

HOUSE BILL REPORT

E3SHB 1324

As Passed Legislature

Title: An act relating to creating the Washington rural development and opportunity zone act.

Brief Description: Creating the Washington rural development and opportunity zone act.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Chapman, Maycumber, Springer, Chandler, Blake, Stokesbary, Steele, Reeves, Pettigrew, Dolan, Volz, Barkis, Eslick, Lekanoff, Tharinger, Hoff, Jinkins, Kilduff and Leavitt).

Brief History:

Committee Activity:

Rural Development, Agriculture, & Natural Resources: 1/30/19, 2/6/19 [DPS];
Finance: 2/19/19, 2/21/19 [DP2S(w/o sub RDAN)];
Appropriations: 2/26/19, 2/28/19 [DP3S(w/o 2 sub FIN)].

Floor Activity:

Passed House: 3/7/19, 97-0.
Senate Amended.
Passed Senate: 4/16/19, 47-1.
House Refused to Concur.
Senate Receded.
Senate Amended.
Passed Senate: 4/22/19, 40-9.
House Concurred.
Passed House: 4/24/19, 94-0.
Passed Legislature.

Brief Summary of Engrossed Third Substitute Bill

- Directs the Washington State Institute for Public Policy to conduct a study on programs that incentivize private investment and job creation in rural and distressed communities.
- Extends the expiration date of the preferential business and occupation tax rate for timber products from 2024 to 2045.
- Extends the expiration date of the Forest and Fish Support Account surcharge on timber products from 2024 to 2045.

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.

- Adds mass timber products to the list of timber products that receive the timber products preferential business and occupation tax rate.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE, & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Blake, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Chapman, Dye, Fitzgibbon, Lekanoff, Orcutt, Pettigrew, Ramos, Schmick and Walsh.

Staff: Robert Hatfield (786-7117).

HOUSE COMMITTEE ON FINANCE

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Rural Development, Agriculture, & Natural Resources. Signed by 12 members: Representatives Tarleton, Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member; Chapman, Frame, Macri, Morris, Springer, Stokesbary, Vick and Wylie.

Staff: Tracey O'Brien (786-7152).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The third substitute bill be substituted therefor and the third substitute bill do pass and do not pass the second substitute bill by Committee on Finance. Signed by 32 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Cody, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Jinkins, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Stanford, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

Staff: Meghan Morris (786-7119).

Background:

Business and Occupation Taxes.

Washington's major business tax is the B&O tax. The B&O tax is imposed on the gross receipts of all taxable business activities conducted within the state, unless otherwise exempt. There is no deduction for the costs of doing business. Revenues are deposited into 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. Major B&O tax rates are: 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and

1.5 percent for services and for activities not classified elsewhere. Several preferential rates also apply to specific business activities. Business and occupation taxes are collected by the Department of Revenue.

Business and Occupation Taxes—Timber Products.

In 2006 B&O tax rate reductions were provided for the timber industry. The B&O tax rate was reduced for the activities of extracting timber or extracting for hire timber, or manufacturing or processing for hire logs, wood chips, sawdust, wood waste, pulp, recycled paper products, paper and paper products, dimensional lumber, and engineered wood products, plywood, wood doors, and wood windows. The lower B&O tax rate also applies to the sale of standing timber. The B&O tax rate for these activities is 0.2904 percent. The reduced tax rate expires July 1, 2024.

Timber Products Surcharge.

Since 2007, a 0.052 percent surcharge has been imposed on taxpayers who are subject to the timber products B&O tax. The proceeds of the surcharge are placed in a dedicated account and are used for implementation of the 1999 Forest and Fish Report to the Forest Practices Board and the Governor's Salmon Recovery Office. The surcharge is suspended when the surcharge collections reach \$8 million in the biennium, or the federal budget contains at least \$2 million in appropriations to support tribal participation in forest and fish related activities. If the federal appropriation is less than \$2 million then the surcharge rate is reduced.

State Building Code.

The State Building Code (Code) establishes minimum performance standards and requirements for construction and construction materials in the state, consistent with accepted standards of engineering, fire, and life safety. The Code comprises a number of model codes and standards, developed and published by international and national organizations, which are adopted by reference in the State Building Code Act.

Mass timber products are defined in the Code as a type of building component or system that uses large, panelized wood construction, such as cross-laminated timber, glue-laminated timber, and laminated strand timber.

Tax Preference Performance Statement and Expiration Date.

All new tax preference legislation must include a tax preference performance statement, unless exempted. Tax preferences include deductions, exemptions, preferential tax rates, and tax credits. The performance statement must clearly specify the public policy objectives of the tax preference, and the specific metrics and data that will be used by the Joint Legislative Audit and Review Committee to evaluate the efficacy of the tax preference.

New tax preferences expire 10 years after the effective date of the tax preference, unless otherwise provided.

Summary of Engrossed Third Substitute Bill:

Study on Certain Statewide Economic Development Programs for Rural and Distressed Communities.

The Washington State Institute for Public Policy (WSIPP) is directed to conduct a study on certain programs incentivizing private investment and job creation in rural and distressed communities. In conducting the study, WSIPP must:

- conduct a 50-state review on the structure and characteristics of Certified Capital Company Programs, New Markets Tax Credit Programs, Rural Jobs Programs, and other similar economic development programs in other states; and
- review any available research on these initiatives and, to the extent possible, describe the effects of each type of initiative on employment, earnings, property values, and job creation.

The report is due to the appropriate committees of the Legislature by July 1, 2020.

Timber Product Business and Occupation Tax Extension.

The expiration date of the reduced business and occupation (B&O) tax rate associated with certain timber products is extended from July 1, 2024, to July 1, 2045. The extension of the reduced tax rate is exempted from the requirement to include a tax preference performance statement.

Timber Products Surcharge.

The expiration date of the timber products surcharge is extended from June 30, 2024, to July 1, 2045. The requirement that the timber products surcharge be suspended if the federal government appropriates at least \$2 million for participation in Forest and Fish Report related activities by federally recognized Indian tribes is removed. Any receipts above \$8 million in a biennium from the surcharge must be used specifically for tribal participation grants. Collection of the surcharge is suspended if the amount in the account reaches the following thresholds in the following years:

- in 2019, the threshold is increased from \$8 million to \$8.5 million;
- in 2024, the threshold is increased from \$8.5 million to \$9.0 million; and
- in 2029, the threshold is increased from \$9.0 million to \$9.5 million.

Mass Timber Products.

Mass timber products, as defined in the State Building Code, are included in the list of timber products that receive the preferential timber products B&O tax rate.

The preferential timber products B&O tax rate may not be construed to affect the taxation of certain other specified activities.

The inclusion of mass timber products in the list of timber products that receive the preferential timber products B&O tax is exempted from requirements regarding a tax preference statement and an expiration date.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony (Rural Development, Agriculture, & Natural Resources):

(In support) The Rural Development and Opportunity Zone Program (Program) in the bill will free up capital for investment. Access to capital can sometimes be the limiting factor in expanding rural communities. Under the bill, small businesses will get help to build a good business plan. The current tax rate for the pulp and paper industry will expire in 2024. It was part of the original Forest and Fish Agreement. One mill in Port Angeles is deciding whether to reopen, which would potentially add 200 good-paying jobs. With the potential expiration of the tax rate, the company is struggling with how much they can invest. Extending the business and occupation tax rate for timber products would represent a generational commitment from the Legislature to the importance of the timber industry.

The bill creates a private investment fund for small and medium-sized companies who are looking to expand. The bill is a step forward to providing resources to incentivize development. The Program in the bill would improve job growth and attract capital to rural areas. It would allow businesses to expand in underserved areas.

Many businesses are having problems in rural areas, particularly with access to capital. The bill has several taxpayer protections.

The best way for a banker to take care of clients is to provide them with access to capital. Capital investments generate roughly \$250 million in direct economic impacts from one banker's clients. Sometimes clients have to change the way they do business, and in that case, it is riskier for the bank to loan that client money, and the bank looks at other ways of getting capital to clients. This bill represents another way of getting capital to clients.

The Program in the bill is not in competition with banks. If a small business can get a loan from a bank, they should. But under the new lending restrictions, a small business often cannot get the entire amount they need. Certain investment companies can fill that gap. There may be some concern about this being a tax credit. The bill is attempting to build in protections that keep the state whole. There are two strong provisions that protect the state. If a Fund does not produce the jobs it said it would, the Fund has to write a check back to the state of Washington. If a project does not generate an equivalent amount of revenue as was taken in tax credits, the Fund has to write a check back to the state of Washington.

(Opposed) None.

Staff Summary of Public Testimony (Finance):

(In support) Businesses and entrepreneurs in Washington's rural and distressed communities are struggling to access necessary capital to expand. This is a bipartisan approach to state-wide rural development that focuses on assisting those existing small and mid-size companies in Washington. There are accountability provisions focused on job creation, job retention and tax revenue requirements. The investments must provide more state and local tax revenue than the program provides in tax credits. The risk to the state is eliminated, the only real fiscal impact is the deferral of the revenues.

This program will act in conjunction with traditional lending to meet the needs of businesses and create jobs. Taking advantage of the federal program and community banking partners, the rural development and opportunity zone funds will drive capital to small businesses throughout Washington.

In addition, the extension of the timber B&O tax rate will help businesses have tax certainty when planning investments in our timber communities. The surcharge paid into the Forest and Fish Fund is going to expire; however, the timber businesses and the tribes have agreed to continue to pay the fee and fund the adaptive management program.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) House Bill 1324 provides an innovative approach to addressing the problem of small businesses accessing capital. The Washington Rural Development and Opportunity Zone Act will encourage private sector investors to deploy capital in overlooked and underserved areas. If enacted, the bill will result in \$100 million of private capital being invested within three years into Washington-based companies. The investment will be raised by fund managers with a mandate to grow businesses having problems raising and accessing capital through banks or other sources. The private funds use a delayed tax credit to raise a portion of their private capital, and subsequently the funds have to deploy all of their capital raised under the Program before any of the tax credits are claimed.

Extending the business and occupation tax rate reduction would be a benefit to timber, fishing, and hospitality industries so they could compete with other businesses outside of Washington. The current bill would extend the existing surcharge past 2024 and will continue to fund valuable products, but it would be better to extend the surcharges past 2056. This supports rural communities in Washington. Stakeholders are crucial to the success of the adaptive management program.

A loan program like this provides another tool to make money available through different loan programs. This will help clients expand into a new market by allowing banks to provide capital to the client. The program also contains safeguards to ensure the capital creates a minimum number of jobs, and that those jobs remain in Washington-based businesses.

(Opposed) None.

(Other) Commerce has concerns on the certified capital company section of the bill. The budget committee must balance the opportunity cost of the \$60 million investment, and there are technical concerns for Commerce's role in the bill. Commerce is tasked with reviewing and approving applications, and confirming that the business plans submitted by the applicants are supported by revenue impact assessments. However, Commerce is not allowed to review the revenue impact assessments. A 2017 Pew Research Center study found mixed results in other states that have adopted these multilayered investment models. Creating living wage jobs is a top priority for Commerce.

The section under the bill related to the surcharge is a concern. The surcharge is provided to fund participation for tribes and other caucuses under the Forest and Fish Law. It also provides funding for the adaptive management program. The funds are very important for the program to continue, but funding is not adequate at this time. The extension to the surcharge is a good idea, but there are some concerns about the language in the current bill. The first substitute bill took out language around conditions on the surcharge, which is preferred. Because funding is not adequate for all to participate, the Northwest Indian Fisheries Commission would like to apply for federal dollars and lift the cap to help the adaptive management programs work on studies.

Persons Testifying (Rural Development, Agriculture, & Natural Resources): Representative Chapman; prime sponsor; Dru Garson, Greater Grays Harbor Incorporated; Mike Ennis, Association of Washington Business; Andrew Mesojednik, Bank of the Pacific; Steve Gano, Advantage Capital; and Tom Nelson, Sierra Pacific Industries.

Persons Testifying (Finance): Representative Chapman, prime sponsor; Jennifer Ziegler, Washington Economic Development Organization; Andrew Mesojednik, Bank of the Pacific; Mark Scheffel, Advantage Capital; Mike Ennis, Association of Washington Business; and Joanna Eide, Department of Natural Resources.

Persons Testifying (Appropriations): (In support) Gingee Prince, Enhanced Capital Partners; Andrew Mesojednik, Bank of the Pacific; Steve Gano, Advantage Capital; and Joanna Eide, Department of Natural Resources.

(Other) Jasmine Vasavada, Department of Commerce; and Jim Peters, Northwest Indian Fisheries Commission.

Persons Signed In To Testify But Not Testifying (Rural Development, Agriculture, & Natural Resources): None.

Persons Signed In To Testify But Not Testifying (Finance): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.