
Community Development & Housing Committee

HB 1165

Brief Description: Providing support for small business.

Sponsors: Representatives Liias, Kenney, Stanford, Ryu, Maxwell, Goodman, Eddy, Finn, Sells, Moscoso, Miloscia, Rolfes and Appleton.

Brief Summary of Bill

- Creates a small business loan or loan guarantee program.
- Authorizes a credit against the state's business and occupation tax for newly created employment positions.
- Establishes a small business taxpayer bill of rights.
- Requires an online portal for small businesses.
- Repeals the sunset on the Office of Regulatory Assistance.

Hearing Date: 1/20/11

Staff: Jennifer Thornton (786-7147).

Background:

Small Business Loan Guarantee.

The Department of Commerce provides access to a number of loan and bond programs that can provide access to capital for expansion or start-up projects. The programs include the Rural Washington Loan Fund, the Forest Products Revolving Loan Fund, the Coastal Revolving Loan Fund, the Child Care Facility Fund, Housing and Urban Development Section 108 Guaranteed Loans, Community Development Block Grant Float Loans, and Industrial Revenue Bonds.

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.

The Washington Economic Development Finance Authority (WEDFA) was created by the legislature to act as a financial conduit to businesses through the issuance of nonrecourse revenue bonds. The WEDFA has the authority to issue these bonds on both a taxable and tax-exempt basis in support of qualifying projects, which are primarily manufacturing, processing and waste disposal facilities.

The U.S. Small Business Association (SBA) participates in a number of loan programs designed for business owners who may have trouble qualifying for a traditional bank loan. The two SBA loan guarantee programs most used by banks today are the 7(a) program, which gives loans to eligible borrowers for starting, acquiring and expanding a small business, and the 504 loan program, which provides small businesses with long-term, fixed-rate financing needed to acquire real estate or equipment for expansion or modernization.

Business and Occupation Tax Credit.

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. Revenues are deposited in the State General Fund. There are several rate categories, and a business may be subject to more than one B&O tax rate, depending on the types of activities conducted. The B&O tax does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. However, there are many exemptions for specific types of business activities and certain deductions and credits permitted under the B&O tax statutes. Currently, there are three types of B&O tax credits in place for new job creation.

Online Business Portal.

Executive Order 06-02 directed the development of a One-Stop Business Portal, with the intent of offering a single, secure, online portal that would make licensing, permitting, regulatory approvals or filings, and tax collection easier for business. The portal can be accessed at www.Business.wa.gov, and contains services and resources related to doing businesses in Washington.

Executive Order 10-05 directed the Department of Commerce, working with the Governor's Office of Regulatory Assistance and key state agencies that regulate business, to consolidate the variety of small business licensing, registration and certification guides into one integrated online resource available across all state agencies by June 30, 2011.

Office of Regulatory Assistance.

The Legislature created the Office of Regulatory Assistance (ORA) in 2002 to address potential conflict, overlap, and duplication in Washington's environmental permits. Under statute, the ORA is administered by the Office of the Governor but some staff are located in the Department of Ecology and the Department of Information Services. Estimated expenditures were \$2.1 million in Fiscal Year 2010. The ORA's functions regarding permits and licenses fall into three areas: supplying information, providing assistance and coordination, and improving regulatory processes.

In 2007 the ORA was subject to a sunset review by the Joint Legislative Audit and Review Committee (JLARC). Consistent with the JLARC's recommendation, the ORA was reauthorized and a new sunset date was established for 2011. The JLARC also recommended that the ORA improve the tracking of its activities.

In October 2010, the JLARC completed a sunset review based on the 2011 sunset date, and provided three recommendations: (1) The Legislature should continue the ORA and not set another sunset date; (2) The ORA should include in its biennial reports information on what is, and what is not, working as the ORA implements the tasks defined for it by the Legislature; and (3) The ORA should improve its reports to the Legislature so that its performance in meeting targets stated in one year can be clearly tracked over following years.

Summary of Bill:

Small Business Loan Guarantee.

Subject to appropriation, the Department of Commerce (Department), in collaboration with the Washington Economic Development Finance Authority, the Small Business Development Center and the Department of Financial Institutions, will develop and offer a small business loan or loan guarantee program of up to \$100 million. The Department will additionally consult with the U.S. Small Business Administration and other organizations with expertise related to loan and loan guarantee programs.

The purpose of the loan program is to provide access to capital for qualified small businesses that are unable to obtain funding from private commercial lenders on commercially reasonable terms or to qualify for federal small business administration loans.

The Department is permitted to offer the loan or loan guarantee program through a contract with a qualified entity, and may adopt rules governing the program. No Washington state funds are allowed to be used to make loans or payments under a loan or loan guarantee agreement.

The Department, with its collaborative partners, must submit an annual report on the activities and outcomes of the program to the Governor and Legislature beginning December 1, 2011.

Business and Occupation Tax Credit.

Eligible businesses that directly create a new qualified employment position can apply to receive a credit against business and occupation (B&O) taxes due. The amount of the credit depends on the wage level: \$4,000 for each qualified employment position with wages and benefits greater than \$40,000 per year; and \$2,000 for each qualified employment position with wages and benefits between 150 percent of the minimum wage and \$40,000 per year. A health care plan must be offered by the employer. The method for calculating qualified positions and the amount of the credit are prescribed.

The Department of Revenue (DOR) must keep a running total of all credits allowed each fiscal year, and may not grant more than \$5 million in such credits in a fiscal year.

The process, timeline, and requirements are provided for applying for the credit and for reporting to the DOR. No applications may be accepted by the DOR after June 30, 2012.

A recipient may not use the tax credits to decertify a union or to displace existing jobs in any community in the state. These tax credits may not be claimed by businesses that are already receiving B&O tax credits for specific types of new jobs.

Small Business Taxpayer Bill of Rights.

The state of Washington's small business taxpayers have the right to: (1) receive industry specific tax guidance by the DOR at the time the business is registered with the state; (2) receive a written explanation regarding any tax deficiency assessments, interest, and penalties at the time of issue; (3) have any interest and penalties on an assessment waived if the assessment resulted from an unintentional error; and (4) rely on specific official written advice and written tax reporting instructions from the DOR.

The DOR is required to waive or cancel interest and penalties imposed under this chapter for a small business taxpayer if the failure to pay taxes due was not intentional. The DOR must administer the small business taxpayer bill of rights and adopt rules as necessary.

Online Business Portal.

The Department is directed to establish and continuously update an online portal to provide small businesses with information about a broad array of state, federal, and local services. The portal must include, but is not limited to, a directory of state, federal and local agencies; training and business counseling services; financing programs; and licensing, permitting, taxes and other regulatory information.

Beginning October 1, 2011, the Department of Licensing must include a statement referencing the online portal on its master and renewal business license applications. Also beginning October 1, 2011, the DOR must include a statement referencing the online business portal on its excise tax return.

Office of Regulatory Assistance.

The sunset that terminates the Office of Regulatory Assistance on June 30, 2011 is repealed.

Definitions.

"Small business" and "eligible business" are defined as a business in its first year of operations or with 50 or fewer employees. "Small business taxpayer" is defined as a taxpayer in its first year of business operations or with 50 or fewer employees.

Appropriation: None.

Fiscal Note: Requested on 1/17/2011.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.