
SECOND SUBSTITUTE HOUSE BILL 1565

State of Washington

53rd Legislature

1994 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Heavey, G. Cole and King)

Read first time 02/04/94.

1 AN ACT Relating to private business entities receiving public
2 assistance; adding a new section to chapter 82.62 RCW; adding a new
3 section to chapter 82.60 RCW; adding a new section to chapter 82.61
4 RCW; adding a new chapter to Title 19 RCW; and providing an effective
5 date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that when public funds
8 are used to support private enterprise, the public may gain through the
9 creation of new jobs, the diversification of the economy, or higher
10 quality jobs for existing workers. The legislature further finds that
11 such returns on public investments are not automatic and that tax-based
12 incentives, in particular, may result in a greater tax burden on
13 businesses and individuals that are not eligible for the public
14 support. The legislature therefore declares its intent to ensure that
15 the state may recover funds or foregone state revenue used by private
16 enterprises if the enterprises do not meet minimal standards or
17 commitments made at the time the enterprises receive such benefits from
18 the state.

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

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

7 (2) "Certified date of reduction in operations" means the actual or
8 anticipated date of any reduction in operations at a business facility
9 as determined by the director.

10 (3) "Director" means the director of community, trade, and economic
11 development.

12 (4) "Department" means the department of community, trade, and
13 economic development.

14 (5) "Reduction in operations" means the total closure of a business
15 facility, any partial closure of a business facility, or any other
16 reduction in operations or relocation of a business facility that
17 results in the layoff of at least twenty-five employees at the facility
18 within a six-month period prior to the certified date of reduction in
19 operations. "Reduction in operations" does not include reductions:

20 (a) Resulting solely from labor disputes as defined in RCW
21 49.32.110(3);

22 (b) Occurring at construction sites;

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

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

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

30 (6) "High-performance work organization" means a business that
31 meets five or more of the following criteria, as determined by the
32 director, in accordance with section 5 of this act:

33 (a) Demonstrates a commitment to continuous improvement of products
34 and services and cost reductions for the products and services;

35 (b) Encourages decentralized decision making, worker participation
36 at all levels, and greater reliance on front line workers;

37 (c) Has developed a worker-management relationship based on
38 consideration of mutual interest and concerns;

1 (d) Has adopted an organizational structure that includes flexible,
2 cross-functional teams responsible for training, customer service,
3 operational problem solving, and product design and development;

4 (e) Has cultivated an environment that permits a manager to assume
5 motivational and leadership functions, including, but not limited to,
6 long-range planning, coaching, and facilitation, rather than limiting
7 the role of the manager to that of an enforcer;

8 (f) Demonstrates a commitment to ongoing training of all workers,
9 including front-line staff;

10 (g) Has implemented a flexible benefits program and innovative
11 compensation schemes, including, but not limited to, profit sharing,
12 gain sharing, skill-based pay, and pay-for-performance systems;

13 (h) Demonstrates a commitment to a safe and healthful workplace;

14 (i) Solicits suggestions from customers and suppliers for designing
15 and developing products and services; and

16 (j) Demonstrates a commitment to delivering a greater variety of
17 high-quality products at lower cost through manufacturing innovations
18 such as concurrent engineering, flexible manufacturing, and just-in-
19 time production.

20 NEW SECTION. **Sec. 3.** Before receiving the benefit of: A loan of
21 one hundred thousand dollars or more from the development loan fund;
22 fifty thousand dollars or more in tax credits under chapter 82.62 RCW,
23 or subsequently enacted tax credits under Title 82 RCW; or a deferral
24 of one hundred thousand dollars or more in taxes under chapter 82.60 or
25 82.61 RCW, or subsequently enacted tax deferrals under Title 82 RCW, a
26 business shall enter into a contract with the department that must
27 specify particular requirements of the business receiving benefits.
28 The contract must specify that upon receipt of the benefit or by a
29 specific date:

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

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

1 (3) A business selling or otherwise transferring a business shall
2 include in the contract of sale or similar instrument of conveyance a
3 statement that the successor business is bound by any collective
4 bargaining agreement to which the predecessor business is a signatory
5 at the time of transferring the business, until the expiration of the
6 agreement.

7 (4) The permanent replacement of employees who legally exercise the
8 right to strike shall be prohibited.

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

11 (6) The business shall comply with all federal and state
12 requirements for affirmative action in hiring and promotion of its
13 employees, regardless of whether the business is included within the
14 coverage of the federal or state affirmative action requirement.

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

21 (8) The business must provide an average wage that is above the
22 average wage paid by firms located in the same county that share the
23 same two-digit standard industrial code.

24 (9) The business shall provide basic health coverage at a level at
25 least equivalent to basic health coverage under chapter 70.47 RCW.

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

28 (11) The business, when in violation of contract provisions agreed
29 to between the department and the business, is subject to one or more
30 of the following consequences as determined by the director based upon
31 rules adopted under chapter 34.05 RCW:

32 (a) The amount received in loans, tax deferrals, or tax credits
33 must be immediately returned to the state;

34 (b) Some portion of the amount received in loans, tax deferrals, or
35 tax credits must be immediately returned to the state;

36 (c) A monetary penalty must be assessed in addition to the amount
37 due under (a) and (b) of this subsection;

38 (d) The business is ineligible for some or all of the business
39 assistance programs offered by the state for a period of up to ten

1 years following the date of violation as determined by the director.
2 The director shall determine the length of ineligibility, and the
3 nature of the business assistance programs for which the business is
4 ineligible, based upon rules adopted to implement this chapter.

5 NEW SECTION. **Sec. 4.** (1) Businesses applying for one of the
6 benefits specified in section 3 of this act shall submit employment
7 impact estimates to the department specifying the number and types of
8 jobs, with wage rates and benefits for those jobs, that the business
9 submitting the application expects to be eliminated, created, or
10 retained on the project site and on other employment sites of the
11 business in Washington as a result of the project that is the subject
12 of the application. The department shall make the employment impact
13 estimates available for review and comment by employees who might be
14 displaced, employee organizations or state-wide organizations
15 representing employees, the local economic development council or
16 associate development organization, and other affected or interested
17 community organizations or associations.

18 (2) The contract entered into between the department and a business
19 that is eligible to receive one of the benefits specified in section 3
20 of this act must specify that upon a certain date or dates, the
21 business shall submit to the department an employment impact statement
22 stating the net number and types of jobs eliminated, created, or
23 retained, with the wage rates and benefits for those jobs, by the
24 business in Washington as a result of the benefit received. The
25 contract must also provide the terms under which the business shall
26 return a portion or all of the benefit received if the projections
27 contained in the employment impact estimates are not met.

28 NEW SECTION. **Sec. 5.** (1) The director shall designate a business
29 facility as a high-performance work organization if both management and
30 employees at the facility certify, in writing, that the business
31 facility qualifies as a high-performance work organization under the
32 definition in section 2 of this act. If the employees of a business
33 facility have a collective bargaining representative, the director may
34 not designate the facility as a high-performance work organization
35 unless both management and the collective bargaining representative
36 certify, in writing, that the business facility qualifies as a high-
37 performance work organization under the definition in section 2 of this

1 act. The director shall attempt to verify the claims made in the
2 certification. The business seeking designation as a high-performance
3 work organization shall facilitate access to such records, worksites,
4 employees, or customers as the director or the director's
5 representative deems necessary to verify the claims made in the
6 certification. If the director is unable to verify the claims made in
7 the certification, the director shall not designate the business
8 facility as a high-performance work organization unless the business
9 facility complies with the conditions of subsection (2) of this
10 section. The director shall adopt rules under chapter 34.05 RCW
11 prescribing the form, content, and filing requirements of the written
12 certification required by this subsection.

13 (2) A business facility that does not qualify as a high-performance
14 work organization under the definition in section 2 of this act may be
15 designated a high-performance work organization by executing a contract
16 with the department obligating it to become a high-performance work
17 organization. The contract must require the business to submit such
18 information as the director determines, including, but not limited to:
19 (a) A plan outlining the specific high-performance work organization
20 criteria the business facility will meet; and (b) a timetable for
21 meeting the criteria. Failure to meet the terms of the contract
22 subjects the business to section 3(11) of this act.

23 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.62 RCW
24 to read as follows:

25 A business that received a tax credit under this chapter based on
26 its increased employment for one year is not eligible for further tax
27 credits under this chapter or any tax credit under this title effective
28 after the effective date of this act unless the director of the
29 department of community, trade, and economic development has designated
30 the business facility as a high-performance work organization.

31 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.60 RCW
32 to read as follows:

33 A business that received a tax deferral under this chapter for a
34 period of one year is not eligible for tax deferrals under this chapter
35 or chapter 82.61 RCW or under any tax deferral statute under this title
36 effective after the effective date of this act unless the director of
37 the department of community, trade, and economic development has

1 designated the business facility as a high-performance work
2 organization.

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.61 RCW
4 to read as follows:

5 A business that received a tax deferral under this chapter for a
6 period of one year is not eligible for tax deferrals under this
7 chapter, chapter 82.60 RCW, or under any tax deferral statute under
8 this title effective after the effective date of this act unless the
9 director of the department of community, trade, and economic
10 development has designated the business facility as a high-performance
11 work organization.

12 NEW SECTION. **Sec. 9.** (1) The department shall report annually to
13 the governor and the appropriate legislative committees on the
14 activities under this chapter.

15 (2) The director shall adopt rules under chapter 34.05 RCW to carry
16 out the purposes of this chapter.

17 NEW SECTION. **Sec. 10.** Sections 1 through 5 and 9 of this act
18 shall constitute a new chapter in Title 19 RCW.

19 NEW SECTION. **Sec. 11.** This act shall take effect July 1, 1994.

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