
SUBSTITUTE SENATE BILL 5468

State of Washington

53rd Legislature

1993 Regular Session

By Senate Committee on Trade, Technology & Economic Development
(originally sponsored by Senators Fraser, Skratek, Pelz and Prentice)

Read first time 03/03/93.

1 AN ACT Relating to private business entities receiving public
2 assistance; adding a new chapter to Title 19 RCW; and providing an
3 effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that public assistance
6 in the form of loans, grants, bonds, tax deferrals, or tax abatements
7 allowed to private business is a public service. Therefore, the state
8 and its political subdivisions should offer this assistance only to
9 those private businesses that are willing to be subject to minimal
10 rules of conduct.

11 NEW SECTION. **Sec. 2.** Unless the context clearly requires
12 otherwise, the definitions in this section apply throughout this
13 chapter.

14 (1) "Business" means a person, firm, partnership, corporation,
15 trust, association, or other form of private business organization
16 which employs one or more employees at a facility within this state.

1 (2) "Business assistance" includes any loan, grant, bond, tax
2 deferral, payment through a revolving fund, or tax abatement program
3 administered by the state or its political subdivisions.

4 (3) "Certified date of reduction in operations" means the actual or
5 anticipated date of any reduction in operations at a business facility
6 as determined by the director.

7 (4) "Director" means the director of financial management.

8 (5) "Reduction in operations" means the total closure of a business
9 facility, any partial closure of a business facility, or any other
10 reduction in operations or relocation of a business facility that
11 results in the layoff of at least twenty-five employees at the facility
12 within a six-month period prior to the certified date of reduction in
13 operations. "Reduction in operations" does not include reductions:

14 (a) Resulting solely from labor disputes as defined in RCW
15 49.32.110(3);

16 (b) Occurring at construction sites;

17 (c) Resulting from seasonal factors, that are customary in the
18 industry of which the business is a part, as determined by the
19 director;

20 (d) Resulting from the lack of availability of natural resources
21 required for production at the business facility, as determined by the
22 director; or

23 (e) Resulting from fire, flood, war, or other acts of God.

24 NEW SECTION. **Sec. 3.** Each business that has received one hundred
25 thousand dollars or more in business assistance shall agree to accept
26 the following rules of conduct prior to receiving further assistance:

27 (1) A business reducing operations at a facility or relocating a
28 facility shall comply with the requirements of all federal and state
29 plant closure laws, regardless of whether the business is included
30 within the coverage of the plant closure law.

31 (2) A business purchasing or relocating a facility within the state
32 shall continue to recognize any employee organization, whether
33 international or local, that is a signatory to a collective bargaining
34 agreement in effect at the predecessor facility or at the relocating
35 facility at the time of relocation.

36 (3) A business selling or otherwise transferring a business shall
37 include in the contract of sale or similar instrument of conveyance a
38 statement that the successor business is bound by any collective

1 bargaining agreement to which the predecessor business is a signatory
2 at the time of transferring the business, until the expiration of the
3 agreement.

4 (4) The business shall not permanently replace employees who
5 legally exercise the right to strike.

6 (5) The business shall maintain a neutral position with respect to
7 their employees' determination of collective bargaining representation.

8 (6) The business shall comply with all federal and state
9 requirements for affirmative action in hiring and promotion of its
10 employees, regardless of whether the business is included within the
11 coverage of the civil rights laws.

12 (7) A business totally closing or relocating a facility shall first
13 make good faith offers of sale at fair market values for the plant,
14 equipment, and inventory to the community in which the facility is
15 located and to agents who represent a majority of the employees of the
16 employer, who singly or in combination are seeking to form a community-
17 owned, employee-owned, or jointly owned business at the facility being
18 closed.

19 (8) The business shall employ no employees at wages less than the
20 average per capita wage of the county where the business is located.

21 (9) The business shall provide basic health coverage comparable to
22 a certified health plan as defined in chapter . . . (Substitute Senate
23 Bill No. 5304), Laws of 1993 and effective on the effective date of
24 chapter . . . (Substitute Senate Bill No. 5304), Laws of 1993 for its
25 employees.

26 (10) The business shall comply with all applicable federal and
27 state environmental laws and regulations.

28 NEW SECTION. **Sec. 4.** Businesses receiving business assistance
29 under the terms of section 3 of this act who fail to comply with the
30 rules of conduct specified in section 3 of this act are subject to
31 penalties to be established in rule by the office of financial
32 management, and that shall include but not be limited to the following:

33 (1) The business assistance is rescinded and the entire amount of
34 the monetary assistance is immediately due and payable, together with
35 a ten percent penalty on the amount due and interest at twelve percent
36 per annum. Interest accrues from the date notice of the rescission is
37 received by the business.

1 (2) If the failure to comply occurs within ten years of receiving
2 authorization for industrial revenue bonds, the business that has
3 received industrial revenue bonds shall be penalized an amount equal to
4 the federal tax exemption received plus ten percent of the federal tax
5 exemption together with interest at twelve percent per annum. Interest
6 accrues from the date notice of the failure to comply is received by
7 the business.

8 NEW SECTION. **Sec. 5.** Any business that receives the benefits of
9 a state business assistance program who violates any provision of this
10 chapter shall not be eligible for any business assistance program for
11 a period of up to ten years following the date of violation as
12 determined by the director. The director shall determine the length of
13 ineligibility based upon rules adopted to implement section 4 of this
14 act.

15 NEW SECTION. **Sec. 6.** (1) Businesses applying for business
16 assistance shall submit employment impact estimates to the office of
17 financial management specifying the number and types of jobs, with wage
18 rates and benefits for those jobs, that the business submitting the
19 application expects to be eliminated, created, or retained on the
20 project site and on other employment sites of the business in
21 Washington as a result of the project that is the subject of the
22 application. The business applying for business assistance shall
23 submit the employment impact statement for review and comment to
24 employees who may be displaced, employee organizations or state-wide
25 organizations representing employees, the local economic planning
26 council, and other affected or interested community organizations or
27 associations.

28 (2) A business assistance contract entered into by a business shall
29 require the business to submit to the office of financial management a
30 postemployment impact statement stating the net number and types of
31 jobs eliminated, created, or retained, with the wage rates and benefits
32 for those jobs, on the project site and on other employment sites of
33 the business in Washington as a result of the project that is the
34 subject of the contract. The statement must be submitted within six
35 months after the project is completed or the business assistance for
36 the project has ceased, whichever occurs first.

1 (3) Agencies providing business assistance shall provide to
2 businesses seeking assistance a notice that clearly states the
3 requirements for receiving assistance as set forth in section 3 of this
4 act.

5 (4) Agencies providing business assistance shall notify the office
6 of financial management of the amount of assistance received by a
7 business and other information necessary to implement this chapter.
8 The office shall review all participating businesses for compliance
9 with this chapter, shall make any necessary administration
10 determinations, and shall assess and collect any penalties for
11 violations under the hearing and review requirements of chapter 34.05
12 RCW. Except as otherwise provided under subsection (5) of this
13 section, penalties collected shall be paid into the state general fund.
14 The office shall report annually to the governor and the appropriate
15 legislative committees on these activities.

16 (5) Penalties imposed for violations of section 3(10) of this act
17 shall be paid into the natural resource restoration account created in
18 section 7 of this act.

19 (6) The director shall adopt rules under chapter 34.05 RCW to carry
20 out the purposes of this chapter.

21 NEW SECTION. **Sec. 7.** Moneys collected under this chapter for
22 violations of section 3(10) of this act shall be deposited into the
23 environment and forest restoration account created in chapter . . .
24 (Senate Bill No. 5454), Laws of 1993 for expenditure pursuant to the
25 purposes of chapter . . . (Senate Bill No. 5454), Laws of 1993.

26 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act shall
27 constitute a new chapter in Title 19 RCW.

28 NEW SECTION. **Sec. 9.** This act shall take effect January 1, 1994.

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