

HOUSE BILL REPORT

ESSB 5899

As Reported by House Committee On: Finance

Title: An act relating to providing a business and occupation tax credit for qualified employment positions.

Brief Description: Providing a business and occupation tax credit for qualified employment positions.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Franklin, Kastama, Shin, Marr, McAuliffe, Haugen, Brown, Berkey, Prentice, Fairley, Regala, Keiser, Eide, Rockefeller, Murray, Hatfield, Hargrove, Sheldon, Oemig and Kline).

Brief History:

Committee Activity:

Finance: 3/18/10 [DPA].

Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Authorizes a credit against the state's business and occupation tax for businesses with 20 or fewer employees that create a new position for which a health care plan is offered.
- Caps the annual credit statewide at \$10 million and prohibits the Department of Revenue from accepting applications after June 30, 2012.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass as amended. Signed by 6 members: Representatives Hunter, Chair; Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Conway, Santos and Springer.

Minority Report: Do not pass. Signed by 2 members: Representatives Hasegawa, Vice Chair; Condotta.

Staff: Rick Peterson (786-7150).

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.

Background:

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. Depending on the types of activities conducted, a business may have more than one B&O tax rate. There are a number of different rates. The main rates are: 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for professional and personal services, as well as activities not classified elsewhere.

The B&O tax credits for new job creation are currently provided for: manufacturing, research and development, or computer service firms in rural counties or community empowerment zones (CEZs); international services jobs created after July 1, 1998, in a CEZ or in a city over 80,000 that designates a CEZ-like area; and for manufacturers of semi-conductor materials that meet certain conditions.

The state's Minimum Wage Act requires employers to pay their employees no less than the state minimum wage rate. Pursuant to Initiative 688, the Department of Labor and Industries adjusts the state minimum wage rate for inflation each year. The state minimum wage rate is \$8.55 per hour in 2010.

Summary of Amended Bill:

A business located within the state with 20 or fewer employees that creates a new employment position for which a health care plan is offered is eligible for a credit against the B&O tax.

The amount of the credit depends upon the amount of wages: \$4,000 for each qualified employment position with annual wages and benefits above \$40,000; and \$2,000 for each qualified position with annual wages and benefits between 150 percent of minimum wage and \$40,000.

These tax credits may not be claimed by businesses that receive the B&O tax credits for new semi-conductor materials manufacturing jobs, for certain new international services jobs in specific areas, or for new manufacturing, research and development, or computer service jobs in rural counties or community empowerment zones. A recipient may not use the tax credits to decertify a union or to displace existing jobs in any community in the state.

Methods are prescribed for calculating the amount of the credit. A process and timeline is provided for applying for the credit and for reporting to the Department of Revenue (DOR). Recipients must keep certain records to verify eligibility. If a business does not submit an adequate report, the DOR may declare the taxes immediately payable. If the business is found ineligible because it failed to create the required number of qualified employment positions, the DOR must assess interest, but not penalties, until the taxes and interest are repaid. If the business is found not eligible for other reasons, the taxes are immediately

payable. Applications, reports, and other information received by the DOR are not confidential and are subject to disclosure.

The DOR must keep a running total of all credits allowed each fiscal year. Credits are capped at \$10 million per year. If all or part of an application for credit is disallowed due to the cap being reached, the disallowed portion must be carried over to the next fiscal year. A credit may be carried over until used. No applications may be accepted by the DOR after June 30, 2012. Taxpayers using the tax credit must file standard annual accountability reports with the DOR.

Amended Bill Compared to Engrossed Substitute Bill:

The amended bill requires taxpayers using the tax credit to file standard annual accountability reports with the DOR.

Appropriation: None.

Fiscal Note: Requested on March 19, 2010.

Effective Date of Amended Bill: The bill takes effect on July 1, 2010.

Staff Summary of Public Testimony:

(In support) Employers are anxious about hiring right now. This bill will encourage them to hire. The B&O tax is challenging when businesses start up and when they are growing employment. The City of Tacoma has a job creation credit against their local B&O tax. They believe it is effective enough to retain it even during rough budget times. The Tacoma program has been used by many businesses. A number of these are small businesses. Numerous studies support the creation of a new job tax credit. The bill supports two important policy goals – job creation and the infusion of health care in small businesses. The bill will encourage small businesses to grow.

(Neutral) The bill should be amended to require employers taking the credit to be enrolled in the E-Verify program with the United States Citizenship and Immigration Service. This will ensure the new jobs will be available to people that are entitled to work in the United States.

(Opposed) None.

Persons Testifying: (In support) Senator Kilmer, prime sponsor; Amber Carter, Association of Washington Business; Susan Suess, Economic Development Board; and David Graybill, Tacoma-Pierce County Chamber of Commerce.

(Neutral) Craig Keller; Samuel Weitz; and Leon Donahue, Washingtonians for Immigration Reform.

Persons Signed In To Testify But Not Testifying: None.