

SENATE BILL REPORT

SB 6327

As Reported by Senate Committee On:
Economic Development, Trade & Innovation, February 1, 2012

Title: An act relating to creating a business and occupation tax exemption for new businesses.

Brief Description: Creating a business and occupation tax exemption for new businesses.

Sponsors: Senators Padden, Sheldon, Schoesler and Rolfes.

Brief History:

Committee Activity: Economic Development, Trade & Innovation: 1/30/12, 2/01/12 [DP-WM].

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, TRADE & INNOVATION

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner, Ranking Minority Member; Ericksen, Hatfield, Holmquist Newbry, Kilmer and Shin.

Staff: Edward Redmond (786-7471)

Background: Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state. Revenues are deposited in the state General Fund. There are several rate categories, and a business may be subject to more than one B&O tax rate, depending on the types of activities conducted.

The B&O tax does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. However, there are many exemptions for specific types of business activities and certain deductions and credits permitted under the B&O tax statutes.

Unlike deductions, where an activity must first be reported on a business' Combined Excise Tax Return (CETR) as part of its gross income and then deducted, an exempted activity is not subject to the B&O tax and is not reported on the CETR. Exempted activities include wholesale sales of agricultural products by farmers; qualified fundraising activities by qualified nonprofit organizations; state and federally chartered credit unions; and the sale or rental of real estate other than lodging.

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.

Summary of Bill: An exemption from the B&O tax is created for new businesses. A new business is exempt from the B&O tax for the first 12 months of operation unless the business has fewer than 25 employment positions. A new business with less than 25 employment positions is exempt from B&O taxes for the first 24 months of operations and then subject to 50 percent of the B&O tax due in the following 12 months.

A new business is defined as a business that is required to obtain a registration certification for the first time during the year in which the exemption is claimed. A new business does not include:

- a business that has been restructured or reorganized unless the new activities of the business are significantly different from its previous functions;
- a new branch location or facility unless it is from an existing out-of-state entity doing business in Washington for the first time; or
- a business that is substantially similar to a business currently operated, or operated within the past five years, by the same principals.

To qualify for the exemption, a new business must file an application as required by Department of Revenue (DOR) within one year from when the business was required to obtain a registration certificate. The exemption from the B&O tax commences once the application is approved by DOR.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2012.

Staff Summary of Public Testimony: PRO: The major concerns this session are the budget shortfall, high unemployment, and the need for business activity. The major purpose of this bill is to address those concerns. What we need to do is encourage the private sector to unleash jobs and that is what this bill attempts to do. In 2009 DOR estimated as many as 90,000 businesses would benefit from this proposal over the course of five years. Using the net impact calculator on tax incentives, hiring three employees resulted in \$9,000 to Washington per year. If you are a small business starting out you have some choices to make. If you are losing money in those first few years and have to pay B&O taxes, this may force you to lay off employees. Tax incentives create jobs.

OTHER: The Washington Policy Center has done extensive research on B&O taxes. We held our annual convention last September and the top recommendation again was to reduce B&O taxes on small employers. Providing a B&O tax exemption for new employers is a step in the right direction. Washington has the third highest business start up rate in the nation and the second highest failure rate. Research has shown the inherent unfairness of the B&O tax, which taxes businesses on their gross receipts rather than their net revenues.

Persons Testifying: PRO: Senator Padden, prime sponsor; Ron Newbry, Impact WA.

OTHER: Erin Shannon, WA Policy Center.