

# SENATE BILL REPORT

## SB 5096

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As of January 10, 2023

**Title:** An act relating to expanding employee ownership.

**Brief Description:** Concerning employee ownership.

**Sponsors:** Senators Padden and Pedersen.

**Brief History:**

**Committee Activity:** Business, Financial Services, Gaming & Trade: 1/12/23.

**Brief Summary of Bill**

- Creates the Washington Employee Ownership Program (program) at the Department of Commerce to offer technical support, and other services, to certain businesses considering certain employee ownership structures.
- Forms the Washington Employee Ownership Commission to oversee the program.
- Provides a business and occupation tax credit for costs related to converting a qualifying business to an employee ownership structure.

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### SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES, GAMING & TRADE

**Staff:** Kellee Gunn (786-7429)

**Background:** Employee Ownership Structures. Employee ownership refers to the arrangement where no one person has the most shares or control over an organization. Some of the most common forms of employee ownership include Employee Stock Ownership Plans (ESOPs), Employee Ownership Trusts (EOTs), and Cooperatives (Co-ops).

Employee Stock Ownership Plans. ESOPs are recognized under federal tax law as a

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qualified defined contribution retirement plan. The ESOP must be designed to invest primarily in qualifying employer securities and meet certain other requirements. The IRS and United States Department of Labor share jurisdiction over some ESOP features.

Employee Ownership Trusts. EOTs are not recognized as a retirement plan under federal law. An EOT is a perpetual trust, in which employees may receive certain financial benefits and governance rights.

Cooperatives. Co-ops are member-owned business entities in which worker-owners have a controlling interest, and who elect the governing body on a one-member-one-vote basis.

**Summary of Bill:** Washington Employee Ownership Program. The Washington Employee Ownership Program (program) is created to support efforts of businesses considering sale to an employee ownership structure. The program is administered within the Department of Commerce (Commerce) and overseen by the Washington Employee Ownership Commission (Commission).

The program must offer technical support, and other services, to certain qualified businesses considering certain employee ownership structures. To receive program support, a business must be headquartered in Washington State.

Subject to successful federal funding for this specific purpose, the program must establish a revolving loan program to assist existing small businesses in financing a transition to employee ownership. Certain requirements regarding who can receive the loan and what the loan may be used for are established.

Commerce must report to the Legislature on the program by December 1st each year and include recommendations for improvement and barriers for businesses considering employee ownership structures. The first report must include the rules and guidelines for the administration of the program, developed by the Commission.

Washington Employee Ownership Commission. The Commission is created to develop and supervise the program.

The Commission shall consist of the following eleven members:

- one member from each of the two major caucuses of the House of Representatives, appointed by the Speaker of the House;
- one member from each of the two major caucuses of the Senate, appointed by the President of the Senate; and
- seven of the following members appointed by the Governor:
  1. one representative of a small business using an employee ownership structure, with an initial four-year term;
  2. one representative of a large business using an employee ownership structure, with an initial four-year term;

3. one representative of a statewide business association, with an initial two-year term;
4. one economic development expert from the private sector, with an initial four-year term;
5. one representative from a financial institution with expertise in transitions to employee ownership, with an initial two-year term;
6. one economic development expert from the public sector, with an initial four-year term; and
7. one representative from Commerce, with an initial four-year term.

The Commerce representative shall chair the first meeting, until a chair is elected. All gubernatorial appointments must first be nominated from recognized organizations that represent the entities or interests identified. After initial appointments, all members shall serve four-year terms and hold office until successors are appointed.

The Commission shall develop, in consultation with Commerce, the rules and guidelines for the administration of the program.

Business and Occupations Tax Credit. Beginning July 1, 2024, a business and occupation tax credit for costs related to converting a qualifying business to an employee ownership structure is established. The total amount of credits may not exceed \$2 million per year and are available on a first-in-time basis. Unused credit may be carried over up to 12 months from the end of the tax reporting period in which the credit was earned.

Qualified businesses may receive up to:

- 50 percent of the conversion costs, not to exceed \$25,000, to a worker-owner cooperative or an employee ownership trust; or
- 50 percent of the conversion costs, not to exceed \$100,000, to an ESOP.

This bill includes a tax preference performance statement. The Legislature's specific public policy objective is to encourage business owners to create an employee ownership plan or employee ownership trust or convert to a worker-owner cooperative. If the review finds that the number of employee ownership structures has increased, then the Legislature intends for the Joint Legislative Audit and Review Committee to recommend extending the expiration date of the tax preference.

**Appropriation:** None.

**Fiscal Note:** Requested on December 29, 2022.

**Creates Committee/Commission/Task Force that includes Legislative members:** Yes.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.