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**SENATE BILL 5847**

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

**By** Senators Carlyle, Hasegawa, and Hunt

AN ACT Relating to the review process of the citizen commission for performance measurement of tax preferences; and amending RCW 43.136.011, 43.136.055, and 82.32.808.

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

**Sec.**  RCW 43.136.011 and 2011 c 335 s 1 are each amended to read as follows:

The legislature recognizes that tax preferences are enacted to meet objectives which are determined to be in the public interest. However, some tax preferences may not be efficient or equitable tools for the achievement of current public policy objectives. Given the changing nature of the economy and tax structures of other states, the legislature finds that periodic performance audits of tax preferences are needed to determine if their continued existence will serve the public interest. The legislature further finds that tax preferences that are enacted for economic development purposes must demonstrate growth in personal income and full-time family-wage jobs with health and retirement benefits. Given that an opportunity cost exists with each economic choice, it is the intent of the legislature ((~~that the overall impact of~~)) to understand how economic development-focused tax preferences benefit the state's economy, both statewide and regions within the state.

**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) The overall effective tax rate for the industry groups benefiting from the tax preference;

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

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

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

((~~(f)~~)) (g) 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)~~)) (h) 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)~~)) (i) 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~~)) and regions within the state including, but not limited to, the effects of the tax preference on the consumption and expenditures of persons and businesses within the state, employment, and personal income;

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

(k) Using economic modeling techniques, evaluate potential economic impacts of the tax preference compared to the economic impact of government activities funded at the same level as the preference;

((~~(k)~~)) (l) 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.

**Sec.**  RCW 82.32.808 and 2013 2nd sp.s. c 13 s 1702 are each amended to read as follows:

(1) As provided in this section, every bill enacting a new tax preference must include a tax preference performance statement.

(2) A tax preference performance statement must state the legislative purpose for the new tax preference. The tax preference performance statement must indicate one or more of the following general categories, by reference to the applicable category specified in this subsection, as the legislative purpose of the new tax preference:

(a) Tax preferences intended to induce certain designated behavior by taxpayers;

(b) Tax preferences intended to improve industry competitiveness;

(c) Tax preferences intended to increase or maintain personal income, and to create or retain jobs;

(d) Tax preferences intended to reduce structural inefficiencies in the tax structure;

(e) Tax preferences intended to provide tax relief for certain businesses or individuals; or

(f) A general purpose not identified in (a) through (e) of this subsection.

(3) In addition to identifying the general legislative purpose of the tax preference under subsection (2) of this section, the tax preference performance statement must provide additional detailed information regarding the legislative purpose of the new tax preference.

(4) A new tax preference performance statement must specify clear, relevant, and ascertainable metrics and data requirements that allow the joint legislative audit and review committee and the legislature to measure the effectiveness of the new tax preference in achieving the purpose designated under subsection (2) of this section.

(5) If the tax preference performance statement for a new tax preference indicates a legislative purpose described in subsection (2)(b) or (c) of this section, any taxpayer claiming the new tax preference must file an annual survey in accordance with RCW 82.32.585.

(6)(a) ((~~Taxpayers claiming a new tax preference must report the amount of the tax preference claimed by the taxpayer~~)) In order to be eligible to claim a new tax preference, the taxpayer must report the amount of the tax preference to the department as otherwise required by statute or determined by the department as part of the taxpayer's regular tax reporting responsibilities. For new tax preferences allowing certain types of gross income of the business to be excluded from business and occupation or public utility taxation, the tax return must explicitly report the amount of the exclusion, regardless of whether it is structured as an exemption or deduction, if the taxpayer is otherwise required to report taxes to the department on a monthly or quarterly basis. For a new sales and use tax exemption, the total sales or uses subject to the exemption claimed by the buyer must be reported on an addendum to the buyer's tax return if the buyer is otherwise required to report taxes to the department on a monthly or quarterly basis and the buyer is required to submit an exemption certificate, or similar document, to the seller.

(b) This subsection does not apply to:

(i) Property tax exemptions;

(ii) Tax preferences required by constitutional law;

(iii) Tax preferences for which the tax benefit to the taxpayer is less than one thousand dollars per calendar year; or

(iv) Taxpayers who are annual filers.

(c) The department may waive the filing requirements of this subsection for taxpayers who are not required to file electronically any return, report, or survey under this chapter.

(7)(a) Except as otherwise provided in this subsection, the amount claimed by a taxpayer for any new tax preference is subject to public disclosure and is not considered confidential tax information under RCW 82.32.330, if the reporting periods subject to disclosure ended at least twenty-four months prior to the date of disclosure and the taxpayer is required to report the amount of the tax preference claimed by the taxpayer to the department under subsection (6) of this section.

(b)(i) The department may waive the public disclosure requirement under (a) of this subsection (7) for good cause. Good cause may be demonstrated by a reasonable showing of economic harm to a taxpayer if the information specified under this subsection is disclosed. The waiver under this subsection (7)(b)(i) only applies to the new tax preferences provided in chapter 13, Laws of 2013 2nd sp. sess.

(ii) The amount of the tax preference claimed by a taxpayer during a calendar year is confidential under RCW 82.32.330 and may not be disclosed under this subsection if the amount for the calendar year is less than ten thousand dollars.

(c) In lieu of the disclosure and waiver requirements under this subsection, the requirements under RCW 82.32.585 apply to any tax preference that requires a survey.

(8) If a new tax preference does not include the information required under subsections (2) through (4) of this section, the joint legislative audit and review committee is not required to perform a tax preference review under chapter 43.136 RCW, and it is legislatively presumed that it is the intent of the legislature to allow the new tax preference to expire upon its scheduled expiration date.

(9) For the purposes of this section, "tax preference" and "new tax preference" have the same meaning as provided in RCW 82.32.805.

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