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# CHAPTER EIGHT

## EXPANDING BUSINESS OPPORTUNITIES AND EMPLOYMENT

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### **1. Policy Recommendation: Help family businesses by repealing the estate tax**

In 1981, Washington voters approved Initiative 402 to repeal the state estate tax. The popular measure passed by more than a two-to-one margin.<sup>1</sup> In 2005, however, state lawmakers passed a law that repealed the voter-approved Initiative 402 law, and instead imposed a stand-alone Washington estate tax.

The rate at which lawmakers impose the tax on a family with an estate varies between 10 percent and 20 percent, depending on the size of the estate. Washington’s maximum tax rate is the highest of any state in the nation. Families are taxed if an estate’s assessed value exceeds \$2.054 million, with the threshold adjusted annually, usually upward, based on inflation. Family farms are exempt, but there is no exemption for family-owned small businesses.

#### **Estate tax falls hardest on small businesses**

In passing the 2005 estate tax, lawmakers imposed a significant tax burden on Washington citizens. The state Department of Revenue collected more than \$154 million in estate taxes in fiscal year 2015.<sup>2</sup>

This special tax falls hardest on small businesses. Corporations do not pay the tax, and corporate ownership of a business can

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1 “Initiative Measure No. 402, Shall inheritance and gift taxes be abolished...?” Initiatives to the People, Elections and Voting, Office of the Secretary of State, Washington State, November 1981, accessed May 23, 2016, at [https://www.sos.wa.gov/elections/initiatives/statistics\\_initiatives.aspx](https://www.sos.wa.gov/elections/initiatives/statistics_initiatives.aspx).

2 “State Tax Collections in Washington,” Historical Data, Table 14, 1990 – 2015, Washington Department of Revenue, [www.dor.wa.gov/Docs/Reports/2015/Tax\\_Statistics\\_2015/Table14.pdf](http://www.dor.wa.gov/Docs/Reports/2015/Tax_Statistics_2015/Table14.pdf).

change at any time without incurring the estate tax.

State officials, however, make families that own small businesses pay an extra tax when ownership is passed from one generation to the next, putting these families at an unfair disadvantage compared to their corporate competitors.

### **Tax targets family-owned businesses**

The state's estate tax suppresses entrepreneurship, impedes economic growth and discourages family businesses from remaining in or relocating to Washington. Most importantly, the tax is unfair, because state lawmakers target family-owned businesses that can least afford to pay it, while their larger, corporate counterparts are exempt. Studies consistently show that estate taxes are among the most harmful to a state's economic growth.<sup>3</sup>

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<sup>3</sup> "State death tax is a killer," by Stephen Moore and Joel Griffith, Backgrounder #3021, The Heritage Foundation, July 21, 2015, at [www.heritage.org/research/reports/2015/07/state-death-tax-is-a-killer](http://www.heritage.org/research/reports/2015/07/state-death-tax-is-a-killer).

## 2. Policy Recommendation: Avoid imposing a job-killing high minimum wage

For years Washington state has imposed the highest minimum wage of any state, because the state's artificially high wage rate automatically increases each year according to inflation. While a handful of other states have recently eclipsed Washington with higher minimum wages, the state's minimum wage is still among the highest in the nation.

While some workers (those who keep their jobs) may benefit from a higher wage, many others will not. According to decades of research on the impact of a high minimum wage on employment opportunities, strong evidence shows that raising the wage reduces employment for the least skilled and most disadvantaged people.

### Low-skilled workers are hurt by high minimum wage

One study summed up the research conclusion that low-skilled workers are hurt by a high minimum wage:

“The studies that focus on the least-skilled groups that are likely most directly affected by minimum wage increases provide relatively overwhelming evidence of stronger disemployment effects for these groups.”<sup>4</sup>

A high minimum wage reduces job opportunities and cuts work hours. State officials recognize the job-killing effect of a high minimum wage. Precisely because a high minimum wage decreases job opportunities, Washington officials allow 14- and 15-year-olds to be paid 85 percent of the state minimum wage to mitigate some of the job losses for people in this age group. However, those 16 and older must be paid the full minimum wage,

4 “Minimum wages and employment,” by David Neumark, Department of Economics, University of California, Irvine; and William L. Wascher, Board of Governors of the Federal Reserve System, Division of Research and Statistics, 2007, at [www.socsci.uci.edu/~dneumark/min\\_wage\\_review.pdf](http://www.socsci.uci.edu/~dneumark/min_wage_review.pdf).

pricing many young workers out of the labor market.

As a result, the unemployment rate for 16-to-24 year olds in Washington has consistently been among the highest in the nation. While the state's general unemployment rate in 2015 was 5.8 percent, the unemployment rate for teen workers (16 to 19 years old) in Washington was 17.6 percent, and the rate for workers ages 20 to 24 was 9.6 percent. This hardship falls hardest on minority youth, whose jobless rate is often three times higher than the general unemployment rate.

### **Young workers unable to find work**

When forced to pay an artificially high minimum wage, employers overwhelmingly favor hiring workers with skills and experience over young, inexperienced workers. High youth unemployment is not simply a matter of young workers being unable to find work. Ample research shows the effect is deep and long lasting, affecting an individual's long-term job security and lifetime earning potential.

Economists have shown the significant long-term effects of youth unemployment – a “wage scar” that leaves a lasting harmful impact on a worker's employment prospects and future earnings. The longer a young worker remains unemployed, the worse the scarring effect he or she will experience.

### **Taking away freedom of choice**

Officials who impose a high minimum wage take away the greatest labor advantage young people have, their ability to compete on price in finding a job. If a young worker offers an employer a better bargain, the worker is more likely to get hired. High minimum wage laws take away workers' freedom of choice.

If a worker is willing to work for a certain hourly wage that an employer wants to pay, it is unfair and disrespectful for people

with government power to outlaw a voluntary and mutually beneficial agreement. Young people who want to work should be allowed to work, even if the money they want to earn is less than some ideal number chosen by distant lawmakers.

### **3. Policy Recommendation: Avoid imposing mandatory paid leave laws**

There is no federal requirement that employers provide workers with paid sick or vacation leave. The federal Family and Medical Leave Act requires that workers in companies with 50 or more employees receive up to 12 weeks of unpaid leave for specified family and medical reasons. Congress has decided not to require paid leave, because of how federal mandates hurt workers who want to receive other benefits.

Washington state also does not require employers to provide paid sick or vacation leave. In fact, no state requires paid vacation leave, while just five states (Connecticut, California, Oregon, Massachusetts and Vermont) mandate paid sick leave. However, about two dozen cities around the nation, including four cities in Washington (Seattle, Tacoma, Spokane and SeaTac), have ordinances mandating paid sick leave.

#### **One-size-fits-all mandates**

Mandating one-size-fits-all employee benefits comes with a cost to businesses and to workers, especially for the state's 203,000 small employers. To comply, employers must pass some or all of the added costs onto employees, in the form of reduced hours, lower wages and cuts in non-mandated benefits.

Consumers also bear some of the cost, in the form of higher prices and lower-quality service. The rise in prices falls hardest on poor families who are least able to afford it.

According to the Bureau of Labor Statistics (BLS), the average cost to an employer for paid sick leave is 25 cents per hour per employee. Taken in isolation, an extra 25 cents per hour may seem small. Looking at the numbers in aggregate, however, shows that seemingly negligible costs add up quickly.

## **Staggering cost of paid leave mandate**

There are over three million workers in Washington state. Nationally, 39 percent of private-sector workers do not receive paid sick leave. Assuming the same rate in Washington, nearly 1.9 million workers in Washington state would receive paid sick leave if imposed by mandate. Assuming those workers work the national average of 1,700 hours per year, the annual cost to Washington employers for a paid sick leave mandate would be a staggering \$788 million.

Employers could not simply absorb an extra \$788 million every year without cutting work hours, raising prices, or both. They would be forced to shift costs back to workers, by eliminating non-mandated benefits (such as health care or vacation time) and by reducing hours, and to consumers, in the form of increased prices.

## **Preserving a flexible workplace and improved benefits**

Like a high minimum wage, a paid sick leave mandate imposes an artificial decision on workers that they may not want. Some workers would rather have more work hours, or receive a higher salary, or get better health benefits, or have more for retirement, than receive a paid sick leave benefit. Officials who push for paid leave mandates want to take these choices away and substitute what they think is best for workers. Avoiding arbitrary mandates imposed by law allows a flexible workplace, improves other benefits, and shows respect for workers.

#### **4. Policy Recommendation: Reduce the regulatory burden by requiring legislative oversight of agency rulemaking**

Washington is considered one of the most heavily regulated states in the nation. A recent study by the Pacific Research Institute ranks Washington as the 8th most regulated state.<sup>5</sup> Another study, by the Mercatus Center at George Mason University, using different measures, ranks Washington as the 13th most regulated.<sup>6</sup> Both rankings demonstrate a regulatory environment in urgent need of reform.

##### **Washington's harsh regulatory burden**

Business owners agree. They increasingly identify Washington's harsh regulatory burden as the major obstacle to business growth and job creation.

Even state agencies acknowledge the regulatory problem in Washington. In recent years the Department of Commerce, the State Auditor, the Department of Revenue and the Washington Economic Development Commission (WEDC) have issued reports describing the morass of regulations employers must know, understand and obey in order to do business legally in our state.

Each of these agencies recommends that state officials provide regulatory relief in order to retain and attract businesses. In a strongly-worded condemnation of our state's regulatory climate, commissioners at the WEDC concluded:

“Washington's overly burdensome regulatory system must be

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5 “The 50-State Small Business Regulation Index,” by Wayne Winegarden, Ph.D., Pacific Research Institute, July 2015, at [www.pacificresearch.org/leadadmin/images/Studies\\_2015/SmBusinessIndex\\_UpdatedVersion2\\_web.pdf](http://www.pacificresearch.org/leadadmin/images/Studies_2015/SmBusinessIndex_UpdatedVersion2_web.pdf).

6 “Freedom in the 50 States; An Index of Economic Freedom,” by William P. Ruger and Jason Sorens, Mercatus Center at George Mason University, 2013 edition, at <http://freedominthe50states.org/about>.



addressed as a top economic development priority.”<sup>7</sup>

### **15,000 pages of new rules**

State agencies have replaced the legislature as the primary vehicle for day-to-day lawmaking. Unelected agency officials increasingly use the rulemaking process to impose onerous regulations that normally would not be approved by the elected legislature. In 2015, state agencies filed 1,535 new rules that fill 15,727 pages. They adopted 1,046 of those rules, filling 9,147 pages and changing 5,305 sections of the Washington Administrative Code.<sup>8</sup>

When unelected bureaucrats create so many rules there is significantly less public accountability, transparency and debate than when elected representatives in the legislature pass new laws.

In addition to the sheer volume of rules is the problem of imposing regulation without public accountability or representation. Requiring legislative approval of all regulations issued by state agencies would hold unelected officials accountable for the regulations they want to impose on citizens, and would hold lawmakers accountable for supporting or opposing those regulations.

### **Require a roll call vote on regulations**

Agency officials routinely point to legislative mandates as cover for the rules they want to impose, even when the proposed rules go far beyond what lawmakers intended. Requiring a clear roll call vote on new rules would make lawmakers responsive to the public for the regulations they have directed agencies to implement.

7 “Driving Washington’s prosperity: A strategy for job creation and competitiveness,” Washington Economic Development Commission, March 2013, at [www.wedaonline.org/documents/Con2014/2013StrategicPlan.pdf](http://www.wedaonline.org/documents/Con2014/2013StrategicPlan.pdf).

8 “Agency rule-making activity,” Office of the Code Reviser, State of Washington, Table 1, 2015, at <http://leg.wa.gov/CodeReviser/Documents/rulactiv.pdf>.

Requiring legislative approval of agency regulations would prevent agency officials from unilaterally imposing regulations with no concern for the consequences. The result would be to increase public accountability, deliver relief for hard-working citizens, and provide a much-needed check on agency rulemaking activity.

## 5. Policy Recommendation: Provide for the automatic repeal of outdated regulations

It is difficult to imagine the sheer bulk of state regulations that are imposed every day on the people of Washington state. State regulations fill 32 thick volumes, comprising thousands of pages and forming a stack of paper over five feet high. These rules have the force of law, and they strictly control and limit the day-to-day activities of every person in the state.

Government rules are clearly needed in an orderly society. Regulations protect public safety, promote public health, assist needy families, help the jobless, protect the civil rights of all residents, and guard against consumer fraud. This need was recognized by the founders of the state, who recommended “a frequent recurrence to fundamental principles,” which is “essential to the security of individual rights and the perpetuity of free government.”<sup>9</sup>

### Regulations last forever

The problem is that under the current system of governing most state regulations are written to last forever. State rules often last far longer than their intended purpose. In fact, regulations usually outlive the state officials who created them, and go on limiting people’s lives long after anyone can remember why they were imposed in the first place.

Within the limits of ordered liberty, it is the right of citizens to live as they see fit, not as officials in government direct. When people in state government overstep their bounds by regulating the smallest details of lawful activities, they increase their own power by hindering the vibrant economic and social life of the community.

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<sup>9</sup> Constitution of the State of Washington, Article 1, Section 23.

### **Review rules every five years**

To solve the problem of regulations that are practically immortal, policymakers should require all agency rules and regulations to carry a sunset provision – a date on which rules will automatically expire. Expiration dates could be set so that state agency rules would come up for review every five years on a regular schedule and, if still needed, would be reauthorized by the legislature.

Agency managers would notify the legislature of approaching expiration dates a year in advance, giving lawmakers time to hear from the public and to review regulations to see if they are still needed.

The default assumption of this policy should be in favor of citizens, not state agencies. If the legislature does not act to continue a rule, it would expire, freeing citizens to make their own decisions in an area once constricted by the government. Rules that are really necessary and enjoy broad community support would be easily renewed, continuing in force until the next review period.

## Additional Resources

“Did your teen find a summer job?,” Policy Notes, Washington Policy Center, September 2012

“Paid leave would cost non-union employers over \$1.5 billion annually; Unions seek to exempt themselves from workplace mandates,” Legislative Memo, Washington Policy Center, March 2015

“SB 6396 would bring review and accountability to agency rule-making,” Legislative Memo, Washington Policy Center, February 2016

“Seven steps on the road to economic recovery; Key recommendations to improve Washington’s small business climate,” Policy Brief, Washington Policy Center, January 2012

“Changing views of the estate tax: Implications for legislative options,” by Douglas Holtz-Eakin and Cameron T. Smith, American Family Business Foundation, February 2009

“Help grow the economy by repealing the estate tax,” Opinion/Editorial, Washington Policy Center, October 17, 2009



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# THE POLICY EXPERTS

## ABOUT THE EDITOR AND AUTHORS

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Paul Guppy is a graduate of Seattle University and holds graduate degrees from Claremont Graduate University and the London School of Economics. He worked for 12 years in the U.S. Congress as a Chief of Staff and Legislative Director. He writes extensively on tax policy, public finance and other issues. He is a frequent commentator on radio and TV news programs, and in newspapers across the state.



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Liv Finne is a graduate of Wellesley College and Boston University Law School. She is retired from civil litigation practice and is a partner in the small business she owns with her husband. She is the author of *An Option for Learning: An Assessment of Student Achievement in Charter Public Schools*; and *An Education Reform Plan: Eight Practical Ways to Improve Public Schools*. She is the founder and primary author of Washington Policy Center's widely-read education blog.



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Chris Cargill graduated from Gonzaga University with a degree in broadcast communications and political science. He worked as a TV news producer for 10 years and is an ex-officio member of the Spokane Valley Chamber of Commerce and the Tri-City Regional Chamber of Commerce. He has served on the Spokane Regional Transportation Commission Advisory Committee and currently serves on the Spokane Mayor's Advisory Council on Small Business. He is the author of numerous policy studies on Eastern Washington issues and is a frequent guest host and commentator on news radio stations.



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Jason Mercier is a graduate of Washington State University and serves on the board of the Washington Coalition for Open Government and Candidate Verification. He is also an ex-officio member of the Tri-City Regional Chamber of Commerce. He worked with lawmakers to create the state's renowned budget transparency website [www.fiscal.wa.gov](http://www.fiscal.wa.gov). In 2010, Governor Gregoire appointed him to the state Fiscal Responsibility and Reform Panel. He has testified numerous times before legislative committees on government reform issues, and his commentary and op-eds appear regularly on T.V., radio and in newspapers around the state.





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**ERIN SHANNON | Director, Center for Small Business and Labor Reform**

Erin Shannon holds a degree in political science from the University of Washington. She served as Public Relations Director of the state's largest small business trade association, and was the spokesperson for several pro-small business initiative campaigns. Erin has testified numerous times before legislative committees on small business issues. Her op-eds appear regularly in newspapers around the state, including *The Seattle Times* and *The Puget Sound Business Journal*, and she has appeared on several national radio and T.V. programs including Fox News, CNN Money, and "Stossel with John Stossel" on the Fox Business Channel. She is the director of WPC's Olympia office.



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Dr. Roger Stark is a retired physician and a graduate of the University of Nebraska's College of Medicine. He is a co-founder of the open heart surgery program at Overlake Hospital and he has served on the hospital's governing board and as Board Chair for the Overlake Hospital Foundation. He is the author of two books, including *The Patient-Centered Solution: Our Health Care Crisis, How It Happened, and How We Can Fix It*. Dr. Stark has testified before Congress on the Affordable Care Act and he speaks frequently on health care issues to civic groups across the state. He currently serves on the Board of the Washington Liability Reform Coalition and is an active member of the Woodinville Rotary.



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