

2 **SSB 5468** - S AMD

3 By Senators Fraser, Skratek and Hargrove

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5 Strike everything after the enacting clause and insert the
6 following:

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

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

16 (1) "Business" means a person, firm, partnership, corporation,
17 trust or association which employs one or more employees at a facility
18 within this state.

19 (2) "Business assistance" includes any of the following if provided
20 directly to a business: A community or economic development loan or
21 grant, authorization for industrial development bonds, a tax deferral,
22 or a payment from a dedicated fund established in the treasurer's
23 office for capital and economic development projects.

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

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

28 (5) "Reduction in operations" means the total closure of a business
29 facility, any partial closure of a business facility, or any other
30 reduction in operations or relocation of a business facility that
31 results in the layoff of at least twenty-five employees at the facility
32 within a six-month period prior to the certified date of reduction in
33 operations. "Reduction in operations" does not include reductions:

34 (a) Resulting solely from labor disputes as defined in RCW
35 49.32.110(3);

- 1 (b) Occurring at construction sites;
- 2 (c) Resulting from seasonal factors, that are customary in the
3 industry of which the business is a part, as determined by the
4 director;
- 5 (d) Resulting from the lack of availability of natural resources
6 required for production at the business facility, as determined by the
7 director; or
- 8 (e) Resulting from fire, flood, war, or other acts of God.

9 NEW SECTION. **Sec. 3.** Each business that receives one hundred
10 thousand dollars or more in business assistance shall agree to accept
11 the following rules of conduct:

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

16 (2) A business purchasing or relocating a facility within the state
17 shall continue to recognize any employee organization, whether
18 international or local, that is a signatory to a collective bargaining
19 agreement in effect at the predecessor facility or at the relocating
20 facility at the time of relocation, if the employee organization is not
21 otherwise decertified.

22 (3) A business selling or otherwise transferring a business shall
23 include in the contract of sale or similar instrument of conveyance a
24 statement that the successor business is bound by any collective
25 bargaining agreement to which the predecessor business is a signatory
26 at the time of transferring the business, until the expiration of the
27 agreement, if the employee organization that is signatory to the
28 collective bargaining agreement is not otherwise decertified.

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

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

33 (6) The business shall comply with all federal and state
34 discrimination laws, regardless of whether the business is otherwise
35 included within the coverage of those laws.

36 (7) A business totally closing or relocating a facility shall first
37 make good faith offers of sale at fair market values for the plant,
38 equipment, and inventory to the community in which the facility is

1 located and to agents who represent a majority of the employees of the
2 employer, who singly or in combination are seeking to form a community-
3 owned, employee-owned, or jointly owned business at the facility being
4 closed.

5 (8) The average annual wage of the employees of the business at any
6 facility within the state which has benefited from the business
7 assistance shall be no less than the average annual wage in the county
8 where the facility is located.

9 (9) The business shall provide health care benefits as required in
10 chapter . . . (Engrossed Substitute Senate Bill No. 5304), Laws of
11 1993.

12 (10) The business shall not be found, by a final order of a
13 federal, state, or local environmental agency, to have violated any
14 applicable federal, state, or local environmental law, rule, or
15 regulation.

16 NEW SECTION. **Sec. 4.** Businesses receiving business assistance
17 under the terms of section 3 of this act who fail to comply with the
18 rules of conduct specified in section 3 of this act are subject to
19 penalties to be established in rule by the office of financial
20 management, that may include, but are not limited to the following:

21 (1) The business assistance is rescinded and the entire amount of
22 the monetary assistance is immediately due and payable, together with
23 a ten percent penalty on the amount due and interest at twelve percent
24 per annum. Interest accrues from the date notice of the rescission is
25 received by the business.

26 (2) If the failure to comply occurs within ten years of receiving
27 authorization for industrial revenue bonds, the business that has
28 received industrial revenue bonds shall be penalized an amount equal to
29 the federal tax exemption received plus ten percent of the federal tax
30 exemption together with interest at twelve percent per annum. Interest
31 accrues from the date notice of the failure to comply is received by
32 the business.

33 NEW SECTION. **Sec. 5.** Any business that receives the benefits of
34 a state business assistance program who violates any provision of this
35 chapter shall not be eligible for any business assistance program for
36 a period of up to ten years following the date of violation as
37 determined by the director. The director shall determine the length of

1 ineligibility based upon rules adopted to implement section 4 of this
2 act.

3 NEW SECTION. **Sec. 6.** (1) Businesses applying for business
4 assistance shall submit employment impact estimates to the office of
5 financial management specifying the number and types of jobs, with wage
6 rates and benefits for those jobs, that the business submitting the
7 application expects to be eliminated, created, or retained on the
8 project site and on other employment sites of the business in
9 Washington as a result of the project that is the subject of the
10 application. The business applying for business assistance shall
11 submit the employment impact statement for review and comment to
12 employees who may be displaced, employee organizations or state-wide
13 organizations representing employees, the local economic planning
14 council, and other affected or interested community organizations or
15 associations.

16 (2) A business assistance contract entered into by a business shall
17 require the business to submit to the office of financial management a
18 postemployment impact statement stating the net number and types of
19 jobs eliminated, created, or retained, with the wage rates and benefits
20 for those jobs, on the project site and on other employment sites of
21 the business in Washington as a result of the project that is the
22 subject of the contract. The statement must be submitted within six
23 months after the project is completed or the business assistance for
24 the project has ceased, whichever occurs first.

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

29 (4) Agencies providing business assistance shall notify the office
30 of financial management of the amount of assistance received by a
31 business and other information necessary to implement this chapter.
32 The office shall review all participating businesses for compliance
33 with this chapter, shall make any necessary administration
34 determinations, and shall assess and collect any penalties for
35 violations under the hearing and review requirements of chapter 34.05
36 RCW. Except as otherwise provided under subsection (5) of this
37 section, penalties collected shall be paid into the state general fund.

1 The office shall report annually to the governor and the appropriate
2 legislative committees on these activities.

3 (5) Penalties imposed for violations of section 3(10) of this act
4 shall be paid into the environmental and forest restoration account
5 referenced in section 7 of this act.

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

8 NEW SECTION. **Sec. 7.** Moneys collected under this chapter for
9 violations of section 3(10) of this act shall be deposited into the
10 environmental and forest restoration account created in chapter . . .
11 (Engrossed Substitute Senate Bill No. 5454), Laws of 1993 for
12 expenditures pursuant to the purposes of chapter . . . (Engrossed
13 Substitute Senate Bill No. 5454), Laws of 1993.

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

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

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20 On page 1, line 2 of the title, after "assistance;" strike the
21 remainder of the title and insert "adding a new chapter to Title 19
22 RCW; and providing an effective date."

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