

SENATE BILL REPORT

SB 5339

As Reported by Senate Committee On:
Trade & Economic Development, February 11, 2015

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

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

Sponsors: Senators Padden, Rivers, Angel, Dansel, Schoesler, Becker, Warnick, Honeyford and Parlette.

Brief History:

Committee Activity: Trade & Economic Development: 1/28/15, 2/11/15 [DPS-WM, DNP].

SENATE COMMITTEE ON TRADE & ECONOMIC DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5339 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Brown, Chair; Braun, Vice Chair; Angel and Ericksen.

Minority Report: Do not pass.

Signed by Senators Chase, Ranking Minority Member; McCoy.

Staff: Jeff Olsen (786-7428)

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. 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.

Summary of Bill (Recommended Substitute): A new small business may defer 100 percent of their B&O taxes due during their first two years of operation. During the third year of operation, a qualifying new small business may defer 50 percent of their B&O taxes.

A new business is defined as a business that has not been operating in Washington longer than 12 months. A new business does not include the following:

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- a business that has been reincorporated, 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 deferral, a new business must electronically file with the Department of Revenue (DOR). A small business is defined as a person reporting \$500,000 or less in the prior calendar year on their combined excise tax return. The new small business must begin repaying the deferred taxes 60 months after the initial deferral. Deferred amounts are due in equal payments over a five-year period. DOR may not assess interest and penalties on deferred taxes unless the taxpayer does not meet the repayment provisions for the deferral program.

EFFECT OF CHANGES MADE BY TRADE & ECONOMIC DEVELOPMENT COMMITTEE (Recommended Substitute): Removes the B&O tax credit for new businesses and replaces it with a deferral. Authorizes a new small business to defer 100 percent of their B&O taxes during their first two years of operation, and 50 percent of their B&O taxes during their third year of operation. Beginning five years after the tax deferral, a small business must begin repaying deferred taxes in five equal payments over five years. A new small business is defined as having a gross amount of taxable activity of \$500,000 or less. Adds a tax preference performance statement and removes the emergency clause.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The Gates Commission identified that the B&O tax is difficult on new businesses, and new businesses have a higher tax burden than established firms. This policy would provide tax relief in the first three years of operation of a new business, and provide another tool to attract new business development in Washington.

OTHER: Reforming the B&O tax is a key priority for small businesses. Washington is experiencing a decline in new business starts, and an increase in business failures; regulations and the B&O tax are contributing factors. A temporary B&O exemption will increase the odds of a new business being successful; however, ultimately the B&O tax needs a major overhaul.

Persons Testifying: PRO: Senator Padden, prime sponsor.

OTHER: Erin Shannon, WA Policy Center.