

STATE OF WASHINGTON

TASK FORCE ON TAX PREFERENCE
REFORM



Marty Brown
Office of Financial Management

Amber Carter
Association of Washington Business

Paul Guppy
Washington Policy Center

Ross Hunter
State Representative

Troy Kelley, State Representative
Chair, Joint Legislative Audit and Review
Committee

Bill Longbrake
Governor's Council of Economic Advisors

James L. McIntire, *Chair*
State Treasurer

Andy Nicholas
Washington State Budget & Policy Center

Ed Orcutt
State Representative

Phil Rockefeller
State Senator

Joseph Zarelli, *Vice Chair*
State Senator



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AGENDA

September 20, 2010
9:00 a.m. – 12:30 p.m.
John A. Cherberg Building
Senate Hearing Room 3
Olympia, WA

- *1. Approval of August 31, 2010, Meeting Minutes
2. Discussion of Proposals from Task Force Members
3. Public Comment

** Action Item*

TASK FORCE ON TAX PREFERENCE REFORM

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August 31, 2010
Meeting Minutes

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TASK FORCE ON TAX PREFERENCE REFORM

Members Present:

James McIntire, State Treasurer, *Chair*
Representative Troy Kelley, Chair of JLARC
Marty Brown, Director, OFM
Representative Ross Hunter
Representative Ed Orcutt
Senator Joseph Zarelli, *Vice Chair*
Senator Phil Rockefeller
Paul Guppy, Washington Policy Center
Bill Longbrake, Governor's Council of Economic Advisors
Andy Nicholas, Washington State Budget & Policy Center

Members Absent:

Amber Carter, Association of Washington Business

Staff:

Ruta Fanning, Legislative Auditor
Keenan Konopaski, Audit Coordinator
Cindy Evans, Assistant Attorney General
Peter Heineccius, Research Analyst
Dana Lynn, Research Analyst
Mary Welsh, Research Analyst

Welcome

Chair McIntire called the meeting to order at 9:05 a.m. and welcomed those present.

He introduced new Task Force member, Andy Nicholas, of the Washington State Budget & Policy Center.

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Approval of Minutes

MOTION: A motion was made to approve the minutes of the August 18 Task Force meeting. The motion was seconded and approved by the Task Force.

Practices of Other States: Treatment of Tax Preferences in Budgeting

Mary Welsh, JLARC Research Analyst, gave a presentation on the extent to which other states incorporate tax preferences into budgeting processes.

Practices of Other States: Revenue Fiscal Notes

Legislative Auditor Ruta Fanning gave a brief presentation on legislative bills previously proposed to modify the fiscal note process, and their outcomes.

Don Gutmann, Department of Revenue, presented information on revenue fiscal note processes in other states.

Chair McIntire invited Dr. Arun Raha, Executive Director of the Economic and Revenue Forecast Council, to comment regarding inclusion of Forecast Council staff in the fiscal note process.

Discussion

The Task Force discussed with Dr. Raha the feasibility of involving Forecast Council staff in the fiscal note process. The discussion focused on necessary staff resources and the types of fiscal notes that may merit Forecast Council staff involvement.

Governor's Consideration of Tax Preferences

Marty Brown gave an overview of how the Governor's Office considers policy proposals to renew, terminate, or enact tax preferences.

Taxpayer Accountability Surveys and Reports

Dana Lynn, JLARC Research Analyst, briefed the Task Force on current statutory requirements for taxpayer accountability reporting.

Stuart Thronson, Department of Revenue (DOR), gave a presentation on how DOR collects, verifies, and reports accountability information received from taxpayers.

Legislative Intent and Intended Legislative Outcomes

Kristen Fraser, Office of Program Research, gave a presentation on the differences between language for legislative intent compared to intended outcomes for tax preferences.

Mechanisms for Establishing or Ending Effective Dates

Diane Criswell, Senate Committee Services, and Jennifer Arnold, Code Reviser's Office, presented information on statutory mechanisms for establishing or ending the effective dates of tax preferences.

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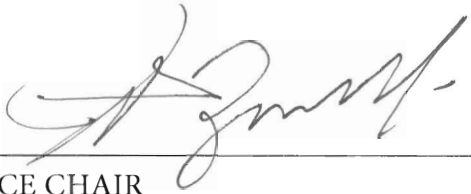
Next Steps

Ruta Fanning discussed the next steps for the Task Force for the remaining schedule. She reminded members to submit proposed recommendations to JLARC staff in writing prior to the September 20 meeting.

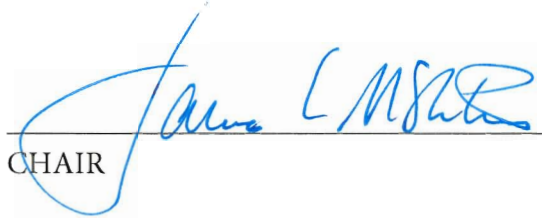
Public Comment

No members of the public signed up to comment.

The meeting was adjourned at 12:00 p.m.



VICE CHAIR



CHAIR

Task Force on Tax Preference Reform

Summary of Proposals from Task Force Members - (9/16/10)

1) Revenue fiscal notes

- A. Fiscal notes can only be requested for bills that are scheduled for a hearing and a fiscal note request for a hearing has to be made at least 24 hours before the hearing.
- B. Limit those who may request fiscal notes to chairs and ranking members of the specific committees to which the bill is referred.
- C. Provide that the Legislature may reject fiscal notes a week after OFM delivers the note and, if rejected, the bill is exempt from cutoff to allow time to get a better fiscal note. Failure to reject is acceptance of the fiscal note.
- D. Establish a pilot of no more than 3 bills for dynamic fiscal analysis by the Forecast Council.
- E. Allow the Forecast Council to perform dynamic fiscal analysis in exceptional circumstances when 5 of its 6 members agree to do so.
- F. OFM should continue to prepare fiscal notes, but legislators should be advised on how to proceed when they strongly disagree, including how and when to raise a timely challenge or seek revisions.
- G. JLARC should evaluate selected fiscal notes after implementation, to recommend process improvements.

2) Inclusion of tax preferences in the budget

- A. Provide a statutory framework for the Governor to consider tax preferences alongside the budget or get off this issue.
- B. Task Force staff (JLARC) should study Oregon's practice and its usefulness, including obtaining feedback from Oregon legislative and gubernatorial budget staff.
- C. Require tax expenditures to be included as line items in the biennial budget, subject to an appropriation every two years.
- D. Require OFM to develop a tax expenditure budget to be submitted with the Governor's biennial budget proposal, to include the purpose of the tax expenditure, projected costs, and relevant performance information.

3) Declaration of intended outcomes

- A. All tax preferences should have statements of purpose (rather than statements of intent) when enacted. For existing preferences, the Legislature should provide them as they are identified by the Citizen Commission reviews.
- B. The Commission will recommend when it believes a declaration of intended outcomes and taxpayer reporting should be established or clarified by the Legislature, either under existing authority or legislative direction.

4) Taxpayer accountability reporting

- A. Look at unifying the Annual Reports and Annual Surveys into a single reporting mechanism.

- B. The Citizen Commission should advise the Legislature regarding the types of information/data that would be helpful to JLARC staff/Commissioners but was not available when a preference was reviewed.
- C. Require an assessment of appropriateness and effectiveness of accountability reporting one or two years after the effective date.

5) EHB 1069 (Citizens Commission/JLARC) process

- A. Require the Legislature to act up or down on recommendations from the Citizen Commission.
- B. Provide the Citizen Commission much more latitude in reviewing preferences. Let them determine if tax preferences worked based not on alleged legislative intent but on real world experience after they are enacted.
- C. The Legislature should grant broader discretion to the Commission/JLARC to aggregate reviews to make them more efficient and informative.
- D. The Commission should be empowered to make general observations as to the RCW, its assumptions, premises, and clarity.
- E. Allow the Citizen Commission to use scheduling criteria other than the year of enactment. Remove the limitation that expedited reviews can only be conducted on preferences of less than \$10 million, and instruct the Citizen Commission to determine the extent of review.
- F. Provide JLARC the authority to consider the 10 evaluation factors in statute and evaluate only those that are relevant to the tax preference.
- G. The Citizen Commission will identify preferences that define the tax structure. The Commission could use existing authority or the Legislature could provide direction.
- H. Allow the Citizen Commission to recommend to continue, modify, or terminate a tax preference even if a legislative intent cannot be determined. Recommendations should be based on standard criteria to include: incidence of benefits and costs, equity, economic efficiency, and adequacy of current and future costs.

6) Other legislative or executive processes

- A. The Legislature should establish a cap on annual benefits for each tax preference for each year granted, to limit uncertainty in costs.
- B. The Legislature should set an initial date for each preference to be either renewed (following Commission/JLARC review process) or terminated. Termination should be the default so the Legislature is obliged to act to renew/extend/modify a preference.
- C. DOR's Tax Exemption Study should be published every 2 years (not 4) and include updates on the beneficiaries and total taxpayer benefits, and also a summary of taxpayer utilization and compliance issues.
- D. The Legislature should set an expiration date on all tax expenditures.
- E. Require the Governor to make recommendations on tax preference reviews by the Citizen Commission.

Revised Proposals from the Task Force on Tax Preference Reform
(As Endorsed by the Task Force September 20, 2010)

Note: These revisions are to the 9/16/10 Summary of Proposals from Task Force Members

Revenue fiscal notes

Do not pursue items 1A, 1B, and 1C

Merge items 1D and 1E:

Authorize the Economic and Revenue Forecast Council to perform an economics effects analysis on selected exceptional tax preference and/or revenue proposals.

Pursue item 1F

Revision to 1G:

Authorize JLARC to select fiscal notes for evaluation after implementation, to recommend process improvements.

Inclusion of tax preferences in the budget

No sufficient consensus on items 2A through 2D

Declaration of intended outcomes

Revision to 3A:

All tax preferences should have statements of purpose when enacted, and the Legislature should clarify that these statements are intended to assist with policy evaluation. For existing preferences where no such statements exist in law, the Legislature should provide them when recommended to do so by the Citizens Commission reviews.

Revision to 3B:

The Citizens Commission is encouraged to continue recommending when it believes a statement of purpose should be established or clarified by the Legislature.

Taxpayer accountability reporting

Combine and revise 4A, 4B, and 4C:

The Task Force recommends that the legislative fiscal committees seek input from the Department of Revenue, the Citizens Commission, and affected taxpayers, on revising taxpayer accountability reporting to assist evaluations. The committees may consider the costs and benefits of additional information and the burden on taxpayers.

EHB1069 (Citizens Commission/JLARC) process

Do not pursue 5A

Pursue item 5D

Merge items 5E and 5F:

Authorize the Citizens Commission flexibility to use scheduling criteria other than the year of enactment, such as grouping preferences in the schedule by type of industry or policy focus. Remove the limitation that expedited reviews can only be conducted on preferences of less than \$10 million, and instruct the Citizens Commission to determine the extent of review. Authorize JLARC to evaluate only those factors that are relevant to the tax preference.

Revised 5G:

The Citizens Commission is encouraged to identify tax preferences that are critical to defining the tax structure and should be omitted from JLARC review.

Revised 5H:

The Citizens Commission is encouraged to recommend whether to continue, modify, or terminate a tax preference even if a legislative intent cannot be determined.

Other legislative or executive processes

No sufficient consensus on items 6A through 6E