
SUBSTITUTE SENATE BILL 5808

State of Washington

62nd Legislature

2012 Regular Session

By Senate Economic Development, Trade & Innovation (originally sponsored by Senators Kastama and McAuliffe)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to innovative industries for economic development;
2 and adding a new chapter to Title 43 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** This chapter may be known and cited as the
5 Washington innovation industries enabling act. This chapter is enacted
6 in the exercise of the police powers of this state for the purpose of
7 protecting the economic well-being and general welfare of the people of
8 this state.

9 NEW SECTION. **Sec. 2.** (1) The legislature finds that innovation in
10 the production of goods and services is woven throughout the history,
11 economy, and culture of Washington state and that the future economic
12 success of the state will be dependent on our being in the forefront of
13 innovation. The legislature declares that the promotion of innovation
14 within private sector companies is a fundamental purpose of state
15 government and that the commercialization and manufacture of products
16 within this state is in the public interest.

17 (2) By this chapter, the legislature intends to accelerate the
18 growth of industry clusters, strengthen industry collaboration in

1 innovation, create jobs, enhance public revenues and further the
2 continued commercialization and manufacture of innovative products in
3 Washington, and the promotion of Washington's products and services
4 nationally and globally. It is the purpose of this chapter to:

5 (a) Enable industry-sponsored organizations to work collaboratively
6 and provide technical and other joint assistance to help industrial
7 producers meet their research, commercialization, financial, workforce
8 training, marketing, exporting, and other industry identified needs;

9 (b) Assist industrial producers to improve productivity and reduce
10 costs within a globally competitive environment and remove impairments
11 to their ability to compete in local, domestic, and foreign markets;
12 and

13 (c) Promote industry clusters individually and as part of a
14 comprehensive state strategy to enhance the innovativeness, quality,
15 reputation, and sales of Washington's industrial products.

16 NEW SECTION. **Sec. 3.** The definitions in this section apply
17 throughout this chapter unless the context clearly requires otherwise.

18 (1) "Certified industry cluster" means an industry sector, which
19 may include sector suppliers and associated institutions, which has
20 been certified by the director as eligible for assistance through
21 innovation industry funds.

22 (2) "Director" means the director of the department of commerce or
23 his or her duly appointed representative. The phrase "director or his
24 or her designee" means the director unless he or she has designated an
25 administrator, board, or other designee to act in the matter
26 designated, in which case "director or his or her designee" means the
27 administrator, board, or other person or persons so designated and not
28 the director.

29 (3) "Industry development organization" means a nonprofit,
30 membership-based organization formed by firms within an industry
31 cluster for the purpose of providing technical assistance and support
32 to firms within the industry cluster. Industry development
33 organization membership may be either statewide in scope or a workforce
34 development area or areas as determined under the federal workforce
35 investment act, P.L. 105-220.

36 (4) "Industry cluster" means a group of firms, as determined by the
37 director, that share a NAICS classification code or related NAICS

1 classification codes as assigned by the department of revenue. The
2 director may determine that firms sharing a NAICS code, such as supply
3 firms or information technology firms, may be assigned to more than one
4 industry cluster.

5 (5)(a) "Innovation allocation" means for the calendar year in which
6 certification of an industry cluster occurs and any subsequent calendar
7 year during which an industry cluster is certified for the duration of
8 the year, fifty percent of the amount, if any, of business and
9 occupation taxes reported for that calendar year by all business
10 entities within that certified industry cluster that exceed the
11 projected tax receipts for that certified industry cluster.

12 (b) An innovation allocation may not exceed five million dollars.

13 (6) "Innovation industry funds" means the funds awarded to industry
14 development organizations under section 6 of this act.

15 (7) "NAICS" means the North American industry classification
16 system.

17 (8) "Projected tax receipts" means the expected business and
18 occupation tax receipts for a calendar year from all businesses in a
19 certified industry cluster based on a five-year trend line of state
20 business and occupation taxes reported by all businesses in that
21 certified industry cluster, as established by the department of
22 revenue.

23 NEW SECTION. **Sec. 4.** (1) The director is hereby authorized to
24 implement, administer, and enforce this chapter. The director may
25 adopt such rules as are necessary to carry out the provisions of this
26 chapter, including rules that provide for a method to fund, out of the
27 innovation industry account created in section 7 of this act, the
28 actual costs, including personnel costs, for carrying out the
29 director's obligations under this chapter if the costs are not directly
30 funded by the legislature. The director must administer provisions of
31 this act to align with the strategic plan and priorities of the
32 Washington economic development commission.

33 (2) The director, in consultation with the executive director of
34 the Washington economic development commission, must:

35 (a) Establish the process by which firms or industry development
36 organizations may petition for certification of an industry cluster.

1 The process must reference the minimum number of firms, or the minimum
2 percent of the firms within an industry cluster, that must join in the
3 petition. Industry firm participation in the cluster is voluntary;

4 (b) Establish industry cluster certification standards. The
5 certification standards must reference:

6 (i) The minimum number of firms, which must be at least three, that
7 may be in a certified industry cluster;

8 (ii) The minimum rate of employment growth within the certified
9 industry cluster;

10 (iii) The minimum rate of revenue growth within the certified
11 industry cluster;

12 (iv) The identification of relationships with organizations
13 critical to accelerating a cluster's innovation capacity and growth,
14 such as universities and colleges, research organizations, workforce
15 development organizations, public agencies, local economic development
16 agencies, innovation partnership zones, and technical assistance
17 providers; and

18 (iv) Any other quantitative and qualitative factors as the director
19 determines are appropriate;

20 (c) Certify, via certification orders, industry clusters that meet
21 the certification standards established by the director. The director
22 may amend or terminate certification orders, consistent with the
23 standards and rules adopted by the director;

24 (d) Make the final determination on the NAICS codes that define a
25 certified industry cluster;

26 (e) Notify the director of the department of revenue when an
27 industry cluster has been certified;

28 (f) Establish the processes, selection criteria, and contractual
29 requirements relating to the distribution of innovation industry funds;
30 and

31 (g) Provide bona fide industry development organizations seeking
32 innovation industry funds.

33 NEW SECTION. **Sec. 5.** (1) Upon receipt of a certification order
34 from the director, the department of revenue must establish the
35 projected tax receipts for a certified industry cluster. The
36 department of revenue must establish the projected tax receipts by the
37 later of sixty days following the receipt of the certification order or

1 September 1st of the year in which the certification order was
2 received. In determining the projected tax receipts the department of
3 revenue must use existing data that is compiled in the department of
4 revenue's normal course of business and used for other purposes. No
5 corrections to the projected tax receipts for a certified industry
6 cluster may be made after the department of revenue determines the
7 initial innovation allocation for that certified industry cluster.

8 (2) The department of revenue must determine the annual innovation
9 allocation attributable to each certified industry cluster when the
10 data is available. Such determination must be made by September 1st of
11 each year. In determining the annual innovation allocation the
12 department of revenue must use existing data that is compiled in the
13 department of revenue's normal course of business and used for other
14 purposes. No changes to the innovation allocation for a certified
15 industry cluster may be made after the department of revenue notifies
16 the state treasurer of that innovation allocation as required in
17 subsection (3) of this section.

18 (3) The department of revenue must notify the state treasurer of
19 the innovation allocations determined under subsection (2) of this
20 section. When innovation allocations are greater than zero, the state
21 treasurer must transfer such amounts from the general fund to the
22 innovation industry account created in section 7 of this act.

23 (4) The department of revenue must annually provide to the director
24 such contact information for firms within a certified industry cluster
25 as is subject to disclosure under RCW 82.32.330(3)(k). The information
26 required under this subsection must be provided by a date mutually
27 agreed to by the department of revenue and the director.

28 NEW SECTION. **Sec. 6.** (1) The innovation industry program is
29 established in the department of commerce. The director may award
30 funds via contract with industry development organizations to assist
31 certified industry clusters consistent with the purpose of this
32 chapter. The period during which awarded funds may be used may be up
33 to five years. The amount awarded to an industry development
34 organization must not exceed five million dollars per year and may not
35 exceed the amount of private sector contributions to the industry
36 development organization. Industry development organizations must
37 indicate the certified industry cluster they seek to serve and whether

1 they intend to provide services statewide or within a substate area.
2 The director must set qualification standards for industry development
3 organizations applying for funds under the program including, but not
4 limited to, the number and the percentage of certified industry cluster
5 firms in the proposed service area that are members of the industry
6 development organization.

7 (2) Innovation industry funds awarded to industry development
8 organizations may be used for any of the following:

9 (a) Research and development of better and more efficient
10 production, processing, transportation, handling, and marketing of
11 value-added products;

12 (b) Assistance with quality control and testing of products and
13 processes;

14 (c) Workforce training and recruitment;

15 (d) Incubation and acceleration services;

16 (e) Export assistance, including the prevention, modification, or
17 elimination of trade barriers;

18 (f) Providing marketing information and services including the
19 development of cooperative efforts;

20 (g) Providing information and services for meeting energy
21 efficiency and conservation objectives; and

22 (h) Any other services as are approved by the director.

23 (3) Innovation industry funds may not be used for:

24 (a) Lobbying;

25 (b) Providing cash grants or loans to businesses; or

26 (c) Any other purpose prohibited by the director through rule or
27 contract.

28 (4) The contracts with industry development organizations must
29 specify:

30 (a) The expected deliverables and performance requirements;

31 (b) The annual reporting requirements; and

32 (c) That the organizations must demonstrate the maintenance of
33 previous efforts and the use of innovation industry funds for
34 activities in addition to and beyond previous efforts.

35 (5) Priority will be given to those applicants who demonstrate:

36 (a) The capacity to serve all firms in an industry cluster;

37 (b) Collaboration with, and the ability to facilitate the goals of,
38 innovation partnership zones established under RCW 43.330.270; and

1 (c) Collaboration with centers of excellence established under RCW
2 28B.50.902 or with other industry specific assistance centers.

3 (6) Industry development organizations receiving innovation
4 industry funds may contract with other research, education, management,
5 and technical assistance providers for services necessary to meet
6 industry cluster objectives and state contract obligations.

7 (7) The director may, through interagency agreement or contract,
8 utilize the services of public or private entities to carry out the
9 provisions of this chapter.

10 (8) All activities of the certified industry cluster under the
11 provisions of this act should not violate United States antitrust law.

12 NEW SECTION. **Sec. 7.** (1) The innovation industry account is
13 created in the custody of the state treasury. All receipts from
14 innovation allocations collected by the department of revenue under
15 section 5 of this act must be deposited in the account. Expenditures
16 from the account may be used only for the innovation industry program
17 and the costs associated with carrying out the director's obligations
18 under this chapter. Only the director or the director's designee may
19 authorize expenditures from the account. The account is subject to
20 allotment procedures under chapter 43.88 RCW, but an appropriation is
21 not required for expenditures.

22 (2) The director must keep subaccounts for each certified industry
23 cluster and must:

24 (a) Deposit the innovation allocation attributable to each
25 certified industry cluster into its subaccount after deducting for
26 administrative costs incurred by innovate Washington; and

27 (b) Make innovation industry funds available to industry
28 development organizations from the appropriate certified industry
29 cluster subaccount.

30 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act constitute
31 a new chapter in Title 43 RCW.

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