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**SUBSTITUTE SENATE BILL 5844**

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

**By** Senate Ways & Means (originally sponsored by Senator Braun)

AN ACT Relating to adopting citizen commission 2016 recommendations and making adjustments to the commission's review process; amending RCW 82.04.240, 43.136.045, and 43.136.055; creating new sections; repealing RCW 82.08.965, 82.12.965, 84.36.645, 82.04.448, 82.08.970, 82.12.970, 82.04.426, and 82.32.790; and repealing 2010 c 114 s 104 and 2003 c 149 s 3.

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

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 **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 82.08.965 (Exemptions—Semiconductor materials manufacturing) and 2010 c 114 s 123 & 2003 c 149 s 5;

(2)RCW 82.12.965 (Exemptions—Semiconductor materials manufacturing) and 2010 c 114 s 129 & 2003 c 149 s 6;

(3)RCW 84.36.645 (Semiconductor materials) and 2010 c 114 s 150 & 2003 c 149 s 10;

(4)RCW 82.04.448 (Credit—Manufacturing semiconductor materials) and 2010 c 114 s 117 & 2003 c 149 s 9;

(5)RCW 82.08.970 (Exemptions—Gases and chemicals used to manufacture semiconductor materials) and 2010 c 114 s 125 & 2003 c 149 s 7;

(6)RCW 82.12.970 (Exemptions—Gases and chemicals used to manufacture semiconductor materials) and 2010 c 114 s 131 & 2003 c 149 s 8;

(7)RCW 82.04.426 (Exemptions—Semiconductor microchips) and 2010 c 114 s 110 & 2003 c 149 s 2;

(8)RCW 82.32.790 (Tax incentives contingent upon semiconductor microchip fabrication facility siting and operation) and 2010 c 114 s 201, 2010 c 106 s 401, 2009 c 461 s 9, 2006 c 300 s 12, & 2003 c 149 s 12;

(9)2010 c 114 s 104; and

(10)2003 c 149 s 3.

**Sec.**  RCW 82.04.240 and 2004 c 24 s 4 are each amended to read as follows:

(1) Upon every person engaging within this state in business as a manufacturer, except persons taxable as manufacturers under other provisions of this chapter; as to such persons the amount of the tax with respect to such business ((~~shall be~~)) is equal to the value of the products, including byproducts, manufactured, multiplied by the rate of 0.484 percent.

(2) The measure of the tax is the value of the products, including byproducts, so manufactured regardless of the place of sale or the fact that deliveries may be made to points outside the state.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preferences contained in sections 402 and 403, chapter 13, Laws of 2013 2nd sp. sess. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(e).

(3) It is the legislature's specific public policy objective to provide tax relief to nonprofit gun clubs on purchases of clay targets used to provide recreational shooting activities to customers or members for a fee, and it is the legislature's intent for the preference to be temporary so that the legislature can assess if the actual fiscal impact reasonably conforms with the department of revenue's fiscal estimate.

(4) If a review finds that nonprofit gun clubs face financial distress in absence of these tax preferences, and that the actual fiscal impact reasonably conforms to the fiscal estimate, then the legislature intends to extend the expiration date of the tax preferences.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to the department of revenue's annual survey data.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference contained in section 902, chapter 13, Laws of 2013 2nd sp. sess.; section 1, chapter 179, Laws of 2011; section 109, chapter 114, Laws of 2010; section 501, chapter 469, Laws of 2009; section 8, chapter 54, Laws of 2007; and section 2, chapter 301, Laws of 2005. 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.

(2) The legislature categorizes this tax preference as one intended to improve industry competitiveness and to create and retain jobs as indicated in RCW 82.32.808(2) (b) and (c).

(3) It is the legislature's specific public policy objective to maintain and grow jobs in the solar energy systems manufacturing industry. Trade disputes currently threaten employment in this sector. It is the legislature's intent to continue the preferential tax rates for manufacturers and wholesalers of specific solar energy material and parts in order to maintain and grow jobs in the solar silicon industry.

(4) If a review finds that the number of people employed by the businesses utilizing this tax preference is the same or more than in 2015, and that at least sixty percent of employees earn sixty thousand dollars a year or more with at least eighty percent receiving health benefits, then the legislature intends to extend the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to data provided to the department of revenue and employment data from the employment security department.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference contained in section 105, chapter 114, Laws of 2010 and section 2, chapter 84, Laws of 2006. 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.

(2) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers, improve industry competitiveness, and create or retain jobs, as indicated in RCW 82.32.808(2) (a) through (c).

(3) It is the legislature's specific public policy objective to encourage significant construction projects in the semiconductor manufacturing industry; retain, expand, and attract semiconductor business; and encourage and expand family-wage jobs. It is the legislature's intent to continue the preferential tax rate for the manufacture of semiconductor materials, in order to encourage the growth and retention of the semiconductor business in Washington, thereby strengthening Washington's competitiveness with other states for manufacturing investment.

(4) If a review finds that total employment by businesses utilizing this tax preference has remained the same or increased since 2015, and at least fifty percent of employees earn twenty dollars per hour or more with at least eighty percent receiving health benefits, then the legislature intends to extend the expiration dates of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to the data provided to the department of revenue and employment security department data.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preferences contained in sections 405 and 406, chapter 97, Laws of 2014; sections 124 and 130, chapter 114, Laws of 2010; sections 502 and 503, chapter 469, Laws of 2009; and sections 3 and 4, chapter 84, Laws of 2006. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to induce certain designated behavior by taxpayers, improve industry competitiveness, and create or retain jobs, as indicated in RCW 82.32.808(2) (a) through (c).

(3) It is the legislature's specific public policy objective to encourage significant construction projects in the semiconductor manufacturing industry; retain, expand, and attract semiconductor business; and encourage and expand family-wage jobs.

(4) If a review finds that total employment by businesses utilizing these tax preferences has remained the same or increased since 2015, and at least fifty percent of employees earn twenty dollars per hour or more with at least eighty percent receiving health benefits, then the legislature intends to extend the expiration dates of the tax preferences.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to data reported to the department of revenue and employment security job and wage data.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preferences contained in RCW 82.04.260(12). This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to induce certain designated behaviors by taxpayers, improve industry competitiveness, and create or retain jobs, as indicated in RCW 82.32.808(2) (a) through (c).

(3) It is the legislature's specific public policy objective to reduce the cost of doing business in Washington for the timber industry, thereby strengthening Washington's competitiveness nationally and internationally and retaining good paying jobs, particularly in rural areas Washington's forest products industry is a key economic driver for the state of Washington, especially in rural communities. The legislature finds that it is necessary to ensure the success of both the state's working forests and the industry's manufacturing infrastructure in order to maintain a productive forest products industry. Working forests and the manufacturing infrastructure are interdependent and necessary for the continued success of the forest products industry and the overall economy of the state of Washington.

(4) The legislature intends to extend the expiration dates of the tax preference if a review finds that:

(a) The state of Washington remains above the national average for lumber production by board feet; and

(b) Forest product job wages in rural counties remain higher than the county median income. A review of this measure must include, and be limited to, job sectors identified by the code numbers 113, 321, and 322 in the United States' department of labor's North American industry classification system, as the code numbers existed on the effective date of this section.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to data submitted to the department of revenue.

**Sec.**  RCW 43.136.045 and 2011 c 335 s 2 are each amended to read as follows:

(1) The citizen commission for performance measurement of tax preferences must develop a schedule to accomplish an orderly review of tax preferences at least once every ten years. In determining the schedule, the commission must consider the order the tax preferences were enacted into law, in addition to other factors including but not limited to grouping preferences for review by type of industry, economic sector, or policy area. The commission ((~~may elect to include, anywhere in the schedule, a tax preference that has a statutory expiration date~~)) must include a review of any tax preferences that have a statutory expiration date at least one year prior to the expiration of the tax preference. The commission must omit from the schedule tax preferences that are required by constitutional law, sales and use tax exemptions for machinery and equipment for manufacturing, research and development, or testing, the small business credit for the business and occupation tax, sales and use tax exemptions for food and prescription drugs, property tax relief for retired persons, and property tax valuations based on current use, and ((~~may~~)) must omit any tax preference that the commission determines is a critical part of the structure of the tax system. As an alternative to the process under RCW 43.136.055, the commission may recommend to the joint legislative audit and review committee an expedited review process for any tax preference.

(2) The commission must revise the schedule as needed each year, taking into account newly enacted or terminated tax preferences. The commission must deliver the schedule to the joint legislative audit and review committee by September 1st of each year.

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

**Sec.**  RCW 43.136.055 and 2011 c 335 s 3 are each amended to read as follows:

(1) The joint legislative audit and review committee must review tax preferences according to the schedule developed under RCW 43.136.045. The committee must consider, but not be limited to, the following factors in the review as relevant to each particular tax preference:

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

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

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

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

(e) The extent to which the tax preference may provide unintended benefits to an individual, organization, or industry other than those the legislature intended;

(f) The extent to which terminating the tax preference may have negative effects on the category of taxpayers that currently benefit from the tax preference, and the extent to which resulting higher taxes may have negative effects on employment and the economy;

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

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

(i) The extent to which termination of the tax preference would affect the distribution of liability for payment of state taxes;

(j) The economic impact of the tax preference compared to the economic impact of government activities funded by the tax for which the tax preference is taken at the same level of expenditure as the tax preference. For purposes of this subsection the economic impact shall be determined using the Washington input-output model as published by the office of financial management. The committee may use a different economic model if that model is approved by the committee and the office of financial management as a more relevant economic model than the input-output model;

(k) Consideration of similar tax preferences adopted in other states, and potential public policy benefits that might be gained by incorporating corresponding provisions in Washington.

(2) For each tax preference, the committee must provide a recommendation as to whether the tax preference should be continued without modification, modified, scheduled for sunset review at a future date, or terminated immediately. The committee may recommend accountability standards for the future review of a tax preference.

(3) For each tax preference that does not have statutory metrics or accountability standards associated with the tax preference, the committee must recommend to the legislature statutory metrics or accountability standards that will help determine the effectiveness of the tax preference in a future review.

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