

# SENATE BILL REPORT

## ESSB 5952

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As Passed Senate, November 9, 2013

**Title:** An act relating to incentivizing a long-term commitment to maintain and grow jobs in the aerospace industry in Washington state by extending the expiration date of aerospace tax preferences and expanding the sales and use tax exemption for the construction of new facilities used to manufacture superefficient airplanes to include the construction of new facilities used to manufacture commercial airplanes or the wings or fuselage of commercial airplanes.

**Brief Description:** Incentivizing a long-term commitment to maintain and grow jobs in the aerospace industry in Washington state by extending the expiration date of aerospace tax preferences and expanding the sales and use tax exemption for the construction of new facilities used to manufacture superefficient airplanes to include the construction of new facilities used to manufacture commercial airplanes or the wings or fuselage of commercial airplanes.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Hill, Fain, Erickson, Tom, Fraser, Eide, King, Hatfield, Hobbs, Bailey, Schoesler, Brown, Baumgartner, Litzow, Sheldon, O'Ban, Padden, Pearson, Mullet, Parlette, Benton, Roach and Ranker; by request of Governor Inslee).

**Brief History:**

**Committee Activity:** Ways & Means: 11/08/13 [DPS, w/oRec].

**Floor Activity:**

**Third Special Session:** Passed Senate: 11/09/13, 42-2.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5952 be substituted therefor, and the substitute bill do pass.

Signed by Senators Honeyford, Capital Budget Chair; Nelson, Assistant Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Bailey, Becker, Braun, Conway, Padden, Rivers, Schoesler, Dammeier, Fraser, Hargrove, Hatfield, Hill, Parlette and Tom.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Hasegawa.

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*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.*

**Staff:** Dean Carlson (786-7305)

**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. Major tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for services, and activities not classified elsewhere. Several lower rates also apply to specific business activities.

**Sales and Use Tax.** Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products or services, then use taxes applies to the value of property, digital product, or service when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.0 percent, depending on the location.

**Property Tax.** Property taxes are imposed by state and local governments. All real and personal property in this state is subject to the property tax based on its value, unless a specific exemption is provided by law. There are exemptions for certain properties, including property owned by federal, state, and local governments, churches, farm machinery, and business inventory.

Property owned by federal, state, or local governments is exempt from the property tax. However, private lessees of government property are subject to the leasehold excise tax. The purpose of the leasehold excise tax is to impose a tax burden on persons using publicly owned, tax-exempt property similar to the property tax that they would pay if they owned the property. The tax is collected by public entities that lease property to private parties.

**Legislative Background of Aerospace Tax Incentives.** In 2003 the Legislature adopted tax incentives that were limited to aerospace manufacturers. The incentives included a reduction in the B&O tax rate; a B&O tax credit for pre-production development expenditures; and a B&O tax credit for property taxes paid on property used in the manufacture of commercial airplanes and airplane components. A leasehold tax exemption for port district facilities is available to manufacturers of super-efficient airplanes that are not using the B&O tax credit for property taxes. Also included were sales and use tax exemptions for computer equipment and software, and its installation, used primarily in the development of commercial airplanes and components. These exemptions are scheduled to end in 2024.

In addition, the Legislature reduced the B&O tax rate from 0.484 percent to 0.275 percent for firms that repair equipment used in interstate or foreign commerce. The firms must be classified by the Federal Aviation Administration (FAA) as a Federal Aviation Regulation part 145 certificated repair station with airframe and instrument ratings and limited ratings for nondestructive testing, radio, class 3 accessory, and specialized services.

Businesses that exercise any of these incentives file an annual report with the Department of Revenue (DOR). The report includes employment, wage, and employer-provided health and retirement benefit information for full-time, part-time, and temporary positions.

In 2006 the Legislature extended the sales and use tax exemption for computer equipment and software to manufacturing firms engaged in the development, design, and engineering of commercial airplanes and components of commercial airplanes. The B&O tax credit for preproduction development expenditures related to commercial aircraft was also extended to nonmanufacturing firms. Businesses that use these incentives file an annual report with the DOR.

In 2008 the Legislature extended aerospace tax programs to manufacturers, Federal Aviation Regulation (FAR) repair stations, and design/engineering services. Sales and use tax exemptions were provided for computer equipment and software, and installation, which are used primarily in aerospace products or providing aerospace services. Until July 1, 2024, the B&O tax rate is 0.2904 percent for sales, either retail or wholesale, of commercial airplanes or components; the manufacturing or sales of tooling used in the manufacturing of commercial airplanes and components of airplanes; or persons classified by the Federal Aviation Administration as a FAR 145 certified repair station. Persons claiming this rate must file an annual survey with DOR. Persons performing aerospace product development are qualified for a 0.9 percent B&O rate and must file an annual survey with DOR. The preproduction 1.5 percent B&O tax credit on qualified expenditures was expanded to include Aerospace product development. The B&O tax credit for property taxes paid was extended to aerospace product development, the manufacturing of tooling, and FAR Part 145 certified repair stations.

**Summary of Engrossed Substitute Bill:** The expiration date is extended from 2024 to 2040 for the following aerospace tax preferences:

1. the preferential B&O tax rate for the manufacturing, wholesaling, and retailing of commercial airplanes and airplane components;
2. the preferential B&O tax rate for the manufacturing, wholesaling, and retailing of tooling used in the manufacturing of commercial airplanes and airplane components;
3. the preferential B&O tax rate for retail sales by a part 145 certificated repair station;
4. the preferential B&O tax rate for businesses performing aerospace product development for others;
5. the B&O tax credit for aerospace product expenditures;
6. the B&O tax credit for property taxes and leasehold taxes on property used exclusively in manufacturing commercial airplanes or components of airplanes;
7. 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
8. the leasehold excise tax exemption for lessees of port facilities used exclusively in manufacturing commercial airplanes.

The sales and use tax exemption for the construction of facilities used in the manufacturing of superefficient airplanes is modified to apply to facilities used for the manufacturing of commercial airplanes in general.

The act is contingent upon the DOR making a determination that a final decision to locate a significant commercial airplane manufacturing program in the state of Washington has occurred. If a decision to locate a significant commercial airplane manufacturing program is not made by June 30, 2017, the act is null and void.

A significant commercial airplane manufacturing program is the commencement of manufacturing of a new model of a commercial airplane or a new version of an existing model and the manufacturing of the fuselage and wings of the new model or new version.

The ongoing availability of the preferential B&O tax rate for the production of a new or remodeled commercial airplane is contingent upon maintaining all final assembly of the aircraft and wing assembly within the state.

The explicitly described public policy objective of the act is to maintain and grow Washington's aerospace industry workforce. The Joint Legislative Audit and Review Committee (JLARC) is required to review the tax preferences provided in the act by December 1, 2019, and every five years thereafter to determine whether this public policy objective is being achieved. The JLARC is required to specifically assess changes in aerospace industry employment in Washington in comparison with other states and internationally.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** The act takes effect at the time the Department of Revenue makes a determination that a final decision to locate a significant commercial airplane manufacturing program in the state of Washington has occurred.

**Staff Summary of Public Testimony:** PRO: This will help the aerospace industry for several decades. We have the opportunity to win 54,000 aerospace jobs. Building the carbon fiber wings will help us start a carbon industry in the state. For the 787 wing, 1,000 employees are in Japan. We will be in a position to design our own destiny. The IAM has been working very hard with the company to make it successful. We are supportive of the bills as they will help the company be successful. We would also like an improved transportation system. The entire Puget Sound region is the Boeing shop floor. There are over 80 suppliers in Pierce County that would benefit from these incentives. Washington has long been the home of Boeing. These bills are about keeping Washington the home of Boeing. Snohomish has over 170 businesses that would benefit. This is about jobs. This is a generational decision. King County has 478 aerospace companies. We urge that you adopt a statewide transportation package as well. The time is now to act as this is a historic opportunity. The Seattle Chamber is in support of all five portions of the plan. Tax incentives do matter and make an impact on economic development. You just need to look back at the decision in 2003 and see what a difference it made. The Port of Everett supports 35,000 jobs in our community about 17,000 are direct jobs.

**OTHER:** We are concerned about the need to waive the 5 day rule. I'm surprised we are moving forward when the machinists haven't ratified the contract yet. We like the null and void clause and would like there to be no emergency clause. Surely other businesses would benefit from the same low taxes. Permits should not take more than 30 days.

**Persons Testifying:** PRO: Governor Jay Inslee; Alex Pietsch, Governor's Office; Larry Brown, Aerospace Machinists; Pat McCarthy, Pierce County Executive; John Lovick, Snohomish County Executive; Fred Jarett, King County Deputy Executive; Steve Mullin, Washington Roundtable; Maud Daudon, Seattle Chamber; Gary Chandler, AWB; Troy McClelland, Economic Alliance Snohomish County; John Mohr, Port of Everett; Paul Roberts, Everett City Council; Laura Hopkins, AJAC; Carol Weigand, Air Washington; Larry Clumphf, Washington Aerospace Research Center; Tom Pierson, Tacoma Chamber of Commerce; Bruce Kendall, Economic Development Board for Tacoma-Pierce County; Doug Levy, City of Renton.

**OTHER:** Patrick Connor, National Federation of Independent Business; Nick Federici, Our Economic Future Coalition; Andy Nicholas, Washington State Budget and Policy Center.