

HOUSE BILL REPORT

HB 1864

As Reported by House Committee On:
Finance

Title: An act relating to economic development through advanced technology leadership and security.

Brief Description: Concerning economic development through advanced technology leadership and security.

Sponsors: Representative Boehnke.

Brief History:

Committee Activity:

Finance: 1/27/22, 2/17/22 [DPS].

Brief Summary of Substitute Bill

- Provides a business and occupation tax credit for clean technology research and development spending, expiring January 1, 2033.
- Establishes the Advanced Technology Leadership and Security Strategic Reserve Account to recruit or retain researchers or instructors to assist in clean technology innovation.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Chase, Chopp, Harris-Talley, Orwall, Springer, Stokesbary, Thai, Vick, Wylie and Young.

Minority Report: Do not pass. Signed by 1 member: Representative Morgan.

Minority Report: Without recommendation. Signed by 1 member: Representative

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

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Staff: Kyle Raymond (786-7190).

Background:

Business & 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 the B&O tax even though they may not have any profits or may be operating at a loss.

A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent (businesses with taxable income of less than \$1 million) or 1.75 percent (businesses with taxable income of \$1 million or more) for services and for activities not classified elsewhere. Several preferential rates also apply to specific business activities.

In addition, a taxpayer may be eligible to utilize other tax preferences, including credits and deductions, to reduce their tax liability. For example, a taxpayer engaging in activities subject to different B&O tax rates may be eligible for a Multiple Activities Tax Credit. A taxpayer may also be eligible for a small business credit that will either eliminate or reduce their B&O tax liability. In general, the credit is \$70 per month for service businesses and \$35 per month for all other businesses, multiplied by the number of months in the reporting period. The amount of the credit available phases out based on the business's gross receipts.

A business does not have to file an annual B&O tax return if the business does not owe other taxes or fees to the Department of Revenue (DOR) and has annual gross proceeds of sales, gross income, or value of products for all B&O tax classifications of less than \$28,000 per year, or less than \$46,667 if at least 50 percent of its taxable income is from services or activities not classified elsewhere.

Tax Preference Performance Statement.

State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Summary of Substitute Bill:

Qualified Clean Technology Research and Development Tax Credit.

A business and occupation (B&O) tax credit is provided for taxpayers engaged in qualified clean technology research and development (R&D).

A taxpayer whose qualified clean technology R&D spending during the same calendar year in which the credit is claimed exceeds 0.92 percent of the taxpayer's taxable amount is eligible to receive the credit for qualified clean technology R&D expenditures.

The B&O tax credit is calculated by multiplying 1.5 percent times the greater of: (1) qualified clean technology R&D expenditures that exceed 0.92 percent of the taxpayer's taxable amount; or (2) 80 percent of the compensation received for conducting qualified clean technology R&D under contract.

The total tax credit that may be claimed by a person may not exceed the lesser of \$900,000 or the amount of total B&O tax due for the calendar year. If the required qualified clean technology R&D spending does not exceed 0.92 percent of the taxable amount during the same calendar year, or the taxpayer is otherwise ineligible, taxes against which the credit was claimed are immediately due and payable. The Department of Revenue (DOR) must assess interest, but not penalties. The interest must be assessed at the rate provided for delinquent excise taxes, retroactive to the date the credit was claimed, and accruing until the taxes are repaid.

A taxpayer who qualifies for the credit as a result of the qualified clean technology R&D conducted under contract may assign all or part of the credit to the taxpayer contracting for the performance of the R&D. Any credit assigned to such a taxpayer that is disallowed may be claimed by the person who performed the qualified clean technology R&D, provided the credit is claimed against the taxes due in the same calendar year and does not exceed the maximum allowable credit.

If the taxpayer's reporting period is less than annual, the taxpayer may use an estimated average tax rate for the calendar year. Such a taxpayer must adjust the total credit claimed using their actual average tax rate for the calendar year.

A taxpayer claiming the credit must file an annual tax performance report with the DOR.

The B&O credit for qualified clean technology R&D spending expires January 1, 2033.

Terms Defined.

"Qualified clean technology research and development" means R&D activity pursuing innovations that are key to success in achieving a net zero greenhouse gas emissions economy in Washington.

Examples of qualified clean technology R&D include clean, electrolytic hydrogen production and storage technologies, next generation nuclear fission and fusion, marine renewable energy, solar energy, wind energy storage, electrofuels, advanced biofuels, sustainable aviation fuel, low carbon advanced manufacturing, carbon capture, transmission and distribution grid modernization technologies, zero carbon and energy efficient building technologies, energy grid cyber security, electric and zero carbon transportation technologies, zero-carbon plastics, geothermal energy, pumped hydropower, thermal storage, advanced agriculture and food technology, recycling, earth-abundant materials technologies, and technologies that allow transition from hydrofluorocarbons.

"Qualified clean technology research and development expenditures" means operating expenses, including wages, compensation of a proprietor or a partner in a partnership as determined under rules adopted by the DOR, benefits, supplies, money spent on R&D laboratory build-out and equipment, and computer expenses, directly incurred in qualified clean technology R&D by a person claiming the credit provided in this section.

"Research and development spending" means qualified clean technology R&D expenditures plus 80 percent of amounts paid to a person other than a public educational or research institution to conduct qualified clean technology R&D.

Advanced Technology Leadership and Security Strategic Reserve Account.

The Advanced Technology Leadership and Security Strategic Reserve Account (Account) is created in the State Treasury. Expenditures from the Account may be made solely for the purpose of recruiting or retaining a researcher or instructor with the requisite skills to assist in clean technology innovation at a Washington state academic institution, state, or national laboratory.

The President of any Washington state academic institution, state, or national laboratory may request funding from the account to the Director of the Department of Commerce (Commerce), and the request must submit a signed declaration and any required supporting materials from Commerce. Commerce may award funds requested by the academic institution or award funds the Director deems necessary. When an award is provided, the Director is required to make factual findings establishing the nexus between the amount awarded and the furtherance of the purposes of advanced technology leadership and security for Washington's economy.

Commerce is required to annually report the economic development committees of the Legislature any funding awarded from the account and findings to support the funding.

Tax Preference Performance Statement.

A tax preference performance statement is included, stating the Legislature's intent to create and retain businesses that are forming to take on the challenge of creating a modern net-zero greenhouse gas emissions economy that outperforms fossil fuel-dependent economies. The Legislature also intends to extend the expiration of the tax preference if there is growth in

the clean technology industry cluster in Washington, as measured by the number of businesses claiming the tax credit year over year.

Substitute Bill Compared to Original Bill:

The substitute bill modifies the activities that are expressly included as qualified clean technology research and development, including adding, removing, and modifying multiple activities. The substitute bill adds to authorized qualified clean technology research and development expenditures money spent on research and development laboratory build-out and equipment. The substitute bill delays the effective date to January 1, 2023.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Substitute Bill: The bill takes effect on January 1, 2023.

Staff Summary of Public Testimony:

(In support) Technology breakthroughs and innovative solutions are needed to address climate change. We are in global competition for talented, innovative researchers. High technology clean energy manufacturers in the state that want to expand operations are facing workforce recruiting and retention issues. The bill would provide the ability to help recruit and retain star academic researchers.

This bill improves upon prior research and development tax credits in Washington that were successful in the past. Washington was at the center of the technology boom with the development of cloud computing from the mid-1990s through about 2015. Washington could again be center of the universe for clean technology and develop the state's innovation economy by supporting research and development in clean technology. The list of eligible technology expenditures in the bill are intended to align with the net-zero economy.

The research and development credit in the bill is limited to \$900,000 in order to zero out the tax liability of a firm with a gross revenue of \$50 million or less. With this, the bill would target the small and medium innovators in the state, in particular, women-owned and minority-owned companies.

(Opposed) None.

Persons Testifying: Representative Matt Boehnke, prime sponsor; and Dave Warren, Silfab Solar and Washington Green Hydrogen Alliance.

Persons Signed In To Testify But Not Testifying: None.