
SECOND SUBSTITUTE SENATE BILL 5808

State of Washington

62nd Legislature

2012 Regular Session

By Senate Ways & Means (originally sponsored by Senators Kastama and McAuliffe)

READ FIRST TIME 02/27/12.

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 credit allowances.

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" has the same meaning as provided in RCW
37 43.330.090.

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

8 (b) An innovation credit allocation may not exceed five million
9 dollars.

10 (6) "Innovation industry credit allowance" means the amount of
11 contributions to an industry development organization for which a
12 business and occupation tax credit may be taken by the donor under
13 section 7 of this act.

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

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

22 NEW SECTION. **Sec. 4.** (1) The director is hereby authorized to
23 implement, administer, and enforce this chapter. The director may
24 adopt such rules as are necessary to carry out the provisions of this
25 chapter. The director must administer provisions of this act to align
26 with the strategic plan and priorities of the Washington economic
27 development commission.

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

30 (a) Establish the process by which firms or industry development
31 organizations may petition for certification of an industry cluster.
32 The process must reference the minimum number of firms, or the minimum
33 percent of the firms within an industry cluster, that must join in the
34 petition. Industry firm participation in the cluster is voluntary;

35 (b) Establish industry cluster certification standards. The
36 certification standards must reference:

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

3 (ii) The minimum rate of employment growth within the certified
4 industry cluster;

5 (iii) The minimum rate of revenue growth within the certified
6 industry cluster;

7 (iv) The identification of relationships with organizations
8 critical to accelerating a cluster's innovation capacity and growth,
9 such as universities and colleges, research organizations, workforce
10 development organizations, public agencies, local economic development
11 agencies, innovation partnership zones, and technical assistance
12 providers; and

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

15 (c) Certify, via certification orders, industry clusters that meet
16 the certification standards established by the director. The director
17 may amend or terminate certification orders, consistent with the
18 standards and rules adopted by the director;

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

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

23 (f) Establish the processes, selection criteria, and contractual
24 requirements relating to the distribution of innovation industry funds;
25 and

26 (g) Provide bona fide industry development organizations seeking
27 innovation industry funds with contact information for firms within the
28 relevant certified industry clusters.

29 (3) The director may only certify one industry cluster in the first
30 year, and then one additional industry cluster each year thereafter.

31 NEW SECTION. **Sec. 5.** (1) Upon receipt of a certification order
32 from the director, the department of revenue must establish the
33 projected tax receipts for a certified industry cluster. The
34 department of revenue must establish the projected tax receipts by the
35 later of sixty days following the receipt of the certification order or
36 September 1st of the year in which the certification order was
37 received. In determining the projected tax receipts the department of

1 revenue must use existing data that is compiled in the department of
2 revenue's normal course of business and used for other purposes. No
3 corrections to the projected tax receipts for a certified industry
4 cluster may be made after the department of revenue determines the
5 initial innovation credit allocation for that certified industry
6 cluster.

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

17 (3) The department of revenue must notify the director and the
18 applicable industry development organization of the innovation credit
19 allocations determined under subsection (2) of this section.

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

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

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

7 (2) Innovation industry credit allowances awarded to industry
8 development 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 credit allowances 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 credit allowances
34 for 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 credit allowances may contract with other research, education,
5 management, and technical assistance providers for services necessary
6 to meet 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) In computing the tax authorized under
13 chapter 82.04 RCW, a credit is allowed for contributions to an industry
14 development organization representing a certified industry cluster.
15 The credit is only allowed if the industry development organization has
16 been awarded an innovation industry credit allowance via contract by
17 the director. The credit allowed under this section is equal to one
18 hundred percent of the value of a contribution to an industry
19 development organization.

20 (2) The person must make the contribution before claiming a credit
21 authorized under this section. Credit earned under this section may be
22 claimed against taxes due for the calendar year in which the
23 contribution is made. The amount of credit claimed for a reporting
24 period may not exceed the tax otherwise due under this chapter for that
25 reporting period. No refunds may be granted for any unused credits.

26 (3) Any amount of tax credit otherwise allowable under this section
27 not claimed by the person in any calendar year may be carried over and
28 claimed against the person's tax liability for the next succeeding
29 calendar year. Any credit not used in the succeeding calendar year may
30 not be carried over for any calendar year thereafter.

31 (4) Credits are available on a first in-time basis. The department
32 of revenue must disallow any credits, or portion thereof, that would
33 cause the total amount of credits claimed for donations to an industry
34 development organization to exceed the annual innovative industry
35 credit allowance of an industry development organization.

36 (5) At the time an industry development organization that receives
37 donations, by persons eligible to receive the credit under this

1 section, that reaches its annual innovative industry credit allowance,
2 it must notify the director and the director of the department of
3 revenue that its annual innovative industry credit allowance has been
4 reached. In addition, the industry development organization must
5 notify any additional donors if the annual limit has been reached and
6 that any additional donations in the calendar year may not receive the
7 credit authorized under this section.

8 (6) To claim a credit under this section, a person must
9 electronically file with the department all returns, forms, and any
10 other information required by the department, in an electronic format
11 as provided or approved by the department.

12 (7) No application is necessary for the tax credit. The person
13 must keep records necessary for the department to verify eligibility
14 under this section.

15 (8) The department may not allow any credit under this section
16 before July 1, 2012.

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

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