
SENATE BILL 5808

State of Washington

62nd Legislature

2011 Regular Session

By Senators Kastama and McAuliffe

Read first time 02/15/11. Referred to Committee on Economic Development, Trade & Innovation.

1 AN ACT Relating to the innovative industries for economic
2 development; and adding a new chapter to Title 43 RCW.

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

4 NEW SECTION. **Sec. 1.** This chapter may be known and cited as the
5 Washington innovative industries enabling act. This chapter is enacted
6 in the exercise of the police powers of this state for the purpose of
7 protecting the economic well-being and general welfare of the people of
8 this state.

9 NEW SECTION. **Sec. 2.** (1) The legislature declares that the
10 promotion of industrial innovation is a fundamental purpose of state
11 government and that the commercialization and manufacture of products
12 within this state is in the public interest. The history, economy,
13 culture, and the future of Washington state all involve innovation in
14 industrial production.

15 (2) By this act, the legislature intends to further the continued
16 commercialization and manufacture of innovative products in Washington,
17 and the promotion of Washington's industrial products. It is the
18 purpose of this act to:

1 (a) Enable industry-sponsored organizations to provide technical
2 and other assistance to help industrial producers meet their research,
3 commercialization, financial, workforce training, marketing, exporting,
4 and other industry identified needs;

5 (b) Assist industrial producers to improve productivity and reduce
6 costs within a globally competitive environment and remove impairments
7 to their ability to compete in local, domestic, and foreign markets;
8 and

9 (c) Promote industry sectors individually and as part of a
10 comprehensive strategy to enhance the quality, reputation, and sales of
11 Washington's industrial products.

12 NEW SECTION. **Sec. 3.** The definitions in this section apply
13 throughout this chapter unless the context clearly requires otherwise.

14 (1) "Base year taxation" means the state business and occupation
15 taxes reported by all business entities within a certified industry
16 sector for the calendar year preceding the certification of the
17 industry sector by the director of the department.

18 (2) "Certified industry sector" means an industry sector which has
19 been certified by the director as eligible for assistance through
20 industry development organization grants.

21 (3) "Department" means the department of commerce of the state of
22 Washington.

23 (4) "Director" means the director of the department of commerce or
24 his or her duly appointed representative. The phrase "director or his
25 or her designee" means the director unless he or she has designated an
26 administrator, board, or other designee to act in the matter
27 designated, in which case "director or his or her designee" means the
28 administrator, board, or other person(s) so designated and not the
29 director.

30 (5) "Industry development organization" means a nonprofit,
31 membership-based organization formed by firms within an industry sector
32 for the purpose of providing technical assistance and support to firms
33 within the industry sector. Industry development organization
34 membership may be either statewide in scope or a workforce development
35 area as determined under the federal workforce investment act, P.L.
36 105-220.

1 (6) "Industry development organization grants" means the grants
2 awarded to industry development organizations under section 6 of this
3 act.

4 (7) "Industry sector" means a group of firms that share a NAICS
5 classification code or related NAICS classification codes as assigned
6 by the department of revenue.

7 (8) "Innovation allocation" means an amount, not to exceed one
8 million dollars, that is the greater of zero or:

9 (a) For the calendar year in which certification of an industry
10 sector occurs, fifty percent of the amount, if any, that business and
11 occupation tax revenue reported for that calendar year by all business
12 entities within that certified industry sector exceeds the base year
13 taxation for that certified industry sector; and

14 (b) For subsequent calendar years either:

15 (i) Fifty percent of the amount, if any, that business and
16 occupation tax revenue reported for the calendar year by all business
17 entities with the certified industry sector exceeds the previous
18 calendar year's business and occupation taxes reported by all business
19 entities within the certified industry sector; or

20 (ii) If the business and occupation tax revenue reported for the
21 calendar year by all business entities within the certified industrial
22 sector does not exceed the previous calendar year's business and
23 occupation taxes reported by all business entities within that
24 certified industry sector, fifty percent of the amount, if any, that
25 business and occupation tax revenue reported for the calendar year by
26 all business entities within the certified industry sector exceeds the
27 base year.

28 (9) "NAICS" means the North American industry classification
29 system.

30 NEW SECTION. **Sec. 4.** (1) The director is hereby authorized to
31 implement, administer, and enforce this chapter. The director may
32 adopt such rules as are necessary to carry out the provisions of this
33 chapter, including rules that provide for a method to fund the actual
34 costs, including personnel costs, for carrying out the department's
35 obligations under this chapter if the costs are not directly funded by
36 the legislature.

37 (2) The director must:

1 (a) Establish the process by which firms or industry development
2 organizations may petition for certification of an industry sector.
3 The process must reference the minimum number of firms, or the minimum
4 percent of the firms within an industry sector, that must join in the
5 petition;

6 (b) Establish industry sector certification standards. The
7 certification standards must reference:

8 (i) The minimum number of firms, which must be at least three, that
9 may be in a certified industry sector;

10 (ii) The minimum rate of employment growth within the certified
11 industry sector;

12 (iii) The minimum rate of revenue growth within the certified
13 industry sector; and

14 (iv) Any other quantitative and qualitative factors as the director
15 determines are appropriate;

16 (c) Certify, via certification orders, industry sectors that meet
17 the certification standards established by the director. The director
18 may amend or terminate certification orders, consistent with the
19 standards and rules adopted by the director;

20 (d) Make the final determination on the NAICS codes that define a
21 certified industry sector;

22 (e) Notify the director of the department of revenue when an
23 industry sector has been certified;

24 (f) Establish the application process, selection criteria, and
25 contractual requirements relating to innovating industries grants; and

26 (g) Provide bona fide applicants for industry development
27 organization grants with contact information for firms within the
28 relevant certified industry sector.

29 NEW SECTION. **Sec. 5.** (1) Upon receipt of a certification order
30 from the director of the department, the department of revenue must
31 establish the base year taxation for a certified industry sector. The
32 department of revenue must establish the base year taxation by the
33 later of sixty days following the receipt of the certification order or
34 September 1st of the year in which the certification order was
35 received. In determining the base year taxation the department of
36 revenue must use existing data that is compiled in the department's
37 normal course of business and used for other purposes. No corrections

1 to the base year taxation for a certified industry sector may be made
2 after the department of revenue determines the initial innovation
3 allocation for that certified industry sector.

4 (2) The department of revenue must determine the annual innovation
5 allocation attributable to each certified industry sector. Such
6 determination must be made by September 1st of each year. In
7 determining the base year taxation the department of revenue must use
8 existing data that is compiled in the department's normal course of
9 business and used for other purposes. No changes to the innovation
10 allocation for a certified industry sector may be made after the
11 department of revenue notifies the state treasurer of that innovation
12 allocation as required in subsection (3) of this section.

13 (3) The department of revenue must notify the state treasurer of
14 the innovation allocations determined under subsection (2) of this
15 section. When innovation allocations are greater than zero, the state
16 treasurer must transfer such amounts from the general fund to the
17 industry development organization grant account created in section 7 of
18 this act, subject to the limitation in subsection (5) of this section.

19 (4) The department of revenue must annually provide to the director
20 of the department such contact information for firms within a certified
21 industry sector as is subject to disclosure under RCW 82.32.330(3)(k).
22 The information required under this subsection must be provided by a
23 date mutually agreed to by the department of revenue and the
24 department.

25 (5) No more than ten million dollars may be deposited in the
26 industry development organization grant account in any fiscal year.

27 NEW SECTION. **Sec. 6.** (1) The industry development organization
28 grant program is established in the department. The director may award
29 grants via contract with industry development organizations to assist
30 certified industry sectors consistent with the purpose of this act.
31 The grant amount awarded to an industry development organization must
32 not exceed one million dollars per year. Applicants must indicate by
33 NAICS code the makeup of the sector and its geographic boundaries. The
34 director must set qualification standards for industry development
35 organizations applying for grants under the program including, but not
36 limited to, the number of member firms, and the percentage of sector

1 firms in the geographic area that are members of the industry
2 development organization.

3 (2) Grantees may use industry development organization grant funds
4 for any of the following:

5 (a) Research and development of better and more efficient
6 production, processing, transportation, handling, and marketing of
7 value-added products;

8 (b) Assistance with quality control and testing of products and
9 processes;

10 (c) Workforce training;

11 (d) Incubation services;

12 (e) Export assistance, including the prevention, modification, or
13 elimination of trade barriers;

14 (f) Providing marketing information and services including the
15 development of cooperative efforts;

16 (g) Providing information and services for meeting energy
17 efficiency and conservation objectives; and

18 (h) Any other services as are approved by the director.

19 (3) Grantees may not use industry development organization grant
20 funds for:

21 (a) Lobbying;

22 (b) Providing financial support in any manner; or

23 (c) Any other purpose prohibited by the director through rule or
24 contract.

25 (4) The contracts with industry development organizations must
26 specify the expected deliverables and performance and must be for a
27 period not to exceed two years.

28 (5) Priority will be given to those applicants who demonstrate:

29 (a) The capacity to serve all firms in an industry sector;

30 (b) Collaboration with, and the ability to facilitate the goals of,
31 innovation partnership zones established under RCW 43.330.270; and

32 (c) Collaboration with centers of excellence established under RCW
33 28B.50.902.

34 (6) Grantees may contract with other technical assistance providers
35 for the delivery of services.

36 NEW SECTION. **Sec. 7.** (1) The industry development organization
37 grant account is created in the custody of the state treasury. All

1 receipts from innovation allocations collected by the department of
2 revenue under section 5 of this act must be deposited in the account.
3 Expenditures from the account may be used only for the industry
4 development organization grant program and the costs associated with
5 carrying out the department's obligations under this chapter. Only the
6 director of commerce or the director's designee may authorize
7 expenditures from the account. The account is subject to allotment
8 procedures under chapter 43.88 RCW, but an appropriation is not
9 required for expenditures.

10 (2) The director of the department must keep subaccounts for each
11 certified industry sector and must:

12 (a) Deposit the innovation allocation attributable to each
13 certified industry sector into its subaccount after deducting for the
14 department's costs; and

15 (b) Make industry development organization grants to industry
16 development organizations from the appropriate certified industry
17 sector subaccount.

18 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act constitute
19 a new chapter in Title 43 RCW.

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