
SUBSTITUTE HOUSE BILL 1869

State of Washington 58th Legislature 2003 Regular Session

By House Committee on Finance (originally sponsored by Representatives McIntire, Gombosky, Morris, Conway, Santos, Haigh, Kagi, Hunt, Linville, Dunshee, Chase, Simpson, Moeller, Lovick, Cody, Murray, Upthegrove, Voloria and Wood)

READ FIRST TIME 03/10/03.

1 AN ACT Relating to performance audits of tax preferences; adding
2 new sections to chapter 43.136 RCW; and repealing RCW 43.136.010,
3 43.136.020, 43.136.030, 43.136.040, 43.136.050, and 43.136.070.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes that tax
6 preferences are enacted to meet objectives which are determined to be
7 in the public interest. However, some tax preferences may not be
8 efficient or equitable tools for the achievement of current public
9 policy objectives. Given the changing nature of the economy and tax
10 structures of other states, the legislature finds that periodic
11 performance audits of tax preferences are needed to determine if their
12 continued existence will serve the public interest.

13 NEW SECTION. **Sec. 2.** As used in this chapter, "tax preference"
14 means an exemption, exclusion, or deduction from the base of a state
15 tax; a credit against a state tax; a deferral of a state tax; or a
16 preferential state tax rate.

1 NEW SECTION. **Sec. 3.** (1) The citizen commission for performance
2 measurement of tax preferences is created.

3 (2) The commission has nine voting members, appointed by the
4 governor as follows:

- 5 (a) Two persons representing labor;
- 6 (b) Two persons representing business;
- 7 (c) Three persons representing the general public;
- 8 (d) Two tax specialists from the state university system, one from
9 western Washington and one from eastern Washington.

10 (3) The commission has five nonvoting members, one appointed by the
11 governor, and one appointed by each chair of the two largest caucuses
12 of the senate and the two largest caucuses of the house of
13 representatives.

14 (4)(a) Appointees representing labor must be filled from lists of
15 nominees submitted by statewide labor organizations representing a
16 cross-section of industries.

17 (b) Appointees representing business must be filled from lists of
18 nominees submitted by statewide business organizations representing a
19 cross-section of industries.

20 (c) Appointees representing the general public must be filled from
21 lists of nominees submitted by the chairs of each of the two largest
22 caucuses of the senate and the two largest caucuses of the house of
23 representatives. These appointees should be individuals who represent
24 a balance of perspectives and constituencies, and have a basic
25 understanding of state tax policy, government operations, and public
26 services. These appointees should have knowledge and expertise in
27 performance management, fiscal analysis, strategic planning, economic
28 development, performance assessments, or closely related fields. Not
29 more than two of these appointees may be members of the same political
30 party. This requirement does not imply that any person must declare a
31 political affiliation to be eligible for appointment.

32 (5) The commission shall elect a chair from among its voting or
33 nonvoting members. Decisions of the commission must be made using the
34 sufficient consensus model. For the purposes of this subsection,
35 "sufficient consensus" means the point at which the vast majority of
36 the commission favors taking a particular action. If the commission
37 determines that sufficient consensus cannot be reached, a vote must be

1 taken. The commission must allow a minority report to be included with
2 a decision of the commission, if requested by a member of the
3 commission.

4 (6) Members serve for terms of four years, with the terms expiring
5 on June 30th on the fourth year of the term. However, in the case of
6 the initial members, three members shall serve four-year terms, three
7 members shall serve three-year terms, and three members shall serve a
8 two-year term, with each of the terms expiring on June 30th of the
9 applicable year. Appointees may be reappointed to serve more than one
10 term.

11 (7) The joint legislative audit and review committee shall provide
12 clerical, technical, and management personnel to the commission to
13 serve as the commission's staff. The department of revenue shall
14 provide necessary support and information to the joint legislative
15 audit and review committee.

16 (8) The commission shall meet at least once a quarter and may hold
17 additional meetings at the call of the chair or by a majority vote of
18 the members of the commission. The members of the commission shall be
19 compensated in accordance with RCW 43.03.220 and reimbursed for travel
20 expenses in accordance with RCW 43.03.050 and 43.03.060.

21 NEW SECTION. **Sec. 4.** (1) The citizen commission for performance
22 measurement of tax preferences shall develop a schedule to accomplish
23 an orderly review of tax preferences at least once every ten years.
24 The commission shall schedule tax preferences for review in the order
25 the tax preferences were enacted into law, except that the commission
26 may elect to include, anywhere in the schedule, a tax preference that
27 has a statutory expiration date. The commission shall omit from the
28 schedule tax preferences that are required by constitutional law, and
29 may omit any tax preference that the commission determines is a
30 critical part of the structure of the tax system. As an alternative to
31 the process under section 5 of this act, the commission may recommend
32 to the joint legislative audit and review committee an expedited review
33 process for any tax preference that has an estimated biennial fiscal
34 impact of ten million dollars or less.

35 (2) The commission shall revise the schedule as needed each year,
36 taking into account newly enacted or terminated tax preferences. The

1 commission shall deliver the schedule to the joint legislative audit
2 and review committee by September 1st of each year.

3 (3) The commission shall provide a process for effective citizen
4 input during its deliberations.

5 NEW SECTION. **Sec. 5.** (1) The joint legislative audit and review
6 committee shall review tax preferences according to the schedule
7 developed under section 4 of this act. The committee shall consider,
8 but not be limited to, the following factors in the review:

9 (a) The classes of individuals, types of organizations, or types of
10 industries whose state tax liabilities are directly affected by the tax
11 preference;

12 (b) Public policy objectives that might provide a justification for
13 the tax preference, including but not limited to the legislative
14 history, any legislative intent, or the extent to which the tax
15 preference encourages business growth or relocation into this state,
16 promotes growth or retention of high wage jobs, or helps stabilize
17 communities;

18 (c) Evidence that the existence of the tax preference has
19 contributed to the achievement of any of the public policy objectives;

20 (d) The extent to which continuation of the tax preference might
21 contribute to any of the public policy objectives;

22 (e) The feasibility of modifying the tax preference to provide for
23 adjustment or recapture of the tax benefits of the tax preference if
24 the objectives are not fulfilled;

25 (f) Fiscal impacts of the tax preference, including past impacts
26 and expected future impacts if it is continued. For the purposes of
27 this subsection, "fiscal impact" includes an analysis of the general
28 effects of the tax preference on the overall state economy, including,
29 but not limited to, the effects of the tax preference on the
30 consumption and expenditures of persons and businesses within the
31 state;

32 (g) The extent to which termination of the tax preference would
33 affect the distribution of liability for payment of state taxes.

34 (2) For each tax preference, the committee shall provide a
35 recommendation as to whether the tax preference should be continued
36 without modification, modified, scheduled for sunset review at a future

1 date, or terminated immediately. The committee may recommend
2 accountability standards for the future review of a tax preference.

3 NEW SECTION. **Sec. 6.** (1) The joint legislative audit and review
4 committee shall report its findings and recommendations for scheduled
5 tax preferences to the citizen commission for performance measurement
6 of tax preferences by August 30th of each year. The commission may
7 review and comment on the report of the committee. The committee may
8 revise its report based on the comments of the commission. The
9 committee shall prepare a final report that includes the comments of
10 the commission and submit the final report to the finance committee of
11 the house of representatives and the ways and means committee of the
12 senate by December 30th.

13 (2) The joint legislative audit and review committee shall submit
14 a special report reviewing all tax preferences that have statutory
15 expiration dates between June 30, 2003, and January 1, 2005. For the
16 special report, the committee shall complete a review under section 5
17 of this act, and obtain comments of the citizen commission for
18 performance measurement of tax preferences under subsection (1) of this
19 section, to the extent possible. The committee shall submit the
20 special report to the finance committee of the house of representatives
21 and the ways and means committee of the senate by January 12, 2004.

22 (3) Following receipt of a report under this section, the finance
23 committee of the house of representatives and the ways and means
24 committee of the senate shall jointly hold a public hearing to consider
25 the final report and any related data.

26 NEW SECTION. **Sec. 7.** Upon request of the citizen commission for
27 performance measurement of tax preferences or the joint legislative
28 audit and review committee, the department of revenue and the
29 department of employment security shall provide information needed by
30 the commission or committee to meet its responsibilities under this
31 chapter.

32 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each
33 repealed:

34 (1) RCW 43.136.010 (Legislative findings--Intent) and 1982 1st
35 ex.s. c 35 s 39;

- 1 (2) RCW 43.136.020 ("Tax preference" defined) and 1982 1st ex.s. c
2 35 s 40;
- 3 (3) RCW 43.136.030 (Legislative budget committee and department of
4 revenue--Review of tax preferences--Reports) and 1982 1st ex.s. c 35 s
5 41;
- 6 (4) RCW 43.136.040 (Legislative budget committee review of tax
7 preferences--Factors for consideration) and 1982 1st ex.s. c 35 s 42;
- 8 (5) RCW 43.136.050 (Powers and duties of ways and means committees)
9 and 1982 1st ex.s. c 35 s 43; and
- 10 (6) RCW 43.136.070 (Report on existing tax preferences to be
11 provided--Additional information to be provided) and 1982 1st ex.s. c
12 35 s 45.

13 NEW SECTION. **Sec. 9.** Sections 1 through 7 of this act are each
14 added to chapter 43.136 RCW.

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