

HOUSE BILL REPORT

HB 1565

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to private business entities receiving public assistance.

Brief Description: Imposing requirements for businesses that receive public assistance.

Sponsors: Representatives Conway, Heavey, G. Cole and King.

Brief History:

Reported by House Committee on:
Commerce & Labor, February 2, 1994, DP2S.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 5 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Conway; King and Veloria.

Minority Report: Do not pass. Signed by 4 members: Representatives Lisk, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Horn and Springer.

Staff: Jim Kelley (786-7166).

Background: Washington's economic development programs include various tax deferral plans and grant or loan programs to assist business development. Although these programs may include conditions for eligibility, private businesses receiving assistance are not required to give advance notice of any business closure, to continue to honor collective bargaining agreements after relocating a facility, or to meet any specific employment standards for employees except as required under relevant federal or state law.

Summary of Second Substitute Bill: Before a private business can receive a loan of \$100,000 or more from the development loan fund, \$50,000 in tax credits, or a tax deferral of \$100,000 or more, the business must enter into a contract with the Department of Community, Trade and Economic Development to comply with specified requirements.

Requirements

Before a business receives any of the specified forms of assistance, it must agree to the following requirements:

- (1) when reducing operations or relocating a facility a business must comply with plant closure laws regardless of whether the business is within the coverage of the plant closure law;
- (2) continue to recognize a union that is a party to a collective bargaining agreement at the new facility if the business purchases or relocates a facility in the state;
- (3) include in a contract of sale of a facility the requirement that the purchaser is bound by any collective bargaining agreement in effect at the facility;
- (4) not permanently replace legally-striking employees;
- (5) maintain a neutral position with respect to union representation;
- (6) comply with affirmative action laws;
- (7) before closure or relocation of a facility, make an offer to sell the facility to the employees;
- (8) pay an average wage that is above the wage paid by firms located in the same county that share the same two-digit industrial code;
- (9) provide basic health coverage for employees at least equivalent to the state's basic health plan; and
- (10) comply with applicable federal and state environmental laws.

The definition of reducing business operations does not include reductions: (1) resulting from labor disputes; (2) occurring at construction sites; (3) resulting from seasonal factors; (4) resulting from lack of availability of natural resources required for production; or (5) resulting from fire, flood, war or acts of God.

Penalties

A business that violates the contract provisions is subject to one or more of the following penalties as determined by the director: (a) The amount received in loans, tax

deferrals or tax credits must be immediately returned to the state; (b) some portion of the amount received must be immediately returned to the state; (c) an additional monetary penalty may be imposed; and (d) the business may be declared by the director to be ineligible for business assistance programs for up to 10 years.

Employment impact estimate and statement

A business applying for a loan of \$100,000 or more from the development loan fund, \$50,000 in tax credits, or a tax deferral of \$100,000 or more must submit an employment impact estimate to the department with information about the jobs expected to be eliminated, created or retained because of the project. The estimates must be submitted for review and comment to employees and employee representatives, the local economic planning council, and other affected or interested community organizations. At a date specified in the contract, the business must also provide an employment impact statement.

High performance work organizations

A new category of business is established, called a "high performance work organization." A high performance work organization is one that the director determines meets at least five of 10 specific criteria. These criteria are that the business: (1) demonstrates a commitment to continuous improvement of products, services and cost reductions; (2) encourages decentralized decision making, worker participation at all levels, and greater reliance on front line workers; (3) has developed a worker-management relationship based on consideration of mutual interest and concerns; (4) has adopted an organizational structure that includes flexible, cross-functional teams responsible for training, customer service, operational problem solving, and product design and development; (5) has cultivated an environment that permits a manager to assume motivational and leadership functions; (6) demonstrates a commitment to ongoing training of all workers; (7) has implemented a flexible benefits program and innovative compensation scheme; (8) demonstrates a commitment to a safe and healthful workplace; (9) solicits suggestions from customers and suppliers for developing products and services; and (10) demonstrates a commitment to delivering a greater variety of high-quality products at lower cost through manufacturing innovations.

A business that does not meet five of these criteria may be designated as a high-performance work organization by executing a contract with the department obligating it to become a high-performance work organization.

A business that received a tax credit based on its increased employment for one year or a tax deferral is not eligible for further tax credits or deferrals unless the director has designated the business as a high-performance work organization.

Implementation

The department is to report annually to the Governor and the appropriate legislative committees on the activities under this chapter, and the director is given rule-making authority to implement the new law.

Second Substitute Bill Compared to Original Bill: The second substitute bill makes the following changes to the original bill:

- 1) The intent section of the bill is expanded to declare legislative recognition of the fact that when public funds are used to support private enterprise, the public may gain through the creation of new jobs, diversification of the economy or higher quality jobs. The Legislature also recognizes that such returns on investment are not automatic.
- 2) The authority to administer the law is given to the Department of Community, Trade and Economic Development, rather than the Office of Financial Management.
- 3) The rules of conduct apply only to businesses receiving: (a) a loan of \$100,000 or more from the development loan fund; (b) \$50,000 in tax credits; or (c) a tax deferral of \$100,000 or more. The original bill applied the rules to a business receiving any loan, grant, bond, tax deferral or tax abatement of \$25,000 or more.
- 4) The proposed second substitute makes the following changes to the rules of conduct to which the business must agree: (a) the requirement that the employer must agree to pay employees at least the state average wage is deleted. Instead, the employer must agree to pay an average wage that is above the wage paid by firms located in the same county that share the same two-digit industrial code; (b) the requirement for basic health coverage is clarified to require that health care coverage must be at least equivalent to the coverage offered under the state basic health plan; and (c) other technical changes are made.

- 5) The penalty provisions are changed. A business that violates the contract provisions is subject to one or more of the following penalties as determined by the director of the Department of Community, Trade and Economic Development: (a) The amount received in loans, tax deferrals or tax credits must be immediately returned to the state; (b) some portion of the amount received must be immediately returned to the state; (c) an additional monetary penalty may be imposed; (d) the business may be declared by the director to be ineligible for business assistance programs for up to 10 years. The original bill requires complete repayment with a 10 percent penalty and interest and ineligibility for business assistance for 10 years.
- 6) A new category of business is established, called a "high performance work organization." A high performance work organization is one that the director determines meets at least five of 10 specific criteria. These criteria are that the business: (a) demonstrates a commitment to continuous improvement of products and services and cost reductions; (b) encourages decentralized decision making, worker participation at all levels, and greater reliance on front-line workers; (c) has developed a worker-management relationship based on consideration of mutual interest and concerns; (d) has adopted an organizational structure that includes flexible, cross-functional teams responsible for training, customer service, operational problem solving, and product design and development; (e) has cultivated an environment that permits a manager to assume motivational and leadership functions; (f) demonstrates a commitment to ongoing training of all workers; (g) has implemented a flexible benefits program and innovative compensation schemes; (h) demonstrates a commitment to a safe and healthful workplace; (i) solicits suggestions from customers and suppliers for developing products and services; and (j) demonstrates a commitment to delivering a greater variety of high-quality products at lower cost through manufacturing innovations.

A business that does not meet five of these criteria may be designated as a high-performance work organization by executing a contract with the department obligating it to become a high-performance work organization.

- 7) A business that received a tax credit based on its increased employment for one year or a tax deferral is not eligible for further tax credits or deferrals

unless the director has designated the business as a high-performance work organization.

- 8) The department is to report annually to the Governor and the appropriate legislative committees on the activities under this chapter, and the director is given rule-making authority to implement the new law.

Fiscal Note: Not requested. Requested February 1, 1994 on substitute bill.

Effective Date of Second Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (original bill) This is a very important economic development bill. It is critical that the state demand a return on its investment. It does no good for economic development to attract minimum wage businesses to the state. Businesses locate in Washington because we have a highly trained workforce. This bill would assure that this continues to be true. There are numerous examples of business subsidies going very wrong, from denying workers pensions to busting unions. The merger of DCD and DTED was a good start in this direction. Our economic development plans should be tied to a comprehensive plan for the state's future. New businesses should not be allowed to contribute to environmental degradation.

Testimony Against: We do need minimum standards for businesses that receive assistance, but this is the wrong approach. This bill sets standards that 90 percent of the state's businesses cannot meet. The standards are too burdensome in their real world application, such as the affirmative action standard and the wage standard. This bill makes it impossible to have a low wage training program. This bill conflicts with regulatory reform and health care reform provisions.

Witnesses: (In favor) Rick Bender, Jim Tusler and Jeff Johnson, Washington State Labor Council; and Naki Stevens, People for Puget Sound. (Opposed) Clif Finch, Association of Washington Business; Gary Smith, Independent Business Association; and Carolyn Logue, National Federation of Independent Business.