

# HOUSE BILL REPORT

## EHB 2447

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**As Passed House:**  
February 17, 2014

**Title:** An act relating to a property tax exemption for qualified nonprofit small business incubators that assist in the creation and expansion of innovative small commercial enterprises.

**Brief Description:** Concerning a property tax exemption for qualified nonprofit small business incubators that assist in the creation and expansion of innovative small commercial enterprises.

**Sponsors:** Representatives Kirby, Kretz, Sawyer, Ormsby, Riccelli, Short, Ryu, Magendanz and Freeman.

**Brief History:**

**Committee Activity:**

Finance: 1/30/14, 2/11/14 [DP].

**Floor Activity:**

Passed House: 2/17/14, 73-23.

**Brief Summary of Engrossed Bill**

- Provides a state and local property tax exemption for property owned or rented by qualified nonprofit small business incubators located in economically distressed areas.
- Requires the Joint Legislative Audit and Review Committee to assess the performance of the tax preference in meeting its public policy objective.

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**HOUSE COMMITTEE ON FINANCE**

**Majority Report:** Do pass. Signed by 10 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Fitzgibbon, Hansen, Lytton, Springer, Vick and Wilcox.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Condotta, Pollet and Reykdal.

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*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.*

**Staff:** Richelle Geiger (786-7175).

**Background:**

Property Tax for Nonprofit Organizations.

All real and personal property in this state is subject to property tax each year based on its value, unless a specific exemption is provided by law. Several property tax exemptions exist for property owned by churches and a variety of other nonprofit organizations, including schools, camps, veteran organizations, blood and tissues banks, public assembly halls, ecological education, and conservation organizations.

Small Business Incubators.

Small business incubators (incubators) are organizations that provide shared equipment, work areas, technical resources, and support services for emerging or startup businesses. Emerging and startup businesses are engaged in activities related to the development of initial product or service offerings and generated less than \$2 million in the last fiscal year. An emerging business is less than five years old and is expanding its operation or market. A start-up business is less than three years old and has fewer than 20 employees.

The Department of Commerce (COM) distinguishes incubators designated as a nonprofit organization under section 501(c)(3) or consists of a partnership between a 501(c)(3) nonprofit organization and a government or quasi-government agency, focused on developing small businesses in an economically distressed or disadvantaged area and structured around a sound business plan by certifying them as "qualified small business incubators" (qualified incubators).

Tax Preferences.

In 2013 the Legislature passed Chapter 13, Laws of 2013, 2nd sp. s. (ESSB 5882), which requires all new tax preference legislation to include a tax preference performance statement. Tax preferences include deductions, exemptions, preferential tax rates, and tax credits. The performance statement must clearly specify the public policy objective of the tax preference and the specific metrics and data that will be used by the Joint Legislative Audit and Review Committee (JLARC) to evaluate the efficacy of the tax preference.

Engrossed Substitute Senate Bill 5882 also establishes an automatic 10-year expiration date for new tax preferences if an alternative expiration date is not provided in the new tax preference legislation.

**Summary of Engrossed Bill:**

A state and local property tax exemption is provided to qualified small business incubators located in an economically distressed area. An economically distressed area is a rural county, or a county that contains a community empowerment zone. A community empowerment zone is an area with at least 51 percent of households at or below 80 percent of the county's median income and an average unemployment rate at least 120 percent of the average unemployment rate of the county.

To qualify for the exemption, a qualified small business incubator must be a nonprofit organization that is nonsectarian and governed by a volunteer board of directors of at least five members. The organization must also charge fair market rent to businesses that use the organization's work areas.

Any qualified incubator claiming this exemption must annually report information regarding the businesses it serves. If this information is not reported, the qualified incubator is ineligible for the exemption.

The bill's tax preference performance statement specifies that the public policy objective is to provide a property tax exemption to qualified incubators that promote economic growth and jobs for Washington. The tax preference performance statement requires the JLARC to use data collected from the COM of the activity of the certified incubators receiving the property tax exemption to evaluate the actual fiscal impact of the bill compared to the fiscal note provided to the Legislature prior to the enactment of the legislation.

This exemption expires January 1, 2023. Therefore, the property tax exemption would be available for taxes levied for collection in 2015 through 2022.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) There is an inequity in our current tax system. This is a tax equity bill. Most small business incubators began as nonprofits and, over time, became quasi-government or government organizations. Many small businesses have been created through incubators.

Incubators are all over the globe. There are three 501(c)(3) incubators in Washington. Nonprofit incubators work at a disadvantage and want to be treated the same as other small business incubators. Due in part to the high cost of property tax, these incubators cannot afford to remain nonprofit organizations and may have to transfer their assets to a public entity. The benefit of maintaining the 501(c)(3) status is it affords incubators a great deal of flexibility.

This bill means more jobs in Washington communities.

(Opposed) None.

**Persons Testifying:** Representative Kirby, prime sponsor; Tim Strege, William M. Factory Incubator; and Terry McLaughlin.

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