SENATE BILL REPORT
SB 5847

As Reported by Senate Committee On:
Ways & Means, February 6, 2018

Title: An act relating to the review process of the citizen commission for performance measurement of tax preferences.

Brief Description: Concerning the review process of the citizen commission for performance measurement of tax preferences.

Sponsors: Senators Carlyle, Hasegawa and Hunt.

Brief History:
Committee Activity: Ways & Means: 2/22/17, 2/24/17; 1/18/18, 2/06/18 [DPS, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Directs the Joint Legislative Audit and Review Committee (JLARC) to report the overall effective tax rates of industry groups as part of their review process.
- Requires JLARC to calculate the effect of tax preferences on regions of the state and on the effect to Washington's personal income, where applicable.
- Requires a taxpayer to have been accurately reporting tax preferences to the Department of Revenue (DOR) in order to claim a new tax preference.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5847 be substituted therefor, and the substitute bill do pass.
Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Billig, Carlyle, Conway, Darneille, Hasegawa, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker and Van De Wege.

Minority Report: Do not pass.
Signed by Senators Braun, Ranking Member; Bailey, Brown, Schoesler, Wagoner and Warnick.

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.

Minority Report: That it be referred without recommendation.
Signed by Senator Becker.

Staff: Jeffrey Mitchell (786-7438)

Background: State law requires a periodic review of most excise and property tax preferences to determine if their continued existence or modification serves the public interest. A tax preference is a tax exemption, deduction, credit, or preferential tax rate. The enabling legislation assigns specific roles in the review process to two different entities. The job of scheduling tax preferences, holding public hearings, and commenting on the reviews is assigned to the Citizen Commission for Performance Measurement of Tax Preferences (Commission). The responsibility for conducting the reviews is assigned to the staff of JLARC.

The Commission develops a schedule to accomplish a review of tax preferences at least once every ten years. The Commission is authorized to omit certain tax preferences from the schedule such as those required by constitutional law, the sales and use tax exemptions for machinery and equipment and food, the small business credit for the business and occupation tax, the property tax relief program for retired persons, and tax preferences that the Commission determines are a critical part of the tax structure. The Commission is allowed to consider other factors including, but not limited to, grouping preferences for review by type of industry, economic sector, or policy area in determining the schedule.

When reviewing tax preferences, JLARC is required to consider the following factors:

- the classes of individuals, types of organizations, or types of industries whose state tax liabilities are directly affected by the tax preference;
- the public policy objectives that might provide a justification for the tax preference, including, but not limited to, legislative history, 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;
- the evidence that the existence of the tax preference has contributed to the achievement of any of its public policy objectives;
- the extent to which continuation of the tax preference might contribute to any of the public policy objectives;
- the extent to which the tax preference may provide unintended benefits to an individual, organization, or industry other than those the Legislature intended;
- 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;
- 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;
- the fiscal impacts of the tax preference, including past impacts and expected future impacts if it is continued; and
- an economic impact analysis using the Washington input-output model.

After evaluating these factors, JLARC and the Commission 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.

DOR must produce and submit a tax exemption report to the Legislature every four years. The report includes a listing of the estimated revenue lost from the exemption and the beneficiary of the exemption. The report also includes the estimated revenue lost for other tax preferences including preferential rates, deductions, and credits. The next report is due in January 2020.

Summary of Bill (First Substitute): The overall effective tax rate for industry groups benefiting from a tax preference is added as one of the metrics that JLARC will calculate as part of the review process. JLARC will also evaluate the effects of tax preferences on regions of the state and the effect on the Washington's personal income, where applicable. JLARC will include the senior citizen property tax relief program in its tax preference review process

In order to be able to continue claiming a new tax preference, a taxpayer must be reporting the new tax preference to DOR as required by law.

DOR must produce and submit an updated tax exemption report to the Legislature every two years instead of four years.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (First Substitute):

- Requires the senior citizen property tax relief program to be included in the JLARC tax preference review process.
- Reforms the DOR tax exemption report by requiring an update every two years instead of every four years and requiring the report to include a number of additional data elements.
- Clarifies language that would disallow a taxpayer from claiming a new tax preference if the taxpayer does not properly report the tax savings from the new tax preference.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *Testimony from 2017 Regular Session.* None.

Persons Testifying: No one.

Persons Signed In To Testify But Not Testifying: No one.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This is a relative modest but important bill. There are a couple of key pieces of information that are important in making objective assessments about tax preferences. The first key data point is the effective tax rate of the affected industries. Having a baseline and having it done regionally is critical. These changes would allow the JLARC to do a higher quality review of tax preferences.

OTHER: The language requiring taxpayers to report tax savings accurately in the prior year with regard to a new tax preference to be able to continue claiming the tax preference is ambiguous at best. It is unclear whether this is a new obligation or a restatement of current law. There is no fiscal note that would allow us to determine whether this change will require additional employees at the Department of Revenue. It is unclear how long it will take the department to determine whether a taxpayer has reported accurately.

Persons Testifying: PRO: Senator Reuven Carlyle, Prime Sponsor.

OTHER: Clay Hill, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: No one.