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**SUBSTITUTE HOUSE BILL 2023**

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**State of Washington                      63rd Legislature                      2014 Regular Session**

**By** House Business & Financial Services (originally sponsored by Representatives Habib, Ryu, Zeiger, and Maxwell)

READ FIRST TIME 01/27/14.

1            AN ACT Relating to allowing crowdfunding for certain small  
2 securities offerings; amending RCW 42.56.270; adding new sections to  
3 chapter 21.20 RCW; and creating new sections.

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

5            NEW SECTION.    **Sec. 1.**    This act may be known and cited as the  
6 Washington jobs act.

7            NEW SECTION.    **Sec. 2.**    The legislature finds that start-up  
8 companies play a critical role in creating new jobs and revenues.  
9 Crowdfunding, or raising money through small contributions from a large  
10 number of investors, allows smaller enterprises to access the capital  
11 they need to get new businesses off the ground. The legislature  
12 further finds that state securities registration can be prohibitively  
13 expensive for the small offerings that crowdfunding facilitates, and  
14 the use of crowdfunding for business financing in Washington is  
15 unnecessarily restricted by state securities laws. Helping new  
16 businesses access equity crowdfunding will democratize venture capital  
17 and facilitate investment by Washington residents in Washington

1 start-ups. For these reasons, the legislature intends to provide  
2 Washington businesses and investors the opportunity to benefit from  
3 equity crowdfunding.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 21.20 RCW  
5 to read as follows:

6 (1) Any offer or sale of a security is exempt from RCW 21.20.040  
7 through 21.20.300 and 21.20.327, except as expressly provided, if:

8 (a) The offering is:

9 (i) Made through a portal registered with the department of  
10 financial institutions; or

11 (ii) First filed with and declared exempt by the director;

12 (b) The offering is conducted in accordance with the requirements  
13 of section 3(a)(11) of the securities act of 1933 and securities and  
14 exchange commission rule 147, 17 C.F.R. Sec. 230.147;

15 (c) The issuer is an entity organized and doing business in the  
16 state of Washington;

17 (d) Each investor provides evidence or certification of residency  
18 in the state of Washington at the time of purchase;

19 (e) The issuer files an escrow agreement with the director  
20 providing that all offering proceeds will be released to the issuer  
21 only when the aggregate capital raised from all investors equals or  
22 exceeds the minimum target offering, as determined by the director;

23 (f) The aggregate purchase price of all securities sold by an  
24 issuer pursuant to the exemption provided by this section does not  
25 exceed one million dollars during any twelve-month period;

26 (g) The aggregate amount sold to any investor by one or more  
27 issuers during the twelve-month period preceding the date of the sale  
28 does not exceed:

29 (i) The greater of two thousand dollars or five percent of the  
30 annual income or net worth of the investor, as applicable, if either  
31 the annual income or the net worth of the investor is less than one  
32 hundred thousand dollars; or

33 (ii) Ten percent of the annual income or net worth of the investor,  
34 as applicable, up to one hundred thousand dollars, if either the annual  
35 income or net worth of the investor is one hundred thousand dollars or  
36 more;

1 (h) The investor acknowledges the following statement at the time  
2 of sale: "I acknowledge that I am investing in a high-risk,  
3 speculative business venture, that I may lose all of my investment, and  
4 that I can afford the loss of my investment";

5 (i) The issuer reasonably believes that all purchasers are  
6 purchasing for investment and not for sale in connection with a  
7 distribution of the security; and

8 (j) The issuer and investor provide any other information  
9 reasonably requested by the director.

10 (2) Attempted compliance with the exemption provided by this  
11 section does not act as an exclusive election. The issuer may claim  
12 any other applicable exemption.

13 (3) For as long as securities issued under the exemption provided  
14 by this section are outstanding, the issuer shall provide a quarterly  
15 report to the issuer's shareholders by making such report publicly  
16 accessible, free of charge, at the issuer's internet web site address  
17 with a user name and password within forty-five days of the end of each  
18 fiscal quarter. The report must contain the following information:

19 (a) Executive officer and director compensation, including  
20 specifically the cash compensation earned by the executive officers and  
21 directors since the previous report and on an annual basis, and any  
22 bonuses or other compensation, including stock options or other rights  
23 to receive equity securities of the issuer or any affiliate of the  
24 issuer, received by them; and

25 (b) A brief analysis by management of the issuer of the business  
26 operations and financial condition of the issuer.

27 (4) Securities issued under the exemption provided by this section  
28 may not be transferred by the purchaser during a one-year period  
29 beginning on the date of purchase, unless the securities are  
30 transferred:

31 (a) To the issuer of the securities;

32 (b) To an accredited investor;

33 (c) As part of a registered offering; or

34 (d) To a member of the family of the purchaser or the equivalent,  
35 or in connection with the death or divorce or other similar  
36 circumstances, in the discretion of the director.

1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 21.20 RCW  
2 to read as follows:

3        The director must adopt rules to implement sections 2 and 3 of this  
4 act subject to RCW 21.20.450 including, but not limited to:

5        (1) Adopting rules for filing with the director under section 3 of  
6 this act by October 1, 2014;

7        (2) Adopting rules for registration of a portal under section 3 of  
8 this act by January 1, 2015;

9        (3) Establishing filing and transaction fees sufficient to cover  
10 the costs of administering this section and sections 2 and 3 of this  
11 act by January 1, 2015; and

12        (4) Adopting any other rules to implement section 3 of this act by  
13 April 1, 2015.

14        The director shall take steps and adopt rules to implement this  
15 section by the dates specified in this section.

16        **Sec. 5.**    RCW 42.56.270 and 2013 c 305 s 14 are each amended to read  
17 as follows:

18        The following financial, commercial, and proprietary information is  
19 exempt from disclosure under this chapter:

20        (1) Valuable formulae, designs, drawings, computer source code or  
21 object code, and research data obtained by any agency within five years  
22 of the request for disclosure when disclosure would produce private  
23 gain and public loss;

24        (2) Financial information supplied by or on behalf of a person,  
25 firm, or corporation for the purpose of qualifying to submit a bid or  
26 proposal for (a) a ferry system construction or repair contract as  
27 required by RCW 47.60.680 through 47.60.750 or (b) highway construction  
28 or improvement as required by RCW 47.28.070;

29        (3) Financial and commercial information and records supplied by  
30 private persons pertaining to export services provided under chapters  
31 43.163 and 53.31 RCW, and by persons pertaining to export projects  
32 under RCW 43.23.035;

33        (4) Financial and commercial information and records supplied by  
34 businesses or individuals during application for loans or program  
35 services provided by chapters 43.325, 43.163, 43.160, 43.330, and  
36 43.168 RCW, or during application for economic development loans or  
37 program services provided by any local agency;

1 (5) Financial information, business plans, examination reports, and  
2 any information produced or obtained in evaluating or examining a  
3 business and industrial development corporation organized or seeking  
4 certification under chapter 31.24 RCW;

5 (6) Financial and commercial information supplied to the state  
6 investment board by any person when the information relates to the  
7 investment of public trust or retirement funds and when disclosure  
8 would result in loss to such funds or in private loss to the providers  
9 of this information;

10 (7) Financial and valuable trade information under RCW 51.36.120;

11 (8) Financial, commercial, operations, and technical and research  
12 information and data submitted to or obtained by the clean Washington  
13 center in applications for, or delivery of, program services under  
14 chapter 70.95H RCW;

15 (9) Financial and commercial information requested by the public  
16 stadium authority from any person or organization that leases or uses  
17 the stadium and exhibition center as defined in RCW 36.102.010;

18 (10)(a) Financial information, including but not limited to account  
19 numbers and values, and other identification numbers supplied by or on  
20 behalf of a person, firm, corporation, limited liability company,  
21 partnership, or other entity related to an application for a horse  
22 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor  
23 license, gambling license, or lottery retail license;

24 (b) Internal control documents, independent auditors' reports and  
25 financial statements, and supporting documents: (i) Of house-banked  
26 social card game licensees required by the gambling commission pursuant  
27 to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes  
28 with an approved tribal/state compact for class III gaming;

29 (11) Proprietary data, trade secrets, or other information that  
30 relates to: (a) A vendor's unique methods of conducting business; (b)  
31 data unique to the product or services of the vendor; or (c)  
32 determining prices or rates to be charged for services, submitted by  
33 any vendor to the department of social and health services for purposes  
34 of the development, acquisition, or implementation of state purchased  
35 health care as defined in RCW 41.05.011;

36 (12)(a) When supplied to and in the records of the department of  
37 commerce:

1 (i) Financial and proprietary information collected from any person  
2 and provided to the department of commerce pursuant to RCW  
3 43.330.050(8); and

4 (ii) Financial or proprietary information collected from any person  
5 and provided to the department of commerce or the office of the  
6 governor in connection with the siting, recruitment, expansion,  
7 retention, or relocation of that person's business and until a siting  
8 decision is made, identifying information of any person supplying  
9 information under this subsection and the locations being considered  
10 for siting, relocation, or expansion of a business;

11 (b) When developed by the department of commerce based on  
12 information as described in (a)(i) of this subsection, any work product  
13 is not exempt from disclosure;

14 (c) For the purposes of this subsection, "siting decision" means  
15 the decision to acquire or not to acquire a site;

16 (d) If there is no written contact for a period of sixty days to  
17 the department of commerce from a person connected with siting,  
18 recruitment, expansion, retention, or relocation of that person's  
19 business, information described in (a)(ii) of this subsection will be  
20 available to the public under this chapter;

21 (13) Financial and proprietary information submitted to or obtained  
22 by the department of ecology or the authority created under chapter  
23 70.95N RCW to implement chapter 70.95N RCW;

24 (14) Financial, commercial, operations, and technical and research  
25 information and data submitted to or obtained by the life sciences  
26 discovery fund authority in applications for, or delivery of, grants  
27 under chapter 43.350 RCW, to the extent that such information, if  
28 revealed, would reasonably be expected to result in private loss to the  
29 providers of this information;

30 (15) Financial and commercial information provided as evidence to  
31 the department of licensing as required by RCW 19.112.110 or  
32 19.112.120, except information disclosed in aggregate form that does  
33 not permit the identification of information related to individual fuel  
34 licensees;

35 (16) Any production records, mineral assessments, and trade secrets  
36 submitted by a permit holder, mine operator, or landowner to the  
37 department of natural resources under RCW 78.44.085;

1 (17)(a) Farm plans developed by conservation districts, unless  
2 permission to release the farm plan is granted by the landowner or  
3 operator who requested the plan, or the farm plan is used for the  
4 application or issuance of a permit;

5 (b) Farm plans developed under chapter 90.48 RCW and not under the  
6 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to  
7 RCW 42.56.610 and 90.64.190;

8 (18) Financial, commercial, operations, and technical and research  
9 information and data submitted to or obtained by a health sciences and  
10 services authority in applications for, or delivery of, grants under  
11 RCW 35.104.010 through 35.104.060, to the extent that such information,  
12 if revealed, would reasonably be expected to result in private loss to  
13 providers of this information;

14 (19) Information gathered under chapter 19.85 RCW or RCW 34.05.328  
15 that can be identified to a particular business;

16 (20) Financial and commercial information submitted to or obtained  
17 by the University of Washington, other than information the university  
18 is required to disclose under RCW 28B.20.150, when the information  
19 relates to investments in private funds, to the extent that such  
20 information, if revealed, would reasonably be expected to result in  
21 loss to the University of Washington consolidated endowment fund or to  
22 result in private loss to the providers of this information;

23 (21) Financial, commercial, operations, and technical and research  
24 information and data submitted to or obtained by innovate Washington in  
25 applications for, or delivery of, grants and loans under chapter 43.333  
26 RCW, to the extent that such information, if revealed, would reasonably  
27 be expected to result in private loss to the providers of this  
28 information; (~~and~~)

29 (22) Market share data submitted by a manufacturer under RCW  
30 70.95N.190(4); and

31 (23) Any information collected by the department of financial  
32 institutions pursuant to sections 3 and 4 of this act.

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