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**SENATE BILL 5260**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Keiser, Robinson, Saldaña, Conway, Stanford, Kuderer, Randall, Billig, Cleveland, Hunt, Lias, Lovelett, Nguyen, Nobles, Valdez, Van De Wege, and C. Wilson

Read first time 01/11/23. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to protecting and assisting Washington employers  
2 that provide access to, or benefits for, reproductive health care  
3 services; adding a new section to chapter 82.04 RCW; adding a new  
4 section to chapter 82.16 RCW; adding a new chapter to Title 49 RCW;  
5 creating a new section; and providing expiration dates.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The definitions in this section apply  
8 throughout this chapter unless the context clearly requires  
9 otherwise.

10 (1) "Charitable corporation" has the same meaning provided in RCW  
11 24.03A.010.

12 (2) "Domestic nonprofit corporation" has the same meaning  
13 provided in RCW 24.03A.010.

14 (3) "Employee" means an individual employed by an employer.

15 (4) "Employer" means an individual, business, partnership,  
16 association, limited liability company, corporation, or other legal  
17 entity, whether public or private, with a principal place of business  
18 in the state of Washington that employs at least one employee.

19 (5)(a) "Person" means an individual, corporation, business trust,  
20 estate, trust, partnership, limited liability company, association,  
21 joint venture, or government; governmental subdivision, agency, or

1 instrumentality; public corporation; or any other legal or commercial  
2 entity.

3 (b) "Person" includes the entities listed in (a) of this  
4 subsection whether the entity has a principal place of business in  
5 the state of Washington or not.

6 (6) "Reproductive health care services" has the meaning provided  
7 in RCW 48.43.072.

8 (7) "Retaliate" means taking an adverse action, which includes,  
9 without limitation, prohibiting business operations, prohibiting or  
10 limiting tax preferences, or other actions intended to penalize.

11 NEW SECTION. **Sec. 2.** (1)(a) When an employer has had a judgment  
12 entered against it, in any state, where liability, in whole or in  
13 part, is based on the alleged provision, assistance in provision,  
14 material support for, or any theory of vicarious, joint, several, or  
15 conspiracy liability derived from such allegation, for reproductive  
16 health care services that are permitted under the laws of this state,  
17 the employer may recover damages from any person who brought the  
18 action leading to the judgment or has sought to enforce the judgment.

19 (b) Recoverable damages include, without limitation:

20 (i) Monetary damages in the amount of the judgment in the other  
21 state, and costs, expenses, and reasonable attorneys' fees spent in  
22 defending the action that resulted in the entry of judgment in the  
23 other state; and

24 (ii) Costs, expenses, and reasonable attorneys' fees incurred due  
25 to bringing an action under this section as may be allowed by the  
26 court.

27 (2) This section does not apply to a judgment entered in another  
28 state based on an action:

29 (a) Founded in tort, contract, or statute, and for which a  
30 similar claim exists under the laws of this state, brought by the  
31 employee who received the reproductive health care services upon  
32 which the original lawsuit was based or the employee's authorized  
33 legal representative, for damages suffered by the employee or damages  
34 derived from an individual's loss of consortium of the employee;

35 (b) Founded in contract, and for which a similar claim exists  
36 under the laws of this state, brought, or sought to be enforced by a  
37 person with a contractual relationship with the employer that is the  
38 subject of the judgment entered in another state; or

1 (c) Where no part of the acts that formed the basis for liability  
2 occurred in this state.

3 NEW SECTION. **Sec. 3.** (1) It is unlawful for a person to  
4 retaliate against an employer for:

5 (a) Providing access to, or benefits for, reproductive health  
6 care services to its employees, whether through a health insurance  
7 plan, travel benefits, or otherwise; or

8 (b) Contributing to a domestic nonprofit corporation or  
9 charitable corporation providing access to, or benefits for,  
10 reproductive health care services in this state or elsewhere.

11 (2)(a) If a person violates this section, the employer may file a  
12 civil action against the retaliating person in a court of competent  
13 jurisdiction to recover damages based on the retaliation.

14 (b) Recoverable damages include, without limitation:

15 (i) Actual or compensatory damages;

16 (ii) Costs, expenses, and reasonable attorneys' fees incurred due  
17 to bringing an action under this section as may be allowed by the  
18 court; and

19 (iii) Equitable relief, and other damages the court deems  
20 reasonable.

21 NEW SECTION. **Sec. 4.** (1) This section is the tax preference  
22 performance statement for the tax preferences contained in sections 5  
23 and 6, chapter . . ., Laws of 2023 (sections 5 and 6 of this act).  
24 This performance statement is only intended to be used for subsequent  
25 evaluation of the tax preference. It is not intended to create a  
26 private right of action by any party or be used to determine  
27 eligibility for preferential tax treatment.

28 (2) The legislature categorizes this tax preference as one  
29 intended to induce certain designated behavior by taxpayers, as  
30 indicated in RCW 82.32.808(2)(a).

31 (3) It is the legislature's specific public policy objective to  
32 increase financial support to organizations providing reproductive  
33 health care services. The legislature intends with the tax incentives  
34 contained in section 5 or 6 of this act to encourage businesses to  
35 prioritize reproductive health care organizations when making  
36 charitable contributions.

37 (4) If a review finds that the number of businesses in this state  
38 making charitable contributions to reproductive health care

1 organizations has increased, as compared to previous years and  
2 because of the tax credit under this act, then the legislature  
3 intends for the legislative auditor to recommend extending the  
4 expiration date of the tax preference.

5 (5) In order to obtain the data necessary to perform the review  
6 in subsection (4) of this section, the joint legislative audit and  
7 review committee may access and use any relevant data collected by  
8 the state.

9 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.04  
10 RCW to read as follows:

11 (1)(a) In computing the tax imposed under this chapter, a credit  
12 is allowed for charitable contributions made to an organization  
13 providing reproductive health care services, as provided in this  
14 section.

15 (b) The credit is equal to the amount of charitable contributions  
16 made to a domestic nonprofit corporation or charitable corporation  
17 each calendar year.

18 (2)(a) Credit under this section is earned, and claimed against  
19 taxes due under this chapter, for the tax reporting period in which  
20 the charitable contribution to a domestic nonprofit corporation or  
21 charitable corporation was made, or subsequent tax reporting periods  
22 as provided in (c) of this subsection.

23 (b) The credit must not exceed the tax otherwise due under this  
24 chapter for the tax reporting period.

25 (c) Unused credit may be carried over and used in subsequent tax  
26 reporting periods, except that no credit may be claimed more than 12  
27 months from the end of the tax reporting period in which the credit  
28 was earned.

29 (d) No refunds may be granted for credits under this section.

30 (3) A person may not receive credit under this section for  
31 amounts claimed as credits under chapter 82.16 RCW.

32 (4)(a) The department may require persons claiming a credit under  
33 this section to provide appropriate documentation, in a manner as  
34 determined by the department, for the purposes of determining  
35 eligibility under this section.

36 (b) Every person claiming a credit under this section must  
37 preserve, for a period of five years, any documentation to  
38 substantiate the amount of credit claimed.

1 (5) The definitions in this subsection apply throughout this  
2 section unless the context clearly requires otherwise.

3 (a) "Charitable corporation" has the same meaning as in RCW  
4 24.03A.010.

5 (b) "Domestic nonprofit corporation" has the same meaning as in  
6 RCW 24.03A.010.

7 (c) "Reproductive health care services" has the same meaning as  
8 in RCW 48.43.072.

9 (6) Credits allowed under this section can be earned for tax  
10 reporting periods starting on or before December 31, 2032. No credits  
11 can be claimed on returns filed for tax periods starting on or after  
12 January 1, 2033.

13 (7) This section expires January 1, 2033.

14 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.16  
15 RCW to read as follows:

16 (1)(a) In computing the tax imposed under this chapter, a credit  
17 is allowed for charitable contributions made to an organization  
18 providing reproductive health care services, as provided in this  
19 section.

20 (b) The credit is equal to the amount of charitable contributions  
21 made to a domestic nonprofit corporation or charitable corporation  
22 each calendar year.

23 (2)(a) Credit under this section is earned, and claimed against  
24 taxes due under this chapter, for the tax reporting period in which  
25 the charitable contribution to a domestic nonprofit corporation or  
26 charitable corporation was made, or subsequent tax reporting periods  
27 as provided in (c) of this subsection.

28 (b) The credit must not exceed the tax otherwise due under this  
29 chapter for the tax reporting period.

30 (c) Unused credit may be carried over and used in subsequent tax  
31 reporting periods, except that no credit may be claimed more than 12  
32 months from the end of the tax reporting period in which the credit  
33 was earned.

34 (d) No refunds may be granted for credits under this section.

35 (3) A person may not receive credit under this section for  
36 amounts claimed as credits under chapter 82.04 RCW.

37 (4)(a) The department may require persons claiming a credit under  
38 this section to provide appropriate documentation, in a manner as

1 determined by the department, for the purposes of determining  
2 eligibility under this section.

3 (b) Every person claiming a credit under this section must  
4 preserve, for a period of five years, any documentation to  
5 substantiate the amount of credit claimed.

6 (5) The definitions in this subsection apply throughout this  
7 section unless the context clearly requires otherwise.

8 (a) "Charitable corporation" has the same meaning as in RCW  
9 24.03A.010.

10 (b) "Domestic nonprofit corporation" has the same meaning as in  
11 RCW 24.03A.010.

12 (c) "Reproductive health care services" has the same meaning as  
13 in RCW 48.43.072.

14 (6) Credits allowed under this section can be earned for tax  
15 reporting periods starting on or before December 31, 2032. No credits  
16 can be claimed on returns filed for tax periods starting on or after  
17 January 1, 2033.

18 (7) This section expires January 1, 2033.

19 NEW SECTION. **Sec. 7.** If any provision of this act or its  
20 application to any person or circumstance is held invalid, the  
21 remainder of the act or the application of the provision to other  
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 8.** Sections 1 through 3 of this act  
24 constitute a new chapter in Title 49 RCW.

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