

# HOUSE BILL REPORT

## ESHB 1796

---

### As Passed House:

March 13, 2007

**Title:** An act relating to property tax exemptions for nonprofit organizations for small business incubators which assist in the creation and expansion of innovative small commercial enterprises.

**Brief Description:** Providing a property tax exemption for nonprofit small business incubators.

**Sponsors:** By House Committee on Finance (originally sponsored by Representatives Conway, Orcutt, Pettigrew, Ericks, Chase, Green, Haler, Dunn, Hankins, Hasegawa, Appleton, Kenney, Santos, VanDeWege, Simpson, Goodman, Morrell and Lantz).

### Brief History:

#### Committee Activity:

Community & Economic Development & Trade: 2/14/07, 2/27/07 [DP];

Finance: 3/5/07 [DPS].

#### Floor Activity:

Passed House: 3/13/07, 77-18.

### Brief Summary of Engrossed Substitute Bill

- Provides a state property tax exemption for real and personal property used by a qualified nonprofit organization located in a rural county, a county with a community empowerment zone (CEZ), or in a CEZ so long as the property is used to assist startup and expanding businesses.

---

## HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT & TRADE

**Majority Report:** Do pass. Signed by 5 members: Representatives Kenney, Chair; Pettigrew, Vice Chair; Chase, Haler and P. Sullivan.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Bailey, Ranking Minority Member; McDonald, Assistant Ranking Minority Member and Darneille.

**Staff:** Tracey Taylor (786-7196).

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

---

## HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Conway, Ericks, McIntire and Santos.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Condotta, Assistant Ranking Minority Member and Roach.

**Staff:** Mark Matteson (786-7145).

### **Background:**

Property taxes apply to the assessed value of all taxable property, which includes all real and personal property located within the state, unless specifically exempted. Real property includes land, structures and certain equipment that is affixed to the structure. The assessed value of real property is determined by the county assessor. Personal property includes machinery, supplies, certain utility property, and items which are generally moveable. Owners of personal property list the items, their acquisition cost, and the year acquired with the county assessor each year. The assessor then determines the current assessed value.

Property tax rates consist of the annual levy rates applied to the assessed value of taxable property by the various taxing districts, including the state and various local jurisdictions which have levy authority under state law. As of 2004, there were 1,769 taxing districts throughout the state. A taxing district's rate must be applied uniformly throughout the district. However, because many of the jurisdictions overlap, there are about 3,150 code areas in which a particular combination of levy rates may apply. Property tax exemptions are allowed under certain conditions. They include publicly owned property, property owned by nonprofit organizations, household goods, and personal effects.

*Small Business Incubators.* In 2004, the Legislature created a state Small Business Incubator (SBI) program, administered by the Department of Community, Trade and Economic Development (DCTED). Under the program, the DCTED is to provide capital funds and technical support to qualifying SBIs to the extent that funds are appropriated by the Legislature.

For the purposes of the state program, a SBI is defined as a physical location that offers:

- space for start-up and expanding firms with viable products;
- the shared use of equipment and work areas;
- daily management support services essential to high-quality commercial operations;
- and
- technical assistance.

Qualifying SBIs are 501(c)(3) nonprofit organizations that focus on developing small businesses in an economically distressed or disadvantaged area.

### **Summary of Engrossed Substitute Bill:**

A state tax exemption is provided for real and personal property owned or used by a qualified nonprofit organization, if the property is used to assist start-up and expanding businesses. The property must also be used to provide the shared use of equipment and work areas as well as the daily technical resources and management support services that enable entrepreneurs to transform private activities into successful businesses. The businesses must pay fair market rent. In order to qualify, the property must be located in a rural county, a county with a community empowerment zone (CEZ), or in a CEZ and be certified by the DCTED as a "qualified small business incubator" under the state SBI program.

The qualified nonprofit organization must be organized and conducted for nonsectarian purposes and be qualified for exemption under section 501(c)(3) of the Federal Internal Revenue Code. The nonprofit organization must also be governed by a board of directors consisting of at least five volunteer members. If the property ceases to be used by the nonprofit for the assistance of start-up and expanding businesses, the county treasurer is authorized to collect all taxes which would have been paid had the property not been exempt during the previous three years or the life of the exemption if less, plus the interest calculated based on the delinquent property tax rate. The Department of Revenue (DOR) may revoke a SBI's property tax exemption upon clear and convincing evidence that the SBI is not complying with the requirements of this act.

In 2010, any nonprofit organization claiming this exemption must report to the DOR the number of businesses served by the nonprofit organization and the types of services provided. Failure to submit the report will render a nonprofit organization ineligible for the exemption. The DOR shall compile this information and share it with the appropriate committees of the Legislature.

The exemption expires in 2015.

The tax exemption will be applied to taxes levied for collection beginning in 2008.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** (Community & Economic Development & Trade)

(In support) Small businesses are the heart of the economy, but Washington has a high business failure rate. Small business incubators (SBIs) help small businesses. By easing the tax burden on the nonprofits operating the SBIs, we prevent the operating costs of these facilities from getting too high and being passed on to the entrepreneurs utilizing the SBI. If a SBI is operated by a public entity, state agency or a city, the SBI facility would not be taxed. This simply provides a nonprofit-operated SBI in an economically disadvantaged community a better position to assist struggling small businesses. And for many of these nonprofit SBIs, the tax bill can be quite a large chunk of their overall operating budget. Most other states

already exempt the nonprofit SBIs from property taxes, and studies have shown \$45 in local tax revenue due to the SBIs for every \$1 of property tax exempted -- not a bad return on an investment.

(Opposed) None.

**Staff Summary of Public Testimony:** (Finance)

(In support) This bill has been before this committee before. These incubators are different from state-supported incubators. This bill would provide some uniformity by allowing nonprofit organizations that assist emerging businesses with management and technical expertise in getting to market and create jobs in distressed areas. The intent here is to fund an exemption for the purpose of incenting incubators, and not to provide any sort of advantage to for-profit businesses using the incubators.

(With concerns) The Department of Revenue believes that this expands the policy of exemptions for nonprofits beyond what has been the convention. Essentially, this allows a property tax exemption for commercial purposes. Other nonprofit exemptions limit commercial access to property to no more than 25 days per year. Businesses working within the incubators could have an unfair commercial advantage over similarly situated competitors with for-profit landlords. We also have some administrative concerns.

(Opposed) None.

**Persons Testifying:** (Community & Economic Development & Trade) (In support) Tim Sterge, William Factory Small Business Incubator; Lincoln Ferris, Washington Association of Small Business Incubators; and David Schaffert, Thurston County Incubator.

**Persons Testifying:** (Finance) (In support) Lincoln Ferris, Washington Association of Small Business Incubators.

(With concerns) Brad Flaherty, Department of Revenue.

**Persons Signed In To Testify But Not Testifying:** (Community & Economic Development & Trade) None.

**Persons Signed In To Testify But Not Testifying:** (Finance) None.