

SSB 5096 - H COMM AMD

By Committee on Innovation, Community & Economic Development, & Veterans

ADOPTED 04/17/2023

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

4 Employee ownership in companies provides numerous benefits to
5 both businesses and workers across all industries. Research from the
6 national center for employee ownership found that one such structure,
7 employee stock ownership plans, had better workforce retention,
8 benefits and retirement security, and firm performance than
9 nonemployee stock ownership plans companies in the same industry. In
10 addition, the Rutgers school of management and labor relations found
11 that employee-owned companies outperformed nonemployee-owned
12 companies in job retention, pay, and workplace health safety
13 throughout the COVID-19 pandemic. At their core, employee ownership
14 structures allow employees to gain ownership stake in a business,
15 increasing their personal wealth without the risks related to
16 starting or purchasing their own company.

17 States throughout the nation have moved to provide support for
18 employee ownership structures. The Colorado employee ownership office
19 has operated since 2019 to create a network of technical support and
20 service providers considering employee ownership structures.
21 Recently, both California and Massachusetts passed legislation to
22 establish their own dedicated employee ownership support programs.
23 Other states, such as Iowa, provide tax benefits and upfront costs to
24 businesses interested in employee ownership.

25 Further, the federal government has recognized the benefit broad-
26 based employee ownership structures provide to communities. The
27 American rescue plan act included \$10,000,000,000 for the state small
28 business credit initiative. Through that act congress also directed
29 the treasury department to allow state small business credit
30 initiative funding to be used for transitions to employee ownership,

1 when state small business credit initiative funding has not been
2 historically available for business transactions.

3 The legislature desires to provide a dedicated program to educate
4 businesses on employee ownership, assist both owners and workers in
5 navigating available resources, reduce barriers to transitioning to
6 employee-owned structures, and provide tax support for businesses
7 that transition to an employee ownership structure.

8 Therefore, it is the intent of the legislature to encourage the
9 growth of employee ownership structures through this expanding
10 employee ownership act.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.330
12 RCW to read as follows:

13 (1) The Washington employee ownership program is created to
14 support the efforts of businesses considering a sale to an employee
15 ownership structure. The Washington employee ownership program must
16 be administered by the department and overseen by the Washington
17 employee ownership commission established in section 3 of this act.

18 (2)(a) In implementing the Washington employee ownership program,
19 the director must:

20 (i) Create a network of technical support and service providers
21 for businesses considering employee ownership structures;

22 (ii) Work with state agencies whose regulations and programs
23 affect employee-owned businesses, and businesses with the potential
24 to become employee owned, to enhance opportunities and reduce
25 barriers;

26 (iii) Partner with relevant private, nonprofit, and public
27 organizations including, but not limited to, professional and trade
28 associations, financial institutions, unions, small business
29 development centers, economic and workforce development
30 organizations, and nonprofit entities to promote employee ownership
31 benefits and succession models;

32 (iv) Develop and make available materials regarding employee
33 ownership benefits and succession models;

34 (v) Provide a referral service to help qualified business owners
35 find appropriate legal, financial, and technical employee ownership
36 resources and services;

37 (vi) Work with the department of financial institutions and
38 appropriate state, private, and nonprofit entities to shape and

1 implement guidance on lending to broad-based employee ownership
2 vehicles;

3 (vii) Create an inventory of employee-owned businesses in the
4 state including employee stock ownership plans, worker cooperatives,
5 and employee ownership trusts; and

6 (viii) Subject to the successful award of federal funding for
7 this purpose, establish a revolving loan program to assist existing
8 small businesses to finance a transition to employee ownership.

9 (b) Loans offered by the revolving loan program must be used to
10 help facilitate the purchase of an interest in an employee stock
11 ownership plan or worker-owned cooperative from the owner or owners
12 of a qualified business, provided that:

13 (i) The transaction results in the employee stock ownership plan
14 or worker cooperative holding a majority interest in the business, on
15 a fully diluted basis; and

16 (ii) If used to assist in the purchase of an interest in an
17 employee stock ownership plan, the employee stock ownership plan: (A)
18 Has appointed an independent trustee; or (B) has, as a trustee,
19 person, or entity, completed education on best practices for employee
20 stock ownership plans.

21 (c) Loans financing the sale of an interest to a worker
22 cooperative shall be extended based on repayment ability and shall
23 not require a personal or entity guarantee. In meeting the
24 requirement in (b) of this subsection, lending guidelines must be
25 established for worker cooperatives not based on any personal or
26 entity guarantees provided by the member owners or the selling
27 business owner. These guidelines may include but are not limited to
28 cash flow-based underwriting, character-based lending, and reliance
29 on business assets.

30 (d) In order to support the revolving loan program, the director
31 or the director's designee must apply for federal funding
32 opportunities that:

33 (i) Support capitalization of state revolving loan programs; and

34 (ii) Support businesses that seek to transition to employee
35 ownership.

36 (e) Amounts from the repayment of loans offered by the revolving
37 loan program must be deposited in the employee ownership revolving
38 loan program account established in section 6 of this act.

1 (3) The director or the director's designee may contract with
2 consultants, agents, or advisors necessary to further the purposes of
3 this section.

4 (4) By December 1st each year, the department must submit a
5 report to the appropriate committees of the legislature on program
6 activities and the number of employee-owned businesses and employee-
7 owned trusts in the state, including recommendations for improvement
8 and barriers for businesses considering employee ownership structures
9 in Washington state. The first report must include rules and
10 guidelines for the administration of the program, as established by
11 the Washington employee ownership commission.

12 (5) For the purposes of this section:

13 (a) "Employee-owned business" means:

14 (i) An employee cooperative established under chapter 23.78,
15 23.86, 23.100, or 24.06 RCW that has at least 50 percent of its board
16 of directors consisting of, and elected by, its employees; or

17 (ii) An entity owned in whole or in part by employee stock
18 ownership plans as defined in 26 U.S.C. Sec. 4975(e)(7).

19 (b) "Qualified business" means a person subject to tax under
20 Title 82 RCW, including but not limited to a C corporation, S
21 corporation, limited liability company, partnership, limited
22 liability partnership, sole proprietorship, or other similar pass-
23 through entity, that is not owned in whole or in part by an employee
24 ownership trust, that does not have an employee stock ownership plan,
25 or that is not, in whole or in part, a worker-owned cooperative.

26 (6) Program support shall only be made available to businesses
27 headquartered in Washington state. For the purposes of this section,
28 "headquartered in Washington state" means that Washington state is
29 its principal place of business or the state where it is
30 incorporated.

31 (7) The director shall adopt rules as necessary to implement this
32 section.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.330
34 RCW to read as follows:

35 (1) The Washington employee ownership commission is hereby
36 created to exercise the powers in developing and supervising the
37 program created in section 2 of this act.

38 (2) The commission shall consist of:

1 (a) One member from each of the two major caucuses of the house
2 of representatives to be appointed by the speaker of the house and
3 one member from each of the two major caucuses of the senate to be
4 appointed by the president of the senate. The initial term shall be
5 two years; and

6 (b) The following members appointed by the governor:

7 (i) Five members who represent the private sector or professional
8 organizations as follows:

9 (A) One representative of a worker cooperative business. The
10 initial term shall be four years;

11 (B) One representative of an employee stock ownership plan
12 business. The initial term shall be four years;

13 (C) One representative from a statewide business association. The
14 initial term shall be two years;

15 (D) One economic development expert, from the private sector,
16 with employee ownership knowledge and experience. The initial term
17 shall be four years; and

18 (E) One representative from a financial institution with
19 expertise in assisting businesses transitioning into an employee
20 ownership structure. The initial term shall be two years; and

21 (ii) Two members who represent the public sector as follows:

22 (A) One economic development expert, from the public sector. The
23 initial term shall be four years; and

24 (B) One representative from the department of commerce, who will
25 chair the first meeting prior to the election of the chair. The
26 initial term shall be four years.

27 (3) After the initial term of appointment, all members shall
28 serve terms of four years and shall hold office until successors are
29 appointed.

30 (4) The commission shall be led by a chair selected and voted on
31 by members of the commission. The chair shall serve a one-year term
32 but may serve more than one term if selected to do so by members of
33 the commission.

34 (5) The commission shall develop, in consultation with the
35 director, rules and guidelines to administer the program. Rules and
36 guidelines for the administration of the program must be included in
37 the first report to the legislature required in section 2 of this
38 act.

39 (6) Before making any appointments to the commission, the
40 governor must seek nominations from recognized organizations that

1 represent the entities or interests identified in this section. The
2 governor must select appointees to represent private sector
3 industries from a list of three nominations provided by the trade
4 associations representing the industry, unless no names are put forth
5 by the trade associations.

6 (7) The commission shall conduct market research for the purposes
7 of, or to support, a future application to the federal government for
8 a program to assist in the purchase of an interest in an employee
9 stock ownership plan qualifying under section 401 of the internal
10 revenue code, worker cooperative, or related broad-based employee
11 ownership vehicle.

12 (8) For purposes of this section, a "professional organization"
13 includes an entity whose members are engaged in a particular lawful
14 vocation, occupation, or field of activity of a specialized nature
15 including, but not limited to, associations, boards, educational
16 institutions, and nonprofit organizations.

17 NEW SECTION. **Sec. 4.** (1) This section is the tax preference
18 performance statement for the tax preference contained in section 5,
19 chapter . . ., Laws of 2023 (section 5 of this act). This performance
20 statement is only intended to be used for subsequent evaluation of
21 the tax preference. It is not intended to create a private right of
22 action by any party or be used to determine eligibility for
23 preferential tax treatment.

24 (2) The legislature categorizes this tax preference as one
25 intended to induce certain designated behavior by taxpayers, as
26 indicated in RCW 82.32.808(2) (a).

27 (3) It is the legislature's specific public policy objective to
28 encourage business owners to create an employee stock ownership plan
29 or employee ownership trust, or to convert to a worker-owned
30 cooperative, that allows the company to share ownership with their
31 employees without requiring employees to invest their own money.

32 (4) If a review finds that the number of businesses in this state
33 offering employee stock ownership plans, employee ownership trusts,
34 or ones that have converted to a worker-owned cooperative, has
35 increased because of the tax credit under this act, then the
36 legislature intends for the legislative auditor to recommend
37 extending the expiration date of the tax preference.

38 (5) In order to obtain the data necessary to perform the review
39 in subsection (4) of this section, the joint legislative audit and

1 review committee may access and use any relevant data collected by
2 the state.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.04
4 RCW to read as follows:

5 (1) Beginning July 1, 2024, in computing the tax imposed under
6 this chapter, a credit is allowed for costs related to converting a
7 qualifying business to a worker-owned cooperative, employee ownership
8 trust, or an employee stock ownership plan, as provided in this
9 section.

10 (2) The credit is equal to:

11 (a) Up to 50 percent of the conversion costs, not to exceed
12 \$25,000, incurred by a qualified business for converting the
13 qualified business to a worker-owned cooperative or an employee
14 ownership trust; or

15 (b) Up to 50 percent of the conversion costs, not to exceed
16 \$100,000, incurred by a qualified business for converting the
17 qualified business to an employee stock ownership plan.

18 (3)(a) Credit under this section is earned, and claimed against
19 taxes due under this chapter, for the tax reporting period in which
20 the conversion to a worker-owned cooperative, employee ownership
21 trust, or an employee stock ownership plan is complete, or subsequent
22 tax reporting periods as provided in (c) of this subsection.

23 (b) The credit must not exceed the tax otherwise due under this
24 chapter for the tax reporting period.

25 (c) Unused credit may be carried over and used in subsequent tax
26 reporting periods, except that no credit may be claimed more than 12
27 months from the end of the tax reporting period in which the credit
28 was earned.

29 (d) No refunds may be granted for credits under this section.

30 (4)(a) The total amount of credits authorized under this section
31 may not exceed an annual statewide limit of \$2,000,000.

32 (b) Credits must be authorized on a first-in-time basis.

33 (c) No credit may be earned, during any calendar year, on or
34 after the last day of the calendar month immediately following the
35 month the department has determined that \$2,000,000 in credit has
36 been earned.

37 (5)(a) The department may require persons claiming a credit under
38 this section to provide appropriate documentation, in a manner as

1 determined by the department, for the purposes of determining
2 eligibility under this section.

3 (b) Every person claiming a credit under this section must
4 preserve, for a period of five years, any documentation to
5 substantiate the amount of credit claimed.

6 (6) For the purposes of this section:

7 (a) "Conversion costs" means professional services, including
8 accounting, legal, and business advisory services, as detailed in the
9 guidelines issued by the department, for: (i) A feasibility study or
10 other preliminary assessments regarding a transition of a business to
11 an employee stock ownership plan, a worker-owned cooperative, or an
12 employee ownership trust; or (ii) the transition of a business to an
13 employee stock ownership plan, a worker-owned cooperative, or an
14 employee ownership trust.

15 (b) "Employee ownership trust" means an indirect form of employee
16 ownership in which a trust holds a controlling stake in a qualified
17 business and benefits all employees on an equal basis.

18 (c) "Employee stock ownership plan" has the same meaning as set
19 forth in 26 U.S.C. Sec. 4975(e)(7), as of the effective date of this
20 section.

21 (d) "Qualified business" means a person subject to tax under this
22 chapter, including but not limited to a C corporation, S corporation,
23 limited liability company, partnership, limited liability
24 partnership, sole proprietorship, or other similar pass-through
25 entity, that is not owned in whole or in part by an employee
26 ownership trust, that does not have an employee stock ownership plan,
27 or that is not, in whole or in part, a worker-owned cooperative, and
28 that is approved by the department for the tax credit in this
29 section.

30 (e) "Worker-owned cooperative" has the same meaning as set forth
31 in 26 U.S.C. Sec. 1042(c)(2), as of the effective date of this
32 section, or such subsequent dates as may be provided by rule by the
33 department, consistent with the purposes of this section.

34 (7) Credits allowed under this section can be earned for tax
35 reporting periods starting on or before June 30, 2029. No credits can
36 be claimed on returns filed for tax periods starting on or after July
37 1, 2030.

38 (8) This section expires July 1, 2030.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.330
2 RCW to read as follows:

3 The employee ownership revolving loan program account is created
4 in the custody of the state treasury. All transfers and
5 appropriations by the legislature, repayments of loans, private
6 contributions, and all other sources must be deposited into the
7 account. Expenditures from the account may be used only for the
8 purposes of the Washington employee ownership program created in
9 section 2 of this act. Only the director or the director's designee
10 may authorize expenditures from the account. The account is subject
11 to allotment procedures under chapter 43.88 RCW, but an appropriation
12 is not required for expenditures.

13 NEW SECTION. **Sec. 7.** Sections 4 and 5 of this act take effect
14 July 1, 2024.

15 NEW SECTION. **Sec. 8.** This act may be known and cited as the
16 expanding employee ownership act."

17 Correct the title.

EFFECT: Modifies the membership of the Washington Employee
Ownership Commission by: (1) Including one member representing a
worker cooperative business instead of a small business utilizing
employee ownership structures; and (2) including one member
representing an employee stock ownership plan business instead of a
large business utilizing employee ownership structures.

Provides that the definition of "worker-owned cooperative," for
purposes of the business and occupation tax credit provisions, has
the same meaning as the federal definition in effect as of the
effective date of the provisions, or subsequent dates as provided by
administrative rule.

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