

# SENATE BILL REPORT

## ESSB 5980

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As Passed Senate, March 4, 2022

**Title:** An act relating to providing substantial and permanent tax relief for small businesses to mitigate structural deficiencies in Washington's business and occupation tax and lessen long-term negative economic consequences of the pandemic that have disproportionately impacted small businesses.

**Brief Description:** Providing substantial and permanent tax relief for small businesses to mitigate structural deficiencies in Washington's business and occupation tax and lessen long-term negative economic consequences of the pandemic that have disproportionately impacted small businesses.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Carlyle, Randall, Hunt, Kuderer and Mullet).

**Brief History:**

**Committee Activity:** Ways & Means: 2/24/22, 2/28/22 [DPS].

**Floor Activity:** Passed Senate: 3/4/22, 46-0.

**Brief Summary of Engrossed First Substitute Bill**

- Increases the business and occupation tax small business credits.
- Increases the tax filing threshold.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5980 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Schoesler, Assistant Ranking Member, Capital; Honeyford, Ranking Minority Member, Capital; Billig, Braun, Carlyle, Conway, Dhingra, Gildon, Hasegawa, Hunt,

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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 part of the legislation nor does it constitute a statement of legislative intent.*

Keiser, Mullet, Muzzall, Pedersen, Rivers, Van De Wege, Wagoner, Warnick and Wellman.

**Staff:** Jeffrey Mitchell (786-7438)

**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, without any deduction for the costs of doing business. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss. A taxpayer may have 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—businesses with taxable income of less than \$1 million 1.75 percent—businesses with taxable income of \$1 million or more for services and for activities not classified elsewhere. Several preferential rates also apply to specific business activities.

Qualifying businesses may take a credit against B&O tax due of up to \$35 per month in the tax reporting period. The credit phases out as the B&O tax liability exceeds \$35, phasing out completely when the tax due exceeds \$70. For service businesses, the monthly credit is \$70 per month in the tax reporting period. This credit phases out as the B&O tax liability exceeds \$70, phasing out completely when the tax due exceeds \$140. The Department of Revenue provides credit tables for use by all taxpayers, which applies the credit in \$5 increments.

The B&O tax is generally reported on the Combined Excise Tax Return (CETR). Non-service firms whose annual gross income does not exceed \$28,000 are not required to file excise tax returns if they have no other state excise taxes to report. For service firms, the filing threshold is \$46,667. Any business that collects any retail sales tax must file, regardless of the amount of sales tax collected or income of the business. Generally, a CETR must be filed on a monthly basis; however, Department of Revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the CETR to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year

Legislation that establishes or expands a tax preference, such as a tax exemption, deduction, or preferential rate, must include a Tax Preference Performance statement that identifies the public policy objective of the tax preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. A new tax preference automatically expires after ten years unless an alternative expiration date is provided or the tax preference is exempt from the automatic expiration date in the bill.

**Summary of Engrossed First Substitute Bill:** For non-service businesses, the small business B&O credit amount is increased from \$35 per month in the tax reporting period to \$55 per month. For service businesses, the small business B&O credit amount is increased

from \$70 per month in the tax reporting period to \$160 per month.

The B&O tax filing threshold is increased to \$125,000 annually.

The increase in the small business B&O credit is subject to the automatic ten year expiration date and JLARC review.

The bill applies to tax reporting periods beginning on or after January 1, 2023.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: Small businesses are still struggling to recover from the effects of the pandemic and also confronting increased costs for a variety of reasons. This bill will be welcomed relief to many of those small businesses. Small businesses have been knocked around for the past couple of years and now is the time to reward small business owners for weathering the storm. The state is operating at a surplus and now is the time to show that it cares about small business in a tangible way. Businesses have been struggling with supply chain and staffing issues. It is a rough time to be a small business so tax relief would be so hopeful.

**Persons Testifying:** PRO: Patrick Connor, NFIB; D'Arcy Harrison, Owner & Stylist Emerson Salon; Lois Cook.

**Persons Signed In To Testify But Not Testifying:** No one.