

HOUSE BILL REPORT

HB 1912

As Reported by House Committee On:

Innovation, Community & Economic Development, & Veterans

Title: An act relating to requiring state agencies to share information to encourage rural economic development.

Brief Description: Requiring state agencies to share information to encourage economic development.

Sponsors: Representatives Chapman, Waters, Schmidt, Barnard, Rule, Kloba, Sandlin, Wylie, Reeves and Tharinger.

Brief History:

Committee Activity:

Innovation, Community & Economic Development, & Veterans: 1/16/24, 1/19/24 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Commerce (Commerce) to collect information from three state agencies about individual business's revenue, employees, occupations, payroll, and North American Industry Classification System codes.
- Requires Commerce to provide the business data to associate development organizations after meeting data security standards and completing training.

HOUSE COMMITTEE ON INNOVATION, COMMUNITY & ECONOMIC DEVELOPMENT, & VETERANS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Ryu, Chair; Donaghy, Vice Chair; Rule, Vice Chair; Volz, Ranking Minority Member; Barnard, Assistant Ranking Minority Member;

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.

Caldier, Christian, Cortes, Paul, Senn, Shavers, Street and Waters.

Minority Report: Without recommendation. Signed by 2 members: Representatives Chambers and Wilcox.

Staff: Martha Wehling (786-7067).

Background:

Business Licensing, Regulation, and Reporting.

Businesses are regulated and licensed by multiple state agencies including the Department of Revenue, the Department of Labor and Industries, and the Employment Security Department. Each agency has statutory duties related to Washington businesses:

- The Department of Revenue is Washington's primary tax agency and is responsible for assessing, collecting, and reporting on taxes, such as the sales tax, business and occupation tax, and the capital gains tax.
- The Department of Labor and Industries' duties include workers' compensation, workplace safety, trade licensing, contractor registration, and regulation and enforcement of labor standards.
- The Employment Security Department manages the unemployment system, including unemployment benefits, job placement services, and collecting employment related data.

Businesses and agencies have statutory reporting obligations. For example, certain executive branch agencies, including the Department of Labor and Industries and the Department of Revenue, are required to inventory and update all business permits identified in a performance audit. More than 25 agencies, including the Employment Security Department, the Department of Revenue, and the Department of Labor and Industries, are required to provide the Department of Revenue with information about each business license issued by the agency.

North American Industry Classification System Code.

The North American Industry Classification System (NAICS) was developed as the standard for use by federal statistical agencies in classifying business establishments for collection, analysis, and publication of statistical data related to the business economy of the United States. The NAICS was developed by the federal Office of Management and Budget and adopted in 1997. The NAICS hierarchy begins with broader two-digit sectors, and becomes increasingly narrow with additional digits, including 96 three-digit subsectors, and 308 four-digit industry groups. There are 689 five-digit NAICS codes, which is the level that provides industry detail.

The Department of Commerce's Trade and Business Responsibilities.

The Department of Commerce's (Commerce) statutory obligations related to trade and business require it to:

- assist in expanding Washington's role as an international center of trade, culture, and finance; promote and market Washington's products nationally and internationally; work closely with other private and public international trade efforts; function as a centralized location for the assimilation and distribution of trade information; and establish and operate foreign offices promoting overseas trade and commerce;
- identify and work with businesses that can use assistance to increase domestic and foreign exports of goods and services;
- work with small businesses and other employers on workforce training and infrastructure needs, identify and locate suitable business sites, and resolve licensing and regulatory requirements;
- increase the availability of capital to small businesses by developing new and flexible investment tools, assisting in targeting and improving the efficiency of existing investment mechanisms, and assisting in the procurement of managerial and technical assistance to attract potential investors;
- assist women and minority-owned businesses in overcoming barriers to entrepreneurial success by conducting training courses in financing, marketing, managing, accounting, and recordkeeping; and
- prepare a specific, actionable plan to increase access to capital and technical assistance to small businesses and entrepreneurs which must identify existing sources of capital and technical assistance, critical gaps and barriers, workable solutions, and the changes necessary to implement the plan.

Commerce has additional responsibilities that affect businesses, including community and economic development, recruitment and retention of businesses, business services training, operation of the small business retirement marketplace, and contracts with associate development organizations. Services provided by Commerce to meet these responsibilities include technical assistance on accessing capital, networking opportunities, mentorship programs, and education and training.

Associate Development Organizations.

Associate development organizations (ADOs) are local organizations designated by each county to serve as Commerce's primary partner in local economic development activities in their county. Commerce contracts with the ADOs to increase the support for and coordination of community and economic development services in communities or regional areas. The scope of services delivered under the contracts must include direct assistance, including business planning, to companies throughout the county who need support to stay in business, expand, or relocate to Washington. Services must also include support for regional economic research and regional planning efforts to implement target industry sector strategies and other economic development strategies. Both ADOs and Commerce have reporting requirements. The ADOs must submit annual performance reports to

Commerce, and Commerce must submit a report to the Legislature by the end of each even-numbered year on the performance results of the contracts with the ADOs.

Public Records Act.

The Public Records Act requires all state and local governmental entities to make all public records available to the public upon request unless a specific exemption applies or disclosure is prohibited. Public records are records prepared or retained by a governmental entity that relate to the conduct of government or the performance of governmental or proprietary functions. There are statutory exemptions for records or information contained in records that allows the governmental entity to withhold the record or redact the information. The exemptions are narrowly construed and are permissive, meaning that the governmental entity has the discretion to produce an exempt record unless a court enjoins production.

Summary of Substitute Bill:

Business Information Collected by the Department of Commerce.

The Department of Commerce (Commerce) is required to collect the following information from three state agencies about each business in Washington:

- the business's annual revenue;
- the business's number of employees and occupations;
- the business's aggregated payroll; and
- the business's North American Industry Classification System (NAICS) code.

Commerce must collect the information from the Department of Revenue, the Department of Labor and Industries, and the Employment Security Department. The business information is exempt from disclosure by Commerce under the Public Records Act. The exemption does not affect other agencies' obligations under the Public Records Act.

Business Information Provided to Associate Development Organizations.

Commerce is required to provide associate development organizations (ADOs) with access to the information collected about individual businesses. Prior to receiving data, the ADOs must meet data security standards and complete training regarding the access, use, and confidentiality of the data. After receiving the data, the ADOs must keep the data confidential, except when the data is provided to organizations applying for grant funding. In that situation, the ADO may provide the requesting organization with aggregate data.

Substitute Bill Compared to Original Bill:

The substitute bill removes the Department of Licensing as an agency that must provide

business information to the Department of Commerce. The substitute bill also removes the requirement for the Department of Labor and Industries to identify the number and occupation of apprentices by county and publish the information on its website.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 19, 2024.

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) Associate development organizations (ADOs) are looking to gather the information needed to describe what is going on in their communities. Their requests to the Departments of Commerce (Commerce) and Labor and Industries to get information have been denied, even though they are contracted entities through Commerce. The data produced is typically blacked out, so no information is provided. This puts the communities at a disadvantage so they can not create good programs or policies for local decision makers to fill gaps in supply changes or grow existing industry sectors that would create opportunities for impoverished populations. The disclosures will bring to light information to help those communities access grants and funding, and to tell the local story about workforce, job development, and entrepreneurship. Typically, poor people can not accept remote jobs or travel hours for a high paying job. Improving economies for impoverished people is a local effort. There is a need to create jobs at a local level, not just in rural areas, but also in small cities in urban counties. Some industries, like maritime and forest products, do not fall neatly into the quarterly census of employment wages or the North American industry classification system codes. The proprietary data will be fully protected, as it is done today in state agencies. The data will be aggregated in a way that is meaningful for local communities and the information will help ADOs across the state.

(Opposed) Privacy for businesses and taxpayer confidentiality are the major concerns with collecting and sharing business information. While in support of rural development for ADOs and grant funding, confidentiality for members needs to be ensured. Businesses already can choose to voluntarily disclose information to the local ADO. When the Department of Revenue provides aggregated data to ADOs, there is an administrative concern that a business will have correct security measures so that it can comply with privacy standards. If the ADO wants to share the information with third parties, additional privacy standards should be in place, and a penalty for breach. Even when information is aggregated, in order to provide confidentiality, there must be more than three taxpayers, and no one taxpayer can be more than 80 percent.

(Other) Commerce partners with ADOs across the state. The relationship is an important

partnership with local communities in achieving Commerce's goals for business recruitment, retention, and expansion; supporting start-up businesses; and providing export assistance and other technical assistance programs. Data sharing information is new for Commerce so some start-up costs are expected to collect information, safely hold onto it, and share it. The type of data available from other agencies, such as restrictions on the information they collect, will likely create barriers and challenges. Even with an interagency agreement with another agency or with an ADO, there are limits on the information available. Commerce is willing to work with ADOs about how to share right kind of information they need.

Article II, Section 19 of Washington's Constitution, the subject/title rule, may be violated because the legislation addresses sharing records when agencies are hiding records. Providing a broad public records exemption will transcend agency boundaries. If Commerce is collecting information, that information should be public. ADOs are unique organizations that the legislative framework does not properly flesh out. If the Legislature sets up a work group, one issue it should address is the status of ADOs, are they public, private, or the functional equivalent of an agency? If the Legislature does not address this, the superior court might need to determine their status, especially if a private organization is receiving confidential information to which the public does not have access.

Persons Testifying: (In support) Colleen McAleer, North Olympic Legislative Alliance and Clallam Economic Development Council; and Representative Kevin Waters, Washington State Legislature.

(Opposed) Emily Shay, Association of Washington Businesses.

(Other) Dave Pringle, Department of Commerce; and Arthur West.

Persons Signed In To Testify But Not Testifying: None.