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**SECOND SUBSTITUTE SENATE BILL 5135**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Rivers, Rolfes, Zeiger, Walsh, Angel, Keiser, Mullet, Cleveland, Hunt, Bailey, King, Warnick, Brown, Fain, Ranker, Van De Wege, Conway, and Wellman)

AN ACT Relating to modifying the Washington main street program by increasing the total amount of tax credits allowed under the program and making administrative changes to the program; amending RCW 82.73.020 and 82.73.030; adding a new section to chapter 82.73 RCW; creating a new section; providing an effective date; and providing a contingent expiration date.

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

NEW SECTION. **Sec.**  This section is the tax preference performance statement for the tax preference contained in section 3, chapter . . ., Laws of 2017 (section 3 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to promote contributions to main street programs and to enhance community and economic revitalization and development of main street business districts under categories as indicated in RCW 82.32.808(2) (a) and (f).

(2) It is the legislature's specific public policy objective to support and work in concert with main street programs to accomplish community and economic revitalization of business districts as specified in RCW 43.360.005. It is the legislature's intent to provide tax credits to businesses in main street communities to promote contributions to such programs as provided in RCW 82.73.030, in order to maintain the economic viability of rural downtown areas (main streets), thereby ensuring the growth and retention of businesses in rural communities.

(3) If a review finds that the number of businesses that are a part of main street communities has increased or stayed the same, then the legislature intends to extend the expiration date of the tax preference.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the joint legislative audit and review committee may refer to data collected by the department of archaeology and historic preservation.

**Sec.**  RCW 82.73.020 and 2005 c 514 s 903 are each amended to read as follows:

(1) Application for tax credits under this chapter must be ((~~made~~)) submitted to the department before making a contribution to a program or the main street trust fund. The application ((~~shall~~)) must be made to the department in a form and manner prescribed by the department. The application ((~~shall~~)) must contain information regarding the proposed amount of contribution to a program or the main street trust fund, and other information required by the department to determine eligibility under this chapter ((~~514, Laws of 2005~~)). The department ((~~shall~~)) must rule on the application within forty-five days. Except as provided in RCW 82.73.030(5), applications ((~~shall~~)) must be approved on a first-come basis.

(2) ((~~The person must make the contribution described in the approved application by the end of the calendar year in which the application is approved to claim a credit allowed under RCW 82.73.030.~~

~~(3)~~)) The department ((~~shall~~)) may not accept any applications before ((~~January 1, 2006~~)) the second Monday in January of each calendar year.

**Sec.**  RCW 82.73.030 and 2005 c 514 s 904 are each amended to read as follows:

(1) Subject to the limitations in this chapter, a credit is allowed against the tax imposed by chapters 82.04 and 82.16 RCW for approved contributions that are made by a person to a program or the main street trust fund.

(2) The credit allowed under this section is limited to an amount equal to:

(a) Seventy-five percent of the approved contribution made by a person to a program; or

(b) Fifty percent of the approved contribution made by a person to the main street trust fund.

(3) The department may not approve credit with respect to a program in a city or town with a population of one hundred ninety thousand persons or more.

(4) The department ((~~shall~~)) must keep a running total of all credits approved under this chapter for each calendar year. The department ((~~shall~~)) may not approve any credits under this section that would cause the total amount of approved credits statewide to exceed ((~~one~~)) two million five hundred thousand dollars in any calendar year.

(5)(a)(i) The total credits allowed under this chapter for contributions made to each program may not exceed one hundred thousand dollars in a calendar year.

(ii) Between the second Monday in January and March 31st of the same calendar year, the department must evenly allocate the amount of statewide credits allowed under subsection (4) of this section based on the total number of programs and the main street trust fund as of January 1st in the same calendar year. The department may not approve contributions for a program or the main street trust fund that would cause the total amount of approved credits for a program or the main street trust fund to exceed the allocated amount.

(b) The total credits allowed under this chapter for a person may not exceed two hundred fifty thousand dollars in a calendar year.

(6) The credit may be claimed against any tax due under chapters 82.04 and 82.16 RCW only in the calendar year immediately following the calendar year in which the credit was approved by the department and the contribution was made to the program or the main street trust fund. Credits may not be carried over to subsequent years. No refunds may be granted for credits under this chapter.

(7) The total amount of the credit claimed in any calendar year by a person may not exceed the lesser amount of:

(a) The approved credit((~~,~~)); or

(b) Seventy-five percent of the amount of the contribution that is made by the person to a program and fifty percent of the amount of the contribution that is made by the person to the main street trust fund, in the prior calendar year.

NEW SECTION. **Sec.**  A new section is added to chapter 82.73 RCW to read as follows:

(1) A person that was approved for credit as provided in RCW 82.73.020 must make the total approved contribution by November 15th of the calendar year in which the application is approved. If November 15th falls upon a Saturday, Sunday, or legal holiday, the payment of the contribution will be considered timely if made on the next business day.

(2)(a) A person that does not make a contribution as required in subsection (1) of this section forfeits all credits for the approved contribution.

(b) The department must make credits forfeited as provided in (a) of this subsection available to new applicants.

(3) A person that was approved for credit as provided in RCW 82.73.020 after November 15th must make the total approved contribution by the end of the calendar year in which the contribution was approved.

NEW SECTION. **Sec.**  (1) This act expires January 1, 2028, if a review by the joint legislative audit and review committee under section 1 of this act finds that the number of businesses that are a part of main street communities is not equal to or more than the number that were a part of main street communities prior to the enactment of the tax preference in section 3, chapter . . ., Laws of 2017 (section 3 of this act).

(2) The joint legislative audit and review committee must provide written notice of the expiration date of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the committee.

NEW SECTION. **Sec.**  This act takes effect January 1, 2018.

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