
SECOND SUBSTITUTE HOUSE BILL 2117

State of Washington

66th Legislature

2019 Regular Session

By House Appropriations (originally sponsored by Representatives Frame, Tarleton, Sullivan, Springer, Walen, Macri, Orwall, Wylie, Chapman, Morris, Doglio, Peterson, Senn, Valdez, Ortiz-Self, Stanford, Pollet, and Santos)

READ FIRST TIME 03/01/19.

1 AN ACT Relating to providing a pathway to modernize and rebalance
2 the Washington state tax structure so that it is equitable, adequate,
3 stable, and transparent for the people of Washington state; adding a
4 new section to chapter 82.32 RCW; creating new sections; and
5 providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that the
8 Washington tax structure, developed at the turn of the twentieth
9 century, is no longer adequate, equitable, stable, or transparent.

10 (a) In the early 1930s, the Washington supreme court overturned
11 an initiative of the people that approved a tax intended to reduce
12 the over-reliance on the property tax, in the midst of the great
13 depression. In response to the court decision, the 1933 legislature
14 adopted a gross receipts tax on businesses as a temporary measure to
15 balance the state budget. This temporary tax measure, now referred to
16 as the business and occupation tax, remains in law to this day.
17 Because this tax does not allow a deduction for the cost of doing
18 business, the tax penalizes new businesses, small businesses, and low
19 margin businesses with high capital costs.

20 (b) Two years after the enactment of the temporary business tax
21 and amidst deepening financial crisis, the legislature enacted the

1 most comprehensive tax bill in state history, the revenue act of
2 1935. The act shifted the state's primary revenue source from
3 property tax to excise taxes, making permanent the business and
4 occupation tax and enacting the retail sales and use tax. Excise
5 taxes have resulted in our state tax code being overly regressive. In
6 other words, with a heavy reliance on sales tax and other excise
7 taxes, households at the lowest end of the income spectrum pay more
8 of their income to taxes compared to the wealthiest households in the
9 state.

10 (c) Since the creation of our regressive tax structure,
11 individual taxpayers and businesses have sought relief from the
12 business and occupation tax, retail sales and use tax, property tax,
13 and other taxes. Over the years, the legislature has adopted
14 approximately seven hundred tax preferences including exemptions,
15 deductions, deferrals, credits, exclusions, and preferential tax
16 rates. While some of those tax preferences have a broad and positive
17 impact, such as the voter-approved decision not to charge sales tax
18 on food, many are targeted to benefit a very small number of
19 taxpayers. The need for tax preferences to mitigate the consequences
20 of the state tax structure has created structural deficits along with
21 "winners" and "losers" within the code. According to the 2016 tax
22 exemption study completed by the department of revenue, these tax
23 preferences forego 50.4 billion dollars in revenue per biennium. This
24 means the state foregoes more revenue in tax preferences than it
25 collects from its remaining revenue sources, leaving those taxpayers
26 without preferential tax treatment to assume a disproportionate share
27 of the responsibility to fund critical local and state investments.

28 (2) The legislature further finds that in 2001, the Washington
29 state tax structure study committee under section 138, chapter 7,
30 Laws of 2001 2nd sp. sess., was established to study the elasticity,
31 equity, and adequacy of the state's tax structure.

32 (a) The tax structure study committee produced a comprehensive
33 report of their research, economic modeling, and resulting tax policy
34 prescriptions. The legislature has adopted some of the recommended
35 changes, including establishing the budget stabilization account,
36 limiting new tax preferences with ten-year expiration dates, and
37 streamlining online retail sales tax administration. While these
38 incremental changes were made, none of the major alternatives have
39 been adopted, including the recommendation to replace the business
40 and occupation tax with a business value added tax.

1 (b) Since the tax structure study committee's final report was
2 published in November 2002, Washington's population, economy, and
3 communities have changed dramatically. Our state population has
4 increased by more than twenty percent (an estimated 1.3 million
5 additional people). In the decade since the great recession, some
6 business sectors have rebounded, stronger than ever, while many other
7 Washington industries have not recovered. Five Washington counties
8 have captured seventy-four percent of all new jobs created since
9 2001. Economic analysis indicates state revenues are decoupling from
10 the state's economic activity, creating structural revenue declines
11 that undermine the state's ability to provide essential services to
12 the people and communities of the state. Washington state and local
13 revenue collections as a share of personal income has dropped
14 approximately ten percent since the late 1990s. Legislative policy
15 choices, voter initiatives, consumer behavior, federal changes, low
16 interest rates, and our transition from a manufacturing economy to a
17 service based economy have all contributed to the erosion of the
18 state general fund revenue.

19 (3) The legislature further finds that in 2017, the Washington
20 state house tax structure work group under section 101, chapter 1,
21 Laws of 2017 3rd sp. sess., was established to facilitate public
22 discussions throughout the state about the advantages and
23 disadvantages of the state's current tax structure and potential
24 options to improve the current structure for the benefit of
25 individuals, families, and businesses in Washington state.
26 Legislators traveled across the state to hear directly from taxpayers
27 about key challenges in the tax structure that should be studied and
28 addressed in the future.

29 (a) The taxpayers recommended finding solutions to address the:

30 (i) Regressive nature of the tax code;

31 (ii) Negative impact of the business and occupation tax on small,
32 start-up, and low-margin businesses;

33 (iii) Need to modernize the tax structure to reflect the changing
34 economy; and

35 (iv) Excessive number of tax preferences and exemptions;

36 (b) The taxpayers also recommended conducting economic modeling
37 and comparative research of major alternatives to current revenue
38 sources, including but not limited to replacing:

39 (i) The business and occupation tax with an alternative taxing
40 mechanism such as corporate income tax or margins tax;

1 (ii) The one percent revenue growth limit on regular property
2 taxes with a limit based on population growth and inflation;

3 (iii) A portion of the state property tax with a capital gains
4 tax; and

5 (iv) Other existing revenue sources with alternative revenue
6 sources.

7 (4) Therefore, it is the intent of the legislature to modernize
8 and rebalance our state tax structure. To accomplish this, the
9 legislature will:

10 (a) Directly engage in robust conversations with taxpayers,
11 stakeholders, and experts across the state about how to make our tax
12 structure more equitable, adequate, stable, and transparent;

13 (b) Expand upon the successes of the 2017 tax structure work
14 group by increasing outreach and involving more taxpayers in the
15 conversation;

16 (c) Reevaluate the state tax structure, taking into particular
17 consideration the modernizing economy and changing economic reality
18 we currently face as individuals, communities, businesses, and the
19 state;

20 (d) Develop alternatives to our current tax structure for
21 consideration by taxpayers and policymakers, considering the
22 principles of equity, adequacy, stability, and transparency, while
23 also taking into consideration the effect on economic vitality and
24 the harmony with neighboring state's tax system; and

25 (e) Recommend policies that consider the principles named in (d)
26 of this subsection and reduce the tax burden on low-income and
27 middle-class households and small, start-up, and low-margin
28 businesses.

29 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.32
30 RCW to read as follows:

31 (1) The tax structure work group created within the 2017-2019
32 operating budget (chapter 1, Laws of 2017 3rd sp. sess. (Substitute
33 Senate Bill No. 5883)) is reauthorized and expanded to include nine
34 voting members, appointed as follows:

35 (a) The president of the senate must appoint two members from
36 each of the two largest caucuses of the senate;

37 (b) The speaker of the house of representatives must appoint two
38 members from each of the two largest caucuses of the house of
39 representatives; and

1 (c) The governor must appoint one member who represents the
2 office of the governor.

3 (2) The work group must also include the following nonvoting
4 members:

5 (a) One representative of the department of revenue;

6 (b) One representative of the association of Washington cities;
7 and

8 (c) One representative of the Washington state association of
9 counties.

10 (3) All work group members must indicate, in writing, their
11 interest in serving on the tax structure work group and provide a
12 statement of understanding that the commitment to serve on the tax
13 structure work group is through December 31, 2024. Elected officials
14 not reelected to their respective offices may be relieved of their
15 responsibilities on the tax structure work group.

16 (4) Vacancies on the tax structure work group must be filled
17 within sixty days of notice of the vacancy.

18 (5) The work group must choose a chair or cochairs from among its
19 legislative membership. The chair is responsible for convening the
20 meetings of the work group.

21 (6) Voting on recommendations and other decisions of the work
22 group are to be agreed upon by a simple majority vote. All work group
23 members may have a representative attend meetings of the tax
24 structure work group in lieu of the member, but voting by proxy is
25 not permitted.

26 (7) The duties of the work group are:

27 (a) Update the information contained in the final report of
28 findings and alternatives submitted by the Washington state tax
29 structure study committee to the legislature under section 138,
30 chapter 7, Laws of 2001 2nd sp. sess., and investigate other matters
31 that may be material to changing the state tax structure, such as
32 those recommended in the final report of the 2018 tax structure work
33 group; and

34 (b) Based on the update to the final report, provided in (a) of
35 this subsection, and other information gathered by the work group,
36 make recommendations to the legislature for changes to the state tax
37 structure. Any recommendation provided by the work group may not
38 result in a loss of revenue to the state as compared to the most
39 recent biennial revenue forecast published by the economic and
40 revenue forecast council.

1 (c) In making the recommendations under (b) of this subsection,
2 the work group must be guided by the following principles for a well-
3 designed tax system: Equity, adequacy, stability, and transparency.

4 (8) To assist the work group with its duties, the department of
5 revenue must create one or more technical advisory group(s) that may
6 include academic scholars from state research institutions or
7 regional universities and other recognized experts in the fields of
8 economics, taxation, business administration, public administration,
9 public policy, or other relevant disciplines as determined by the
10 department of revenue. It is the legislature's intent to include in a
11 technical advisory group both experts in economic theory as well as
12 tax law practitioners, such as certified public accountants, tax
13 attorneys, and other tax preparation professionals.

14 (9) The work group must complete its duties on the following
15 schedule:

16 (a) By July 1, 2020, the work group and technical advisory group
17 must prepare a summary of their preliminary findings and
18 alternatives, including:

19 (i) Updates to the findings and alternatives in the final report
20 submitted by the Washington state tax structure study committee to
21 the legislature under section 138, chapter 7, Laws of 2001 2nd sp.
22 sess., to include current information and data, and to account for
23 any of the original findings that have been addressed through
24 legislation since the original submission of that report; and

25 (ii) Economic modeling or other comparable analysis addressing
26 key challenges of the Washington state tax code (as reflected in the
27 final report of the tax structure work group submitted on December 3,
28 2018, as required by chapter 1, Laws of 2017 3rd sp. sess.
29 (Substitute Senate Bill No. 5883));

30 (b) Between July 1, 2020, and December 31, 2020, the work group
31 must:

32 (i) Hold no less than two meetings in Olympia to review the
33 preliminary report described in (a) of this subsection. Some of these
34 meetings must include stakeholder groups. These stakeholder groups
35 must include, at a minimum, organizations and individuals
36 representing the following:

37 (A) Small, start-up, or low-margin business owners and employees
38 and/or associations expressly dedicated to representing these
39 businesses; and

1 (B) Individual taxpayers with income at or below one hundred
2 percent of area median income in their county of residence and/or
3 organizations expressly dedicated to representing low-income and
4 middle-income taxpayers;

5 (ii) Present the report described in (a) of this subsection with
6 findings and alternatives related to changes to the state tax system,
7 in compliance with RCW 43.01.036, to the appropriate committees of
8 the legislature; and

9 (iii) Begin to plan strategies to engage taxpayers and key
10 stakeholder groups to encourage participation in the public meetings
11 described in (d) (ii) of this subsection;

12 (c) During the 2021 legislative session, the work group must:

13 (i) Be available to deliver a presentation to the appropriate
14 committees of the legislature including:

15 (A) The findings and alternatives included in the report
16 described in (a) of this subsection; and

17 (B) The preliminary plan to engage taxpayers directly in a robust
18 conversation about the state's tax structure, including presenting
19 the findings and alternatives in the report described in (d) of this
20 subsection, and collecting feedback to inform development of
21 recommendations; and

22 (ii) Finalize the logistics of the engagement strategies
23 described in (d) of this subsection;

24 (d) Between the conclusion of the 2021 legislative session and
25 December 31, 2021, the work group must:

26 (i) Hold no less than five public meetings in geographically
27 dispersed areas of the state;

28 (ii) Present the report and findings described in (a) of this
29 subsection and alternatives to the state's current tax structure at
30 the public meetings;

31 (iii) Provide an opportunity at the public meetings for taxpayers
32 to engage in a conversation about the state tax structure, including
33 but not limited to, providing feedback on possible recommendations
34 for changes to the state tax structure and asking questions about the
35 report and findings and alternatives to the state's current tax
36 structure presented by the work group;

37 (iv) Utilize methods to collect taxpayer feedback before, during,
38 or after the public meetings that may include, but is not limited to:
39 Small group discussions, in-person written surveys, in-person visual
40 surveys, online surveys, written testimony, and public testimony;

1 (v) Encourage legislators to inform their constituents about the
2 public meetings that occur within and near their legislative
3 districts;

4 (vi) Inform local elected officials about the public meetings
5 that occur within and near their communities; and

6 (vii) Summarize the feedback that taxpayers and other
7 stakeholders communicated during the public meetings and other public
8 engagement methods, and submit a final summary report, in accordance
9 with RCW 43.01.036, to the appropriate committees of the legislature.
10 This report may be submitted as an appendix or update to the report
11 described in (a) of this subsection;

12 (e) During the 2022 legislative session, the work group must:

13 (i) Present the reports described in (a) and (d) of this
14 subsection to the appropriate committees of the legislature; and

15 (ii) Be available to deliver a presentation to and/or participate
16 in a work session for the appropriate committees of the legislature;
17 and

18 (f)(i) Between the conclusion of the 2022 legislative session and
19 December 31, 2022, the work group is directed to finalize policy
20 recommendations and develop legislation to implement modifications to
21 the tax structure, informed by the findings described in (a) of this
22 subsection and the feedback received from taxpayers as reflected in
23 the port described in (d) of this subsection;

24 (ii) During the 2023 legislative session, it is the intent of the
25 legislature to consider the proposal described in (f)(i) of this
26 subsection;

27 (iii) If the proposal is not adopted during the 2023 legislative
28 session, the work group is directed to host no less than three public
29 meetings to collect feedback on the legislation proposed in the 2023
30 session, and may also collect feedback on other proposals under
31 consideration by the work group. The work group is directed to modify
32 the proposal to address the feedback collected during the public
33 meetings;

34 (iv) During the 2024 legislative session, it is the intent of the
35 legislature to consider the modified proposal described in (f)(iii)
36 of this subsection; and

37 (g) By December 31, 2024, the work group is directed to submit a
38 final report that is a compilation of all other reports previously
39 submitted since July 1, 2019, and may include additional content to
40 summarize final activities of the tax structure work group and

1 related legislation, in compliance with RCW 43.01.036, to the
2 appropriate committees of the legislature.

3 (10) Staff support for the work group must be provided by the
4 department of revenue, subject to the degree such support is funded
5 through appropriation. The department of revenue may engage one or
6 more outside consultant(s) to assist in providing support for the
7 work group.

8 (11) Members of the work group must serve without compensation
9 but may be reimbursed for travel expenses under RCW 44.04.120,
10 43.03.050, and 43.03.060.

11 (12) The expenses of the work group must be paid jointly by the
12 senate and the house of representatives. Work group expenditures are
13 subject to approval by the senate facilities and operations committee
14 and the house of representatives executive rules committee, or their
15 successor committees.

16 (13) This section expires December 31, 2024.

17 NEW SECTION. **Sec. 3.** If specific funding for the purposes of
18 this act, referencing this act by bill or chapter number, is not
19 provided by June 30, 2019, in the omnibus appropriations act, this
20 act is null and void.

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