (e) An expiration date that is no later than five years after the
21 enactment of the preference.

22 (2) In determining whether to create, modify, or extend a tax
23 preference, the legislature should consider those factors contained in
24 RCW 43.136.055, and may consider additional factors such as those
25 recommended by the citizen commission for performance measurement of
26 tax preferences under section 6 of this act.

27 **Sec. 5.** RCW 43.136.035 and 2006 c 197 s 3 are each amended to read
28 as follows:

29 (1) The citizen commission for performance measurement of tax
30 preferences is created.

31 (2) The commission has (~~seven~~) nine members as follows:

32 (a) One member is the state auditor, who is a nonvoting member;

33 (b) One member is the state treasurer, who is a nonvoting member;

34 (c) One member is the chair of the joint legislative audit and
35 review committee, who is a nonvoting member;

36 (~~(e)~~) (d) The chair of each of the two largest caucuses of the

1 senate and the two largest caucuses of the house of representatives
2 (~~shall~~) must each appoint a member. None of these appointees may be
3 members of the legislature; and

4 (~~(d)~~) (e) The governor (~~shall~~) must select the (~~seventh~~
5 ~~member~~) eighth and ninth members, at least one of whom must be a
6 citizen representing working families or a nonprofit organization.

7 (3) Persons appointed by the caucus chairs should be individuals
8 who (~~represent a balance of perspectives and constituencies, and~~)
9 have a basic understanding of state tax policy, government operations,
10 and public services. (~~These appointees should have knowledge and~~
11 ~~expertise in performance management, fiscal analysis, strategic~~
12 ~~planning, economic development, performance assessments, or closely~~
13 ~~related fields.~~)

14 (4) The commission (~~shall~~) must elect a chair from among its
15 voting or nonvoting members. Decisions of the commission must be made
16 using the sufficient consensus model. For the purposes of this
17 subsection, "sufficient consensus" means the point at which the vast
18 majority of the commission favors taking a particular action. If the
19 commission determines that sufficient consensus cannot be reached, a
20 vote must be taken. The commission must allow a minority report to be
21 included with a decision of the commission, if requested by a member of
22 the commission.

23 (5) Members serve for terms of four years, with the terms expiring
24 on June 30th on the fourth year of the term. However, in the case of
25 the initial terms, the members appointed by the chairs of senate
26 caucuses (~~shall~~) must serve four-year terms, the members appointed by
27 the chairs of house of representatives caucuses (~~shall~~) must serve
28 three-year terms, and the member appointed by the governor (~~shall~~)
29 must serve a two-year term, with each of the terms expiring on June
30 30th of the applicable year. Appointees may be reappointed to serve
31 more than one term.

32 (6) The joint legislative audit and review committee (~~shall~~) must
33 provide clerical, technical, and management personnel to the commission
34 to serve as the commission's staff. The department of revenue
35 (~~shall~~) must provide necessary support and information to the joint
36 legislative audit and review committee.

37 (7) The commission (~~shall~~) must meet at least once a quarter and
38 may hold additional meetings at the call of the chair or by a majority

1 vote of the members of the commission. The members of the commission
2 (~~shall~~) must be compensated in accordance with RCW 43.03.220 and
3 reimbursed for travel expenses in accordance with RCW 43.03.050 and
4 43.03.060.

5 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.136 RCW
6 to read as follows:

7 The citizen commission may recommend to the fiscal committees of
8 the legislature additional factors that it determines may be applicable
9 or appropriate to consider in review of tax preferences, including
10 factors such as the following:

11 (1) The positive and negative impacts of the preference on the
12 taxpayer or taxpayers receiving the preference if the preference is
13 continued;

14 (2) The effective state tax rate of the beneficiary taxpayer or
15 taxpayers before and after the preference;

16 (3) The economic development impacts of the preference, including
17 any demonstrated multiplier effect and demonstrated impact on jobs,
18 wages, and benefits;

19 (4) The federal income tax benefits generally available under
20 current federal law to businesses engaged in activities comparable to
21 the activities of the beneficiary taxpayer or taxpayers;

22 (5) The availability of other tax benefits for the beneficiary
23 taxpayers under state law and the cumulative fiscal effects of such
24 benefits;

25 (6) If the beneficiary taxpayer is a nonprofit or public
26 institution, comparisons of those activities to private activity and if
27 so, the comparable tax burden between the two;

28 (7) A comparison of the preference with tax treatment of taxpayers
29 engaged in similar activities in neighboring states; and

30 (8) Consideration of the probable impact on overall uniformity and
31 fairness of the tax code.

32 NEW SECTION. **Sec. 7.** A new section is added to chapter 44.04 RCW
33 to read as follows:

34 (1) To the maximum extent possible, the legislature must evaluate
35 existing tax preferences in the year subsequent to the year in which

1 the tax preference is reviewed and findings or recommendations are
2 reported by the citizen commission on the performance measurement of
3 tax preferences.

4 (2) The legislature may use the citizen commission's
5 recommendations and review as part of its own review and analysis.
6 Each tax preference must be considered as if it were included as an
7 expenditure in the appropriate category of budget expenditures.

8 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.88 RCW
9 to read as follows:

10 (1) When the governor submits a budget, revenue, or policy proposal
11 that includes a new, modified, or extended tax preference, there must
12 be a recommended expiration date for the tax preference, a statement of
13 the anticipated and particular beneficiaries and benefits, a
14 recommendation of proposed methods for measurement and review of the
15 effectiveness of such tax preference, and a recommendation of existing
16 tax preferences that should be discontinued or modified sufficient to
17 fully offset the costs of the new, modified, or extended tax preference
18 during any biennium during which the new, modified, or extended tax
19 preference is in effect.

20 (2) With each budget required to be submitted by the governor
21 pursuant to this chapter, there must also be a recommendation submitted
22 by the governor which describes the aggregate cost and expected
23 benefits of all proposals submitted with such budget for tax preference
24 modification or extension, a statement of the manner in which such
25 proposals are intended to achieve economic development and job
26 creation, and a recommendation of the maximum amount which, in the
27 judgment of the governor, should be expended in each future biennium in
28 support of such proposals.

29 **Sec. 9.** RCW 43.06.400 and 1999 c 372 s 5 are each amended to read
30 as follows:

31 (1) Beginning in January 1984, and in January of every ((fourth))
32 second year thereafter, the department of revenue ((shall)) must submit
33 to the legislature prior to the regular session a listing of the amount
34 of reduction for the current and next biennium in the revenues of the
35 state or the revenues of local government collected by the state as a
36 result of tax exemptions. The listing ((shall)) must include an

1 estimate of the revenue lost from the tax exemption, the purpose of the
2 tax exemption, the persons, organizations, or parts of the population
3 which benefit from the tax exemption, and whether or not the tax
4 exemption conflicts with another state program. The listing (~~shall~~)
5 must include but not be limited to the following revenue sources:

6 ((+1)) (a) Real and personal property tax exemptions under Title
7 84 RCW;

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

10 ((+3)) (c) Retail sales and use tax exemptions under chapters
11 82.08, 82.12, and 82.14 RCW;

12 ((+4)) (d) Public utility tax exemptions and deductions under
13 chapter 82.16 RCW;

14 ((+5)) (e) Food fish and shellfish tax exemptions under chapter
15 82.27 RCW;

16 ((+6)) (f) Leasehold excise tax exemptions under chapter 82.29A
17 RCW;

18 ((+7)) (g) Motor vehicle and special fuel tax exemptions and
19 refunds under chapters 82.36 and 82.38 RCW;

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

21 ((+9)) (i) Motor vehicle excise tax exclusions under chapter 82.44
22 RCW; and

23 ((+10)) (j) Insurance premiums tax exemptions under chapter 48.14
24 RCW.

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

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

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

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

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4 On page 1, line 2 of the title, after "2010" strike the remainder
5 of the title and insert "; amending RCW 43.136.035 and 43.06.400;
6 adding new sections to chapter 44.04 RCW; adding a new section to
7 chapter 43.136 RCW; adding a new section to chapter 43.88 RCW; and
8 creating new sections."

EFFECT: Establishes the intent of the legislature that tax preferences be reviewed in the same manner as budget expenditures. Sets standards for what should be considered in future tax preference legislation. Increases the makeup of the Citizen Commission on the Performance Review of Tax measures. Requires the Governor, when submitting tax preference requests to the legislature, to offset the cost of any preferences by reductions or eliminations of existing preferences. Requires the department of revenue to provide the tax exemption report every two years rather than every four years.

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