

HOUSE BILL REPORT

HB 2541

As Reported by House Committee On:
Rural Development, Agriculture, & Natural Resources

Title: An act relating to creating the Washington rural development act.

Brief Description: Creating the Washington rural development act.

Sponsors: Representatives Maycumber, Chapman, Blake, Harris, Kloba, Chambers, Stonier, Dent, Griffey, Barkis, Van Werven, Graham, Walsh, Goehner, Rude, Kretz, Tharinger and Lekanoff.

Brief History:

Committee Activity:

Rural Development, Agriculture, & Natural Resources: 1/28/20, 2/5/20 [DPS].

Brief Summary of Substitute Bill

- Establishes the Rural Development Fund Program (Program) within the Department of Commerce for the purpose of awarding rural development grants to qualified lending institutions, using funds generated by Business and Occupation (B&O) tax credits, for the purpose of encouraging rural development.
- Creates a credit against B&O taxes owed for contributions made to the Program.
- Authorizes a maximum B&O tax credit of \$1 million per taxpayer per year, and a total B&O tax credit for the Program of \$8 million per year.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE, & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Blake, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Chapman, Dye, Fitzgibbon, Kretz, Lekanoff, Orcutt, Pettigrew, Ramos, Schmick, Springer and Walsh.

Staff: Robert Hatfield (786-7117).

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.

Background:

Business and Occupation Taxes.

Washington's major business tax is the B&O tax. The B&O tax is imposed on the gross receipts of all taxable business activities conducted within the state, unless otherwise exempt. There is no deduction for the costs of doing business. Revenues are deposited into 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. Major B&O tax rates are: 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for services and for activities not classified elsewhere. Several preferential rates also apply to specific business activities. Business and occupation taxes are collected by the Department of Revenue.

Tax Preference Performance Statement and Expiration Date.

All new tax preference legislation must include a tax preference performance statement, unless exempted. Tax preferences include deductions, exemptions, preferential tax rates, and tax credits. The performance statement must clearly specify the public policy objectives of the tax preference, and the specific metrics and data that will be used by the Joint Legislative Audit and Review Committee to evaluate the efficacy of the tax preference. New tax preferences expire 10 years after the effective date of the tax preference, unless otherwise provided.

Summary of Substitute Bill:

The Washington Rural Development Act (Act) is established. Under the Act, the Department of Commerce (Commerce) is directed to create and operate the Rural Development Fund Program (Program). The purpose of the Program is to award rural development grants to qualified lending institutions, using funds generated by Business and Occupation (B&O) tax credits created in the Act, for the purpose of encouraging rural development.

Business and Occupation Tax Credit.

A tax credit is authorized against B&O taxes otherwise due for persons that make a contribution to the Program. The amount of the credit claimed for a reporting period may not exceed the B&O tax otherwise due for that reporting period. No person may claim more than \$1 million of credit in any calendar year, including credit carried over from a previous calendar year. No refunds may be granted for any unused credits. The credit may be used against any B&O tax due and may be carried over until used.

Credits are available on a first-in-time basis. The Department of Revenue (Revenue) must disallow any credits, or portions thereof, that would cause the total amount of credits claimed under the Program for any calendar year to exceed \$8 million. If this limitation is reached, Revenue must notify Commerce that the annual statewide limit has been met. In addition, Revenue must provide written notice to any person who has claimed tax credits in excess of the limitation.

No credit under the Program may be allowed before January 1, 2021. No credit may be earned for contributions made to the Program after June 30, 2030. Commerce may award grants under the Program beginning six months after the first tax credits are claimed. Commerce must cease to award grants when the Program expires. The Program expires July 1, 2030.

Program Requirements.

The following requirements apply to the operation of the Program:

- No more than 25 percent of all grants awarded in any calendar year may be awarded to the same grant recipient.
- Any project receiving a loan or investment that includes funds awarded from the Program must occur in a county that has fewer than 100 persons per square mile or has an area of less than 225 square miles.

Eligibility Requirements.

Qualified lending institutions are eligible to receive grant funding from the Program. In order to receive grant funding, qualified lending institutions must:

- match any grant awarded by the Program on at least a one-to-one basis;
- be a certified Community Development Financial Institution (CDFI), as recognized by the United States Department of the Treasury;
- be registered as a nonprofit organization exempt from taxation under Title 26 U.S.C. Sec. 501(c)(3) of the Internal Revenue Code; and
- demonstrate a successful history of lending in Washington.

Once a loan or investment made by a qualified lending institution using funds awarded from the Program has been repaid, the qualified lending institution must re-loan the repaid funds consistent with the terms of the Act for a period of 10 years from the date of the grant award.

Review Committee.

Grants from the Program to a qualified lending institution will be awarded by a review committee. Commerce is responsible for convening and staffing the review committee. Commerce shall seek, to the greatest extent possible, to achieve a fair geographic balance in the composition of the review committee. Commerce is encouraged to seek representation on the committee from the following:

- representatives of the banking industry who are familiar with CDFIs;
- economic development professionals who have experience in rural development;
- representatives of local government; and
- representatives of federally recognized Indian tribes.

Grant Criteria.

In making awards from the Program, the review committee must consider the following:

- the number and total value of loans and investments closed during the previous five-year period by the qualified lending institution in Washington;
- funds leveraged by the proposed grant award, which may be no less than one-to-one;
- projected loan or investment production with the award over the performance period of the grant, including projected project leverage;
- how the award supports the growth of the qualified lending institution; and

- past performance of loans and investments made by the qualified lending institution including, where applicable, past performance of loans and investments made using funds from the Program.

Reporting by Qualified Lending Institutions.

A qualified lending institution that receives funds from the Program must submit a report to Commerce by June 30 of each year that contains the following information:

- the number and value of loans and investments made using funds from the Program's grant and associated match;
- certification that each loan and investment made using funds from the Program is qualified and located in a rural county;
- the amount of capital available, as of the date of the report, to lend or invest from the qualified lending institution's grant and associated match;
- outreach conducted by the lender within rural counties; and
- other information as required by Commerce.

Reporting by the Department of Commerce.

No later than September 15 of each year, beginning in 2021, Commerce must submit a report to the appropriate committees of the Legislature that contains the following information:

- the number of grant applicants and the total value of grants requested;
- the number of grant awardees and the total value of grants awarded, as well as relevant information from the successful applications, including fund leverage and projected lending;
- performance of loans and investments made under the Program on an aggregate basis;
- average interest rate, term, and loan size, or investment terms and size, on an aggregate basis;
- the cities and counties in which grant recipients are located; and
- the cities and counties in which projects that receive loans or investments from the Program are located.

Rural Development Account.

The Rural Development Account (Account) is created in the custody of the State Treasurer. All receipts from contributions to the Program created by this Act must be deposited in the Account. Expenditures from the Account may be used only for the award of grants to qualified lending institutions from the Program. Only the Director of the Department of Commerce or the Director's designee may authorize expenditures from the Account. An appropriation is not required for expenditures. Any funds remaining in the Account upon the expiration of this chapter must be transferred to the State General Fund.

Tax Preference Performance Statement.

The stated intent of the Legislature is to provide a tax preference for the purpose of creating or retaining jobs, as well as to encourage economic growth in rural Washington.

The stated intent of the Legislature is to continue the tax preferences beyond their current expiration in 2030 if the Joint Legislative Audit and Review Committee (JLARC) finds that the Program has had a net positive impact on investment in Washington's rural counties and on state and local tax revenues. In conducting its review under this section, the JLARC should consider, among other data:

- the number and aggregate amount of loans and investments closed under the Program, including with revolved dollars;
- fund leverage, which should equal or exceed a one-to-one ratio;
- project leverage, which should equal or exceed a one-to-one ratio;
- the balance sheet growth of CDFIs that received grants from the Program;
- whether participants in the Program achieved balance sheet growth during the time of their participation in the Program;
- the percentage of CDFIs in Washington that received funding from the Program; and
- the level of ongoing demand for funding from the Program.

Expiration.

The Program expires July 1, 2030.

Substitute Bill Compared to Original Bill:

All elements of the original bill are stricken and replaced with the elements described above.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 5, 2020.

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

Staff Summary of Public Testimony:

(In support) A previous version of this bill that passed last year left out the investment element of the bill. Capital to start a business is harder to come by in rural areas than urban areas, which is a challenge that applies all across the state. Having the ability to invest in rural areas can make all the difference when it comes to the health of local governments and local schools. Conversations are underway with the Department of Commerce (Commerce) on possible adjustments to the bill.

(Opposed) There is a huge need for capital to invest in small business and to create jobs. The approach in this bill is a proven failure. Similar programs in other states have not been successful. The promised jobs and investments rarely, if ever, materialize. One company used a similar program in Maine, but the investments were illusory; the mill that was supposed to be the subject of the investments was closed without producing any jobs, and the Maine taxpayers lost \$16 million. This is not a partisan issue. Lawmakers and think tanks on both sides have been very skeptical of this approach.

(Other) Commerce is the administering agency for a significant amount of local spending done by Washington. There are concerns about the investment structure set up in the bill. There are other ways to facilitate investment in rural areas. For example, there is an opportunity to leverage the work of Community Development Financial Institutions (CDFIs), whose whole job it is to get capital into rural areas. The process of engaging CDFIs is just

beginning, and there appears to be promise in their ability to deliver on the concept of the bill.

Persons Testifying: (In support) Representative Maycumber, prime sponsor.

(Opposed) Andy Nicholas, Washington Budget and Policy Center.

(Other) Jasmine Vasavada, Department of Commerce.

Persons Signed In To Testify But Not Testifying: None.