

Joint Legislative Audit and Review Committee (JLARC)



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SENATORS

Randi Becker
 John Braun, *Vice Chair*
 Annette Cleveland
 David Frockt
 Janéa Holmquist Newbry
 Jeanne Kohl-Welles, *Secretary*
 Mark Mullet
 Ann Rivers

REPRESENTATIVES

Cathy Dahlquist, *Assistant Secretary*
 Tami Green
 Kathy Haigh, *Chair*
 Ed Orcutt
 Gerry Pollet
 Derek Stanford
 J.T. Wilcox
 Hans Zeiger

December 10, 2014

JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE REGULAR COMMITTEE MEETING MINUTES

COMMITTEE BUSINESS

- Representative Kathy Haigh, JLARC Chair, called the meeting to order at 10:10 a.m.
- *Representative Orcutt made a motion to approve the minutes from the September 10, 2014 JLARC meeting. Motion was seconded and carried unanimously.*

REPORTS, PRESENTATIONS, DISCUSSIONS

Gas Vapor Regulations: The Legislature's Decentralized Approach Neither Requires nor Produces Consistency, and Current Regulations Might Require Outdated Technology – Preliminary Report

Zane Potter from the JLARC staff presented the preliminary report for this study.

- Senator Braun asked about when we would need to start removing Stage II equipment at gas stations in order to have the effort completed by the date shown in the analysis, perhaps by 2020.
 - Staff answered that other states have set dates for when they will no longer require Stage II equipment and reported that it took between three and five years for the decommissioning process. Senator Braun commented that this means we are not very far from needing to take action here in Washington. Staff said that is correct, based on what other states reported.
- Representative Wilcox asked if the Southwest agency refused to share the analysis the staff there had conducted or if it was just not easily available.
 - Staff answered that Southwest staff reported that they did not share the analysis with their board or make it publicly available. Representative Wilcox asked if there was any reason for that. Staff indicated the agency did not offer a reason.
- Representative Wilcox noted the difference among the fees the various agencies charge and asked if the difference is a reflection of how the agencies calculate the price or a reflection of the difference in the costs to administer the programs in the various regions.
 - Staff responded that it is the actual cost to administer the programs, adding that some agencies take steps to fully recover the cost of administration whereas other agencies do not. Representative Wilcox asked if this means that it costs one-third as much to administer the program in the Olympic Region compared to the Puget Sound or Northwest regions. Staff indicated that was probably not an accurate comparison.

- Representative Orcutt commented that he does not like the practice of stating the report conclusion in the title.
 - Legislative Auditor Konopaski indicated he thinks the titles reflect the issues the Legislature asked the staff to evaluate and the conclusion is provided to help members more readily see a summary of the answers. He offered to meet with Representative Orcutt to discuss the issue further.

WSDOT Can Provide Reliable Long-Term Pavement Estimates, but Accuracy of Bridge Estimates Is Uncertain – Preliminary Report

Eric Thomas and Mark Fleming from the JLARC staff presented the preliminary report for this study.

- Representative Orcutt asked how much the uncertainty about the bridge cost estimates was related to the complexity of bridges as compared to pavement. He also asked about the approach to identifying best practices.
 - Staff explained that the same principles apply to bridge estimates as to pavement estimates. Staff indicated that there are best practices that the Federal Highway Administration and Transportation Research Board have identified, and that the expert consultants found that those practices were not in place for bridges at WSDOT.
- Senator Frockt asked if the public can have confidence in current bridge ratings.
 - Staff explained that the consultant reviewed WSDOT's bridge data and found that the data on current bridge condition is excellent. He added that the point of the recommendation is to improve future, longer-term bridge cost estimates.
- Representative Haigh asked a representative from the Department of Transportation (Cam Gilmore, Deputy Secretary) about the extent of coordination between WSDOT and local governments on local roads and bridges.
 - The WSDOT representative responded that there is coordination and that federal regulations require it. He noted that the bridge rating system is a federal requirement and that all these jurisdictions share the concern about funding and whether it will be available. Representative Haigh commented that part of the issue is doing the planning to ensure that the necessary funding will be available to keep our bridges safe.

The Legislature Should Reauthorize the UW Medical Construction Contractor Alternative Process Because Timeliness and Quality Have Improved – Sunset Review Proposed Final Report

Mark Fleming from the JLARC staff presented the proposed final report for this study.

- Representative Pollet asked about the efficacy of increasing the limit for use of the process above the current \$5 million level.
 - Staff responded that no project to date has cost more than \$2.5 million, well below the \$5 million limit.

Senator Braun moved that the Committee approve for distribution The Legislature Should Reauthorize the UW Medical Construction Contractor Alternative Process Because Timeliness and Quality Have Improved Sunset Review Proposed Final Report. Motion was seconded.

- Representative Orcutt commented that he thought this was an excellent report but that he is voting no because the report's conclusion is in the title of the report. He indicated he thinks the title of the report should be what the question was, with the conclusion stated inside the report.

Motion carried to approve the report for distribution.

2014 Tax Preference Performance Reviews – Proposed Final Report

John Woolley, Mary Welsh, and Dana Lynn from the JLARC staff presented the proposed final report for this study.

- Representative Wilcox asked for clarification about the preferential rate that will apply in the future to various fresh food processors.
 - Staff explained that there will be parity among fresh food processors for their manufacturing activities once the preferential rate takes effect. The preferential rate is applied to only a few sales activities rather than applying across the board to all the processed food products. She explained further that, if the Legislature's goal was consistent tax treatment among the processed food products, it will be achieved for the manufacturing activities but not for the sales activities. She added that the recommendation is for the Legislature is to review whether consistency was a public policy objective or not.
- Senator Frockt asked how many of the 70 refund requests associated with the preferential rate for international investment management services are from firms located out of state.
 - Staff indicated she does not have information on the individual refund requests.
- Representative Pollet noted that the Department of Revenue (DOR) is reviewing the number of firms that qualify for the international investment management services preference and asked if JLARC staff will be revisiting its report after the DOR review is completed, noting the result would make a difference in the revenue estimate.
 - Staff answered that the report recognizes that the DOR review will shed light on the number of firms benefitting from the preference and allow the Legislature to review whether this is the number the Legislature had in mind when it established the preference.
- Representative Pollet asked if instead of adopting the report right now, JLARC staff could come back to the Committee after the completion of the DOR review.
 - The Legislative Auditor indicated that the results of the DOR review would not change the conclusions of the audit. He explained that the only additional information would be on the number of beneficiaries. He explained further that the policy decision would still rest with the Legislature to clarify what the preference is intended to achieve.
- Representative Haigh reminded the Committee that the JLARC report goes to the Finance Committee, which could be an appropriate place to review the DOR information.
- Representative Haigh invited Stephen Miller, a member of the Citizen Commission for the Performance Measurement of Tax Preferences, to come before the Committee.
 - The Commissioner noted a consistent theme in the JLARC staff analyses is a request for the Legislature to review and clarify the preferences. He indicated his belief it is important for the Legislature to do this for the past preferences and any future ones. He offered the perspective that the tax revenue of the state is an asset and that it is essential for the citizens of the state to understand why the Legislature decided to invest some of that asset in a tax preference. He added how helpful that clarity would be when it comes time for JLARC staff to review the preferences, noting that the current objectives are often very vague. He stated that the more clarity and specificity the Legislature can provide, the better future reviews can be in answering whether the Legislature got the return it expected on its investment.

The Commissioner explained Commission’s work this year regarding the expedited tax preference reviews. He expressed the Commission’s worry that there are hundreds of millions of dollars in tax preferences that get almost no review because they are small in dollar value. He encouraged the Legislature to have the beneficiaries of these smaller preferences come testify so that the Legislature will know whether they work and should be continued.

- Representative Haigh thanked the Commissioner for his service on the Commission. She noted that the Legislature considers their advice, and the Commission process offers the venue for taking public testimony on the reviews.

Representative Braun moved that the Committee approve for distribution the 2014 Tax Preference Performance Reviews Proposed Final Report. Motion was seconded. The Committee then considered two proposed Committee addenda.

The Committee approved for distribution the 2014 Tax Preference Performance Reviews Proposed Final Report with the inclusion of the two following addenda:

A1: Aerospace Industry Tax Preferences Addendum

The Committee recommends that the Legislature add language to the aerospace preferences that includes: a) a requirement for five year review as to whether the preference is costing the State more revenue than the incentive generates in revenues from the intended encouraged economic activity; b) a tax incentive statement of intent with measurable goals of job creation or maintenance; and, c) a requirement that businesses claiming a tax preference with the intent to create jobs must certify with the Department of Revenue the number of jobs created from the use of the tax preference, based on measurable employment or other criteria stated in the intent. This will not create onerous new reporting requirements, as employment levels, wages and hours are reported to the State.

A2: International Investment Management Services (IIMS) B&O Preferential Rate Addendum

The Committee recommends continuation of the IIMS tax rate. Further, because we believe this review is premature, we recommend completion of the Department of Revenue’s regulatory process that is underway prior to any further review.

- The Legislative Auditor reminded Committee members of the I-900 Subcommittee meeting later that afternoon.
- Representative Orcutt noted that two members of the Committee will not be continuing in the Legislature in the future. He thanked Representative Haigh and Representative Green for their service. He thanked Representative Haigh for chairing JLARC.
- Representative Haigh thanked the Legislative Auditor and staff for the work and said it has been an honor to serve.

With no further business before the Committee, the Chair adjourned the meeting.

ATTENDANCE

JLARC Members Present: Senators Randi Becker, John Braun, Annette Cleveland, David Frockt, and Ann Rivers; Representatives Tami Green, Kathy Haigh, Ed Orcutt, Gerry Pollet, Derek Stanford, and J.T. Wilcox.

JLARC Staff Present: Keenan Konopaski, Legislative Auditor; John Woolley, Deputy Legislative Auditor; Valerie Whitener, Audit Coordinator, Linda Byers, Rebecca Connolly, Mark Fleming, Dana Lynn, Ryan McCord, Zane Potter, Eric Thomas, Mary Welsh, Eric Whitaker, Marilyn Richter, Suzanne Kelly, Ashley Elliott, and Mallory Jennings.

ADJOURNMENT

The meeting was adjourned at 12:10 p.m.

CHAIR

VICE CHAIR

DRAFT