

# **INDEPENDENT BUSINESS ASSOCIATION**

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## **SMALL BUSINESS REPORT SMALL BUSINESS REPORT**

### **IBA SMALL BUSINESS REPORT - June 24, 2011**

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**NOTICE:** The information contained in the publication is intended to alert the reader to issues, laws, regulations and events which may affect the operations of a small business. The information is presented in a summary form and is not intended to assure compliance with laws or regulations which may apply to any specific business. The information is not intended as legal advice. The reader is advised to seek the advice of a qualified attorney, accountant or other advisor to obtain specific compliance advice with respect to the laws, regulations or other issues which may apply to a specific business.

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# IBA SMALL BUSINESS REPORT



## June 24, 2011

### Action Alert!

- **Express your Opposition To Seattle's Proposed Paid Sick Leave Law (details below)**
- **Attend the Public Hearing To Oppose Seattle's Paid Sick Leave Law on July 6th (details below)**

### Seattle Is Moving Forward With Paid Sick Leave Proposal

Seattle Council Member Nick Licata held a press conference on June 20, 2011 to officially announce his plans to propose a new Seattle ordinance requiring private employers to provide a minimum number of paid sick leave days. Licata was joined by two small business owners who said they now support Licata's proposal after meeting with him and getting some changes to the labor union backed proposal. The changes are, for smaller businesses under 50 employees, it only requires the business to provide up to 5 days of paid sick leave per year, and another revision was that in lieu of sick leave, employees could trade work shifts, but the employer is not required to provide additional work shift opportunities. Paid sick leave can be taken for employee illnesses or injuries, when the employee is needed to help a family member with health needs, i.e spouse, child, parent, etc., or when leave is needed to deal with domestic violence

related issues. Employers must keep track of how many days of paid sick leave an employee takes in a year as the employee can carry-over unused paid sick leave days into the next year under the proposal. An employer can request a note from a physician to document the need for the employee to take paid sick leave after a worker has used 4 days of paid sick leave. If the employer does not provide paid health care, the employer must pay half of the cost for the documentation. IBA attended a briefing before the Housing, Human Services, Health & Culture Committee of the Seattle City Council on June 22<sup>nd</sup> to get more details on what will be proposed.

You can view the entire Seattle paid sick leave proposal via the Internet at [www.ibaw.net/SeattlePaidSickLeave.htm](http://www.ibaw.net/SeattlePaidSickLeave.htm)

### Businesses Outside Seattle Affected by Seattle's Paid Sick Leave Proposal

The proposed Seattle paid sick leave ordinance will apply to businesses located outside the city of Seattle but that have workers selling, delivering, or working in the City of Seattle. For firms with up to 49 employees, their employees earn 1 hour of paid sick leave for every 50 hours one of their workers works in Seattle.

### Enforcement of Paid Sick Leave Law

The proposed enforcement of violations of the Seattle Paid Sick Leave

law is a civil penalty of \$500 to \$5500 with an additional penalty for mental suffering and humiliation of up to \$25,000.

### IBA Is Opposing Seattle's Paid Sick Leave Proposal Because....

IBA is opposing this proposed paid sick leave ordinance for many reasons including but not limited to:

- This proposed ordinance puts any business operating in Seattle or required to have a Seattle business license to do work in Seattle, at a competitive disadvantage
- Given the economy, increasing employer costs will deter businesses from hiring workers. Creating jobs now is critical to recovering from this very challenging economy
- This proposal becomes a record-keeping nightmare for employers trying to figure out who is and who is not eligible for paid sick days. This means even higher employment costs and headaches to small employers.
- This will spawn more claims of employment law violations against employers, adding additional employment costs to employers.

Unfortunately, several small businesses have announced their approval and

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[www.ibamember.com](http://www.ibamember.com)

support for this proposal and thus makes it very difficult to get the small business opposition heard by the members of the Seattle City Council.

## EXPRESS YOUR OPPOSITION NOW!

If you have a business in Seattle OR if you do business in Seattle that requires you to have a Seattle business license, you need to express your opposition to this proposal NOW! You need to call each of the Seattle City Council members and make a brief statement that you oppose this proposed "paid sick leave" ordinance and give 1 or 2 reasons why.

## Please Attend Paid Sick Leave Public Hearing On July 6, 2011 In Seattle

Small businesses from Seattle and who do business in Seattle need to show up in mass to oppose the Seattle paid sick leave proposal by testifying at the public hearing on July 6, 2011 starting at 5:30pm. The hearing location is 600 4th Ave. Seattle, 2nd floor.

## Expect Wage Violation Complaints In Seattle

If you do business in Seattle, you can expect a rise in wage complaints, *whether valid or not*, in the coming months and for years to come as the Seattle City Council and the Mayor just approved a new "wage theft" ordinance in Seattle in early May. The new ordinance defines wage theft if the person fails to make full and complete payment, with the intent to avoid payment for services. Among the ways

to show wage theft in the new Seattle ordinance are:

- Fails to make full and complete payment after the services have been rendered.
- Fails to make full and complete payment upon agreed to payday or at the end of the regular payment interval required by state and federal statutes.
- Fails to make full and complete payment at the time previously agreed to with the service provider
- Pays or offers a lesser amount than agreed to prior to when the services were provided.
- Threatens, intimidates, reports, or takes any other adverse action against the person not lawfully in the United States
- The check used to pay for services was not honored.
- Fails to respond and pay within 15 days after receiving any written communication that makes a demand for unpaid wages.

The enforcement of this new Seattle wage theft ordinance is not-issuing, suspension, revocation, or non-renewal of your Seattle business license for a period of one year. Seattle can refuse to issue you a business license for a period of one year if, in the past 10 years, you have been found in violation of the state or federal wage payment laws and failed to pay the amounts due.

Finally, the ordinance states that the person making the wage theft claim does not need to prove any of the above in order to make their claim.

The chances for bogus claims are VERY HIGH under this new Seattle ordinance.

**IBA Recommends** you keep impeccable wage records and have a signed agreement with your employees and any independent contractors or other

outside service providers you may hire, of what you have agreed to pay for what they do, and when payday is.

## Seattle Becoming New Test Bed for Liberal Employment Policies

WOW, the previous two reports clearly demonstrate that Seattle has become the new test bed for liberal employment policy advocates, similar to San Francisco. IBA's concern is that when Seattle passes these types of liberal ordinances, it gives a great deal of momentum for these same types of proposals to be proposed in the State Legislature as well as in other cities across Washington State. These are harmful requirements for small businesses and thus small businesses now located in Seattle or doing business in Seattle MUST get involved to oppose these costly proposals affecting small businesses. There are enough legislators from Seattle to press for these types of liberal laws in Olympia. 10 state Senators and 20 state Representatives represent areas of Seattle. It only takes 25 state Senators and 50 state Representatives to pass a law through the Legislature so the Seattle legislators provide a good start to pass these types of laws statewide.

## It's Time To Help Those Who Help YOU!

Many legislators took important votes to help your small business earlier this year. NOW is the time to thank them and show your appreciation for their helping your small business. Most will be up for re-election in 2012 and the best way to show your appreciation is to support them for their re-election now. Remember, there is a legislative session in 2012 before these legislators are up for re-election in November of

2012. A good way to keep their support in 2012 is to support their re-election 2012 campaign, **NOW!** A \$100, \$200 check to any or all of the legislators listed below will be a great investment for your small business for years to come. The labor unions from across the state have vowed to defeat many of these legislators who supported you in 2011. The legislators who supported you in 2011 need your support for the re-election in 2012. Those legislators are:

You can their campaign mailing address via the Internet at:

## Local Sales Tax Changes

Local sales tax rates change on a regular basis. It is important for you to keep up to date on those changes so that you are charging the right sales tax. If audited, the Department of Revenue takes a sample of your sales receipts and checks to make sure you charged the right sales tax on the right dates for the various cities you do business in. If they find errors, they generally calculate the amount of the errors and use it to determine an approximate error factor and then apply that error factor across some portion of your sales. This can prove costly if you fail to charge the correct sales tax rates.

There are three ways to keep you up-to-date on the sales tax rates in cities and counties from the Department of Revenue. One is a sales tax rate for Quick Books if you use Quick Books for your accounting and sales. Another is a Microsoft Excel file that provides the proper local sales tax rates across the state. Third is the Department of revenue tax rate look up tool. You can access these updates via the Internet at: [www.iba.wa.net/DORLocalSalesTaxTools.htm](http://www.iba.wa.net/DORLocalSalesTaxTools.htm)

Following are the most recent changes

for your information.

### Changes Effective July 1, 2011

- Ferry County Mental Health Tax— sales tax rates increases 0.1% - (\$1,009) in 2010 - to \$48,162. The average weekly wage was \$926.
- Jefferson County Transportation Tax sales tax rates increases 0.3% a combined sales tax rate in Jefferson County is now 9%
- Jefferson County Special Reporting Instructions for Sales or Leases of Motor Vehicles:

### Changes Effective April 1, 2011

- City of Leavenworth Transportation Benefit District
- Jefferson County Public Safety Car Dealers and Leasing Companies
- City of Bellingham Transportation Benefit District Car Dealers and Leasing Companies
- Jefferson County Public Safety Tax sales tax rates increases 0.3%
- City of Bellingham Sales Tax Increase for Transportation
- Thurston County Sales Tax Increase for Transportation

## Washington's Average Wage Increases

Each year, the WA Employment Security Department is required to calculate the state's average wage based on a formula set in law and based on the previous year's wages. This calculation affects both state unemployment benefits and state Industrial Insurance benefit amounts.

The Department has just completed that calculation and here are the results. Washington's average annual wage increased by 2.1 percent (\$1,009) in 2010 - to \$48,162. The average weekly wage was \$926.

- For new unemployment claims filed on or after July 3:
- The minimum weekly benefit will increase by \$3, to \$138.
- The maximum weekly benefit will increase by \$13, to \$583.
- Beginning in 2012, employers will pay unemployment taxes on the first \$38,200 paid to each employee, up from \$37,300 in 2011.

## The Economy

Yes, we are in a softer time for the current economy as the Washington State Chief Economist recently stated. Gasoline prices, the unrest in the Middle East, the economic challenges facing a number of European countries plus the disasters in Japan have hit the US.

Most economic experts believe the economy will improve later this year into next year. The Federal Reserve has lowered it's economic growth projections for the rest of 2011, down from 3.3% to 2.7% due to the reasons listed above.

The encouraging news is, that the federal government will continue to keep interest rates low, President Obama has released 30 million barrels of oil from the U.S. strategic reserves to try to lower fuel prices in the short term and reduce the speculation of future oil prices. Other counties have agreed to add an additional 30 million barrels of oil to the world oil market This may result in some temporary fuel price

relief, but is likely to have little long-term effect on fuel prices.

Washington State remains among the healthier states in the U.S. with Boeing and its strong sales, a strong software industry and strong agriculture. Many states are suffering much greater economic challenges than we in Washington State are.

The key to our economic recover is renewed confidence by consumers and businesses that the future is bright. Lending to consumers and smaller businesses must be improved. Current lending practices and regulations are reducing consumer borrowing to buy housing and merchandise. Small businesses, the jobs creators, are finding it very difficult to get financing to grow their businesses and generate additional job opportunities.

As stated previously, Washington State is very well position to recover sooner and better from this economic challenge than most other states.

## Small Business Tips For Dealing With This Economy

While every business is different, IBA has found the following to be effective tools for small businesses to manage, and in a number of cases, grow in this economic environment.

1. Make **Great Customer Service** the highest priority for your business. This is the best way to get repeat customers and positive referrals for your business. Go the extra mile to make your customers happy.
2. Look at your current marketing programs. Are they working? Many businesses continue with old marketing efforts that are not delivering in this day and age or are

not cost effective. Newspaper sales are way down, phone books are hardly used anymore. Rebalance your marketing approaches to meet today's world. We are including a number of suggestions for you to consider.

3. Is your **Internet Website** doing all it can to help your business? Most small business owners do little or nothing to update their Website on a regular basis. Your Website is your billboard to the world. In this current economy, nearly 80% of buyer start their buying search on the Internet. If you are not there or if your Website is not selling to your potential customers, you are loosing business. Most consumers buy local if the product or service they are seeking is available locally. Often customers are willing to pay more locally to receive the item quickly. Most consumers don't want to wait for the product to be shipped to them, they want it now. Your website is critical to getting these customers to call or come into your business. There is a great deal to know about using your webpage to help generate business for your small business. IBA has prepared a special report on Internet Marketing that is available to you via the Internet: [www.iba.wa.net/InternetMarketing.htm](http://www.iba.wa.net/InternetMarketing.htm)
4. Are you using an affinity program for repeat customers. An affinity program that rewards your customers for their repeat business? Affinity programs have proven to be extremely successful for many small businesses.
5. Start with smaller sales at first and look for opportunities to up sell. Trying to sell the larger ticket items up front is tough. First establish a rapport and trust with your customer and then up sell

when and where appropriate,

6. Most successful small business owners avoid using sales or discounts to attract customers. IBA agrees, sales and discounts are usually a very slippery slope for most small businesses. Use great customer service instead of sales and discounts.
7. Keep in contact with your previous customers and high priority prospects to the maximum extent possible. Use postcards, e-mail, etc. and your Webpage in conjunction with one another to stimulate business, or encourage referrals. Provide helpful information to your clients/prospects too keep them paying attention to your information.
8. Look for service opportunities related to your business. Offering needed services to your customers can often generate new sales or referrals that generate new sales. A roofing company that offers gutter cleaning and a free roof inspection.
9. Seriously look for cooperative marketing opportunities for your business. This can be done in many ways.
  - Implementing a marketing program in conjunction with your suppliers and sharing the costs with your suppliers.
  - Working with related businesses to jointly sell your products and services and share in marketing costs. An appliance store that partners with a kitchen remodelers is a good example.
10. Effectively and aggressively manage your accounts receivables.

## 2011 Legislation Affecting Most Small Businesses

Following is a summary of Legislation passed by the 2011 Legislature that has been signed into law by Governor Gregoire. It follows an earlier summary provided in May's IBA Small Business Report.

There were 2,425 bills introduced into the 2011 Regular Legislative Session and 391 were passed by both the House and the Senate and sent to the Governor for her approval. Below are the major issues we believe will affect most small businesses. We will also highlight some of the major legislation that did not pass and become law. Disclaimer: Do not rely on this information to assure compliance with any new law. Contact the administering agency for compliance information. You can do a more detailed search on specific issues or subjects via the Internet at: [www.ibaw.net/2011LegislationSearch](http://www.ibaw.net/2011LegislationSearch)

### Employment

**Passed Family Leave** Implementation of the 2007 state family leave insurance program is delayed for three years. Benefits are payable beginning October 1, 2015 (instead of October 1, 2012). Annual reports must be submitted to the Legislature beginning September 1, 2016 (instead of September 1, 2013). SB 5091

### State Budget Controls

• **Passed State Debt Limit** SB 5181 reduces the state's debt limit from 9 to 7.75 percent over time. Debt service costs now account for 6.1 percent of operating budget expenditures. It also creates an independent commission to look at Washington's debt.

• **Passed State Rainy Day Account** - A proposed constitutional amendment (Senate Joint Resolution 8206) would require that the state set aside "extraordinary" revenues in its rainy day fund during economic booms. If approved by voters, any revenues in excess of 133 percent of the average of the previous 10 years would be set aside in the "rainy day" account. Had the state done this during the most recent expansion, the shortfall we are dealing with today would have been substantially reduced. In order to make this part of the state constitution, the amendment must go before voters this fall.

• **Passed Medicaid waiver** - Medicaid spending is one of the primary budget drivers, with health care costs growing from 4 percent of the operating budget in 1981 to 14 percent today. As a way to get greater control of this spending, the state will petition the federal government to receive block-grants of Medicaid funds that will give Washington greater flexibility in providing health care services to low-income residents, including benefits, eligibility requirements, reimbursement rates and cost-sharing. (SB5931).

• **Passed Health Savings Accounts** - State employees now have the option of cost-effective medical savings accounts combined with major medical plans. Indiana's experience has shown HSAs to be a popular option that delivered an annual cost savings of 11 percent compared to traditional plans (Senate Bill 5773).

**Passed Welfare Reforms** - After discovering several welfare abuses, it is now illegal to use Electronic Benefit Transfer (EBT) benefit cards for tattoos or body art, to purchase tobacco or alcohol, for gambling, bail bonds or

adult entertainment. EBT cards may not be sold, exchanged or donated to another person. Also, adult venues are prohibited from allowing EBT cards to be used at on-premise ATM machines. While these are steps in the right direction, the state still has much work to do in addressing welfare fraud.

### State Agency Purchasing

• **Passed State Purchasing HB 1770** Increases state purchases from small businesses. All state purchasing agencies, including institutions of higher education, must establish and implement a plan to increase the number of small businesses annually receiving state contracts for goods and services. The Department of General Administration (DGA) must develop a model plan for state agencies to increase:

- The number of small businesses registering in the state's common vendor registration and bid notification system;
- The number of such registered small businesses annually receiving state contracts for goods and services purchased by the state; and
- The percentage of total state dollars spent for goods and services purchased from registered small businesses.
- All state agencies are authorized to adopt the model plan developed by the DGA.

State purchasing agencies must give technical assistance to small firms.

• **Passed State Purchasing Agency** SB 5931 consolidates existing state agencies into two newly created agencies, the Department of Enterprise Services (DES) and the Consolidated Technical Services agency. The DES combines the Department of General Administration, the state printer and the

Department of Personnel into one consolidated agency to provide services to other state agencies. It combines state agency purchasing into the DES. The Consolidated Technical Services agency replaces the former Department of Information Services to plan and manage the future information technology needs of state government.

- Purchasing by state's Department of General Administration must include a 3% bidding preference program for Washington businesses: HB 1355 **did not pass**

**Regulatory Reform**

- **Passed** HB 1150 **Small businesses have 7 days to correct a violation** before an agency issues a violation or penalty.
- **Passed** SBEIS improve – SB 5500 improves the requirements for agencies to reduce the economic impact of regulations on small businesses.

**Safety and Health (Workers)**

- **Passed** **Violation Abatement** A business cited for a safety and health violation is required to abate the violation in a timely manner unless the business appeal the violation and requests a stay of abatement. The Department of Labor and Industries (L&I) will not grant a stay when the preliminary evidence shows a substantial probability of death or serious physical harm to workers. The Board of Industrial Insurance Appeals will not grant a stay when it is more likely than not that a stay would result in death or serious SB 5068.
- **Passed** **Safety Grants** HB 2123 reauthorized the state Safety and Health Investment Project grant program using \$5 million from

state industrial insurance funds to continue the program.

**Taxes and Fees**

- **Passed** **Electronic tax reporting expansion.** [EHB 1357](#),
- **Passed** **Machinery and Equipment (M&E) exemption clarified.** HB 1347 the M&E exemption does not apply if used in connection with utility-related activities. Clarifies that the sales and use tax exemption for M&E does not apply to research and development activities of the state or its public institutions. Provides a stand-alone sales and use tax exemption for M&E used by public research institutions as part of a research and development operation.
- **Passed** **Business License** HB 2017 transfer the issuance of state business licenses and tax numbers to the Department of Revenue from the Department of Licensing
- **Passed** **Cigarette Tax** HB 2019 eliminates the provision directing a portion of the cigarette tax to the education legacy trust account.
- **Passed** **Real Estate Commissions** SB 5083 clarifies how and when a real estate commission on a particular transaction is divided among firms providing real estate brokerage services, each firm must pay the B&O tax only upon its respective share of the total commission. In addition, statutory terms are updated to be consistent with real estate licensing laws.
- **Passed** **Technical Changes To the State's Tax Code** SB 5167:
  - Clarification of the service and other activities B&O tax rate to clarify that the tax rate

does not apply to any activity taxed under the international services B&O rate.

- The word "common" is deleted from the definition of "affiliated" in the B&O tax provision providing an exemption of amounts received by a financial institution from an affiliated person.
- References and definitions in the Food Stamp Program are updated.
- Property Tax Relief Program for Low-Income Seniors and Disabled Persons are made.
- Combines two statutory provisions relating to the subpoena of tax records, documents, or testimony.
- Removes the requirement for receipts from the local 1 percent tax on car rentals
- **Passed** **Employee Meals** SB 5501 exempts meals provided by a restaurant to its employees without a specific charge from business and occupation, retail sales, and use taxes.
- **Passed** **Property Management Companies** SB 5289 repeals the existing B&O tax exemption for payments made to certain property management companies for wages and benefits paid to, or on behalf of, on-site personnel. It replaces that exemption with a new deduction for certain property management companies for amounts received for wages, benefits, and payroll taxes paid to, or for, personnel performing on-site functions.
- **Passed** **Nonresident Tax Exemption** SB 5763 provides that the residents of any state, possession, territory, or province of Canada may not take the nonresident sales tax exemption if their place of resi-

dence imposes a generally applicable value added tax, gross receipts tax on retailing activities, or similar generally applicable tax of 3 percent or more.

- **Passed Solar Energy Systems SB 5526** reduces the B&O tax rate from 0.484 percent to 0.275 percent for manufacturing solar energy systems using stirling converters and for wholesale sales by the manufacturer of such solar energy systems.
- **Passed SB 5849 Taxing of Estates** For estates of decedents dying after December 31, 2009, and before December 18, 2010, this bill allows any affected beneficiary of a will or trust to bring a court proceeding to determine whether the decedent intended that a formula clause in the will or trust be construed based on federal law as it existed after December 31, 2009, including changes made to the federal estate tax in 2010, regardless of whether the will or trust is ambiguous. The proceeding must be brought within two years following the decedent's death. The bill provides that the due dates for payment and filing of Washington estate tax returns do not change.

## Unemployment Insurance

- **Passed UI Reforms** Reduced taxes, provided additional benefits, and a worker retaining program. This legislation reduced employer unemployment taxes by over \$300 million in 2011 and an additional \$60 million in 2012-2016. It also saved employers an additional \$320 million by changing the trigger for state paid extended unemployment benefits so that the federal government pays extended unemployment benefits to Washington unemployed workers and not higher state employer paid unemployment taxes to pay for these extended benefits. HB 1091
- **Passed UI Tax Fairness SJM 8008**

the United States Department of Labor is requested to provide Washington and its UI tax paying employers with federal unemployment tax relief and a financial benefit equal to any benefit provided to employers in states who have had to borrow from the federal Unemployment Account.

## Wages

- **Passed Prevailing Wages:** An employer, contractor, or subcontractor that fails to provide or allow inspection of records requested by L&I within 60 days of the request may not use the records in any proceeding to challenge the correctness of any determination made by L&I that wages are owed; that a record or statement is false; or that the employer, contractor, or subcontractor has failed to file a record or statement. SB 5070 no opposition

## Workers Compensation (Industrial Insurance)

- **Passed State Industrial Insurance Reform** HB 2123 includes the following:
  - Allows workers 55 and older to enter into a structured settlement agreement in lieu of receiving monthly lifetime pension benefits. This will apply to workers age 50 or older beginning in 2016
  - Establishes a settlement oversight process to ensure workers understand the effect of their settlement before the settlement becomes final.
  - Establishes a return to work program where employers who re-employ injured workers will receive a partial subsidy for the wages they pay the re-employed worker
  - Suspends the Cost of Living Increases for injured workers already receiving lifetime pension for 2011—2013 with no

catch up

- Sets up a premium “rainy day” fund where excess premiums are placed, in lieu of rate decreases, to minimize the need for future rate increases.
- Enacts a Permanent Partial Disability (PPD) award offset for workers who have previously received a PPD award. The new PPD award is partially offset by the previous PPD award.
- Reestablishes the Safety and Health Investment Project program (safety grants) and provides \$5+ million in funding from industrial insurance funds for the 2011—2013 budget period.
- Continues and enhances the Departments fraud program to reduce fraud from employers and workers.
- Requires a number of studies and reports back to the Legislature on the effects of this legislation.

**Passed Industrial Insurance Medical Services SB 5801** L&I must establish a health care provider network to treat injured workers. Providers who follow L&I established best practice standards can provide more services than those who do not.

L&I must establish additional COHES, with a goal of extending access to rehabilitation services to more injured workers by December 2015. L&I can certify or decertify COHE programs. Projected to save about \$100 million every two years.

- **Passed: Industrial Insurance Rate Notices** Rate notices must include an accounting that clearly identifies all programs and services that are financed in whole or in part by state fund premiums or self-insurers' administrative assessments. SB 5278