

Finance Committee

HB 2146

Brief Description: Honoring the legislature's intent to create and retain local jobs through incentives provided to the aerospace industry by redirecting those incentives to other job creating opportunities if the number of aerospace jobs continues to decline.

Sponsors: Representatives DeBolt and Condotta.

<p>Brief Summary of Bill</p> <ul style="list-style-type: none"> • Requires a seven year average of 75,000 employment positions at a significant aerospace firm in this state in order to continue the preferential business and occupation (B&O) rates and B&O credit after July 1, 2024. • Provides for the transfer of any increase in the State General Fund resulting from the B&O rate and credit expiration under this act to be used to fund the State Need Grant program, career and technical education, a new worker readjustment program, and a newly created Small Business Tax Credit Account.
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Hearing Date: 5/2/17

Staff: Tracey O'Brien (786-7152).

Background:

Business and Occupation Tax.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay B&O tax even though they may not have any profits or may be operating at a loss. A business may have more than one B&O tax rate, depending on the types of activities conducted. The major tax rates are as follows:

- 0.471 percent retailing;
- 0.484 percent manufacturing, wholesaling, and extracting; and
- 1.5 percent services, and activities not classified elsewhere.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A taxpayer may be eligible for a small business credit that will either eliminate or reduce their B&O tax liability. The credit is \$35 per month multiplied by the number of months in the reporting period.

Aerospace Tax Incentives.

2003 Legislative Session.

The Legislature enacted several tax incentives that focused on the aerospace industry. These included property tax exemptions, leasehold tax exemptions, sales and use tax exemptions, and B&O rate adjustments and credits.

The B&O rate for manufacturers of commercial airplanes or commercial airplane components was reduced from 0.484 percent to 0.4235 percent effective October 1, 2005. The rate was reduced further to 0.2904 percent effective the latter of July 1, 2007, or upon the commencement of final assembly of a super-efficient airplane.

In addition, several B&O credits were authorized. A manufacturer of commercial airplanes may claim a B&O credit for:

- preproduction development expenditures equal to 1.5 percent multiplied by the amount of qualified expenditures. Credits were allowed to accrue prior to July 1, 2005, but could not be used until July 1, 2005;
- property taxes paid on new buildings built after December 1, 2003, and land upon which the buildings are located;
- property taxes attributable to an increase in assessed value due to the renovation or expansion, after December 1, 2003, of a building used in manufacturing commercial airplanes or components of such airplanes; and
- property taxes paid on machinery and equipment used in manufacturing commercial airplanes or components of such airplanes and acquired after December 1, 2003.

A manufacturer of commercial airplanes could also take a B&O credit for investments related to computer software and hardware used primarily for the digital design and development of commercial airplanes that were incurred between July 1, 1995, and December 1, 2003.

The tax rates and other incentives expire July 1, 2024.

2006 Legislative Session.

The Legislature extended several of the 2003 tax incentives to nonmanufacturing firms engaged in the design, development, and engineering of commercial airplanes and components of commercial airplanes. The extended incentives include the sales and use tax exemption for computer equipment and software and the B&O tax credit for preproduction development related expenditures.

2008 Legislative Session.

The aerospace tax preferences were expanded to include other manufacturers, Federal Aviation Regulation (FAR) repair stations, and design/engineering services. Until July 1, 2024, the B&O rate of 0.2904 percent applies to:

- sales, retail or wholesale, of commercial airplanes and components of airplanes;

- manufacturing or sales of tooling used in the manufacturing of commercial airplanes or components of airplanes; or
- persons classified as a FAR Part 145 certificated repair station.

In addition, persons performing aerospace product development qualify for a 0.9 percent B&O rate. Aerospace product development also qualifies for the 1.5 percent B&O credit for qualified expenditures. Finally, the B&O tax credit for property taxes was expanded to include aerospace product development, the manufacturing of tooling, and FAR Part 145 certificated repair stations.

2013 Legislative Session.

The expiration date of many of the aerospace tax preferences was extended from 2024 to 2040, contingent upon the occurrence of a final decision to locate a significant commercial airplanes manufacturing program in Washington by June 30, 2017. The Department of Revenue determined this contingency was fulfilled on July 9, 2014.

The aerospace tax preferences with the new 2040 expiration date are: the preferential B&O tax rate for the manufacturing, wholesaling, and retailing of commercial airplanes and airplane components; the preferential B&O tax rate for the manufacturing, wholesaling, and retailing of tooling used in the manufacturing of commercial airplanes and airplane components; the preferential B&O tax rate for retail sales by a FAR Part 145 certificated repair station; the preferential B&O tax rate for businesses performing aerospace product development for others; the B&O tax credit for aerospace product expenditures; the B&O tax credit for property taxes and leasehold taxes on property used exclusively in manufacturing commercial airplanes or components of airplanes; the sales and use tax exemptions for computer hardware, computer peripherals, and software used primarily in the development, design, and engineering of aerospace products; and the leasehold excise tax exemption for lessees of port facilities used exclusively in manufacturing commercial airplanes.

The State Need Grant.

The State Need Grant (SNG) program was established in 1969 to assist financially needy or disadvantaged resident students attending a higher education institution. The Office of Student Financial Assistance, within the Washington Student Achievement Council, administers the SNG in coordination with higher education institutions.

The SNG recipients are selected from residents applying for financial aid who have been ranked according to financial need and other considerations. Recipients are required to contribute a portion of the total cost of education through self-help. Students remain eligible for the SNG for up to five years, or the credit or clock equivalent of five years, or up to 125 percent of the published length of time of the student's program. The qualifications for renewal include maintaining satisfactory academic progress toward completion of an eligible program.

Career and Technical Education.

As defined in statute, "career and technical education" or CTE is a planned program of courses and learning experiences that begins with exploration of career options and supports basic academic and life skills. State law specifies that CTE enables the achievement of high academic standards, leadership, options for high-skill, high-wage employment preparation, and advanced

and continuing education. Currently, CTE instruction may be delivered through programs at middle schools, high schools, regional skill centers, and through approved online courses.

Summary of Bill:

The intent section states that the Legislature intends to provide taxpayer accountability for Washington's largest aerospace company by adoption of a minimum employment baseline that must be met to fully qualify for the aerospace tax preferences. If the employment baseline is not met, the Legislature intends to use those funds to assist small businesses, fund the State Need Grant, and invest in career and technical education. However, if the Department of Revenue (DOR), in consultation with the Employment Security Department (ESD), determines that the failure to meet the employment baseline is due to a national economic downturn, rather than outsourcing of jobs, the aerospace tax preferences will remain in place.

A significant aerospace firm means a manufacturer that made a final decision to site a significant commercial airplane manufacturing program on July 9, 2014. An employment position is defined as an employee who works at least 35 hours per week. The calculation for employment level is based on the monthly average number of employment positions reported to the ESD by a significant aerospace firm from July 1, 2017, through January 1, 2024. The average employment level for a significant aerospace firm must be at least 75,000 employment positions for that period. The DOR must make a determination of failure to meet the employment level by July 1, 2024.

If a significant aerospace firm fails to meet the required employment level, the preferential B&O rate as well as the tax credit will expire on July 1, 2024.

If the preferential rate and credit are expired, the DOR must provide the State Treasurer with the amount of the resulting increase in State General Fund revenues by September 1 each year. At the end of the third calendar quarter, the State Treasurer must deposit the funds as follows:

- 30 percent to the Washington Student Achievement Council for the State Need Grant program;
- 30 percent to the newly created Small Business Tax Credit Account;
- 30 percent in the newly created Career and Technical Education Account; and
- 10 percent to the newly created Worker Readjustment Account.

A new small business tax credit program is created. The DOR will notify taxpayers by December 1 of each year if the small business tax credit will be available based on any deposits made into the Small Business Tax Credit Account. The credit is \$2,000 multiplied by the number of qualified employees hired by the small business in the calendar year for which the credit is claimed. A qualified employee means a graduate of a career and technical education (CTE) program within the previous 12 months and who works an average of 35 hours per week. The credit is available on a first in time basis up to the statewide maximum as set by the DOR for the year. The credit is nonrefundable and may not be carried forward.

The tax preference performance statement states directs the Joint Legislative Audit and Review Committee to measure the number of firms utilizing the credit, the value of the credits awarded, and the number of CTE graduates hired. If at least 20 businesses participate and the number of

qualified employees hired exceeds 500, the Legislature intends to extend the tax preference beyond the 10 years.

A worker readjustment program is created and will be administered by the ESD. Worker adjustment assistance will be provided to aerospace workers if it is determined that the employment level at a significant aerospace firm goes below 75,000. The program will include job search allowances, training assistance, income support, relocation assistance, and other necessary benefits.

In addition, the annual report requirement to include wage and benefit per job information is removed.

This act shall be called the "Aerospace Tax Incentive Accountability Act."

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.