24 Ways to Improve the State's Small Business Climate

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An In-Depth Analysis of The Results From The 2007 Statewide Small Business Conference

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Mission and Vision:

The mission of Washington Policy Center is to improve the lives of Washington's citizens by promoting free market solutions to the policy challenges facing our state.

Washington Policy Center is a non-partisan public policy research organization in Seattle and Olympia. WPC publishes studies, sponsors events and conferences, and educates citizens on the crucial public policy issues facing Washington state.

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Center for Small Business:

Washington Policy Center's small business research focuses on several key areas of concern in the policy arena that small-business owners feel hinder them from achieving success in the marketplace. Through conferences, roundtables, research and analysis and legislative testimony, the center uses input from small business owners and common-sense solutions to make Washington a better place for small businesses.

Summary of Recommendations

Why Small Businesses?

What is the current condition of the economy for small businesses in Washington state? It depends on whom you ask. By some estimates, Washington ranks among the best in the nation; among others our state is somewhere in the middle but nowhere near the top.

But if you are a policymaker, how do you measure whether our state's small business climate is friendly? What measure do you use and how do you go about figuring out how to improve areas that are weak?

For the past seven years, Washington Policy Center's Center for Small Business has been conducting research on how friendly Washington's small business climate is, what to do about improving areas that are not friendly and supplying accurate analysis to aid policymakers in making tough decisions.

It is in the best interest of state policymakers and elected officials to create and maintain a business climate that encourages the startup and growth of small businesses and reduces barriers to their success.

The numbers speak for themselves: businesses with fewer than 50 employees employ half of the private sector workforce; they account for 85% of registered businesses in the state and small businesses added net jobs during the last recession, while the large business sector lost jobs.

Small business owners are not looking for handouts or special-interest provisions. They are looking for a fair shot at making it in the hard-knock life that is owning and operating a small business.

A Brief History

Since 2001, Washington Policy Center has worked to improve the small business climate in Washington state through hosting conferences and roundtables to hear small business owners' concerns and policy recommendations. Combined with a systematic approach to sound research and analysis with an emphasis on free market solutions, WPC issues reports and policy proposals to help policymakers make informed decisions when deciding how to improve the state's business climate.

Beginning in 2003, during odd-numbered years Washington Policy Center holds a Statewide Business Conference with small business owners, policymakers, media, trade associations and lobbyists in order to flesh out solid policy recommendations in a number of pertinent areas. The Conference also brings in state policymakers to address small business owners – Governor Gregoire keynoted the 2005 Conference and Attorney

General McKenna spoke during the 2007 Conference.

The resulting recommendations are then compiled by Washington Policy Center and passed on to policymakers with accompanying analysis.

During the even-numbered years, Washington Policy Center conducts regional small business issue forums around the state. In 2006, the Center held seven forums dealing primarily with health insurance regulations and the November ballot initiatives.

The ultimate goal of these efforts is to educate policymakers, the media and anyone who is tasked with improving the small business climate on how to best go about accomplishing their tasks.

The issues covered during the 2007 Statewide Small Business Conference on November 8th in SeaTac were:

- Rising cost of health insurance
- Workers Compensation/Unemployment Insurance
- Tax Reform
- Paid Family Leave
- Transportation
- Streamlined Sales Tax

- Property Rights/Eminent Domain Abuse
- High-Tech/Data Security

Breakout attendees were asked to provide their recommendations on how to improve Washington's small business climate. The results offer a clear agenda for policy reform—an approach local and state officials can use to help Washington's small business climate remain competitive with neighboring states and across the nation.

Strong leadership and a focus on policies that will support small businesses is required to implement these reforms. The small business owners who attended the Conference suggested all the recommendations in this study. The goal of this study is to provide a venue for more detailed analysis of the top three recommendations from each breakout session.

These recommendations offer a path elected officials can take to help ensure Washington's small business community, and our community at large, increased economic vitality and success.

Rising Cost of Health Insurance

The skyrocketing cost of health insurance is the number one concern not just for the small businesses at the conference, but has managed to become a national issue of prominence.

Paying for health coverage is one of the fastest-rising costs facing businesses and citizens in Washington. At the same time, health insurance is one of the most heavily regulated sectors of our state's economy. These two trends are linked, with increasing state regulation playing a major role in driving up the cost and reducing the accessibility of health care coverage.

According to a National Federation of Independent Business survey of small businesses throughout Washington, 63% of small businesses offered their employees health care insurance in 1993. By the early part of this decade, the percentage had dropped to 47%. A 2005 Kaiser Family Foundation report pegged the percentage of all firms (not just small businesses) offering health benefits to employees at 60%, down from 69% five years earlier.

These are the top three recommendations from small business owners to alleviate the pressure of skyrocketing health insurance premiums:

1) Legalize the sale of core-benefits health insurance

Today it is very difficult for a small business to recruit or keep quality employees without offering a complete compensation package that includes health care for the employee and possibly their family.

Currently, small businesses face a competitive disadvantage when purchasing health insurance for their employees, often because of the way the health insurance system is regulated. Small businesses have a limited supply of options to choose from when selecting a health insurance plan. Because of the state's mandatory coverage (see recommendation #3) and benefits on most health insurance, the supply of different types of health insurance is scarce. This system ends up costing smaller businesses more because many of them cannot afford the "Cadillac" (mandate-heavy) plan that Washington state requires.

A more central, core-benefits type of plan would have far fewer mandates than current plans in Washington state are allowed to have. In contrast, Oregon only has 32 state mandates and Idaho only 14.

By reducing the mandates for a lower-cost plan, small business owners could purchase the necessary insurance to retain and acquire the desirable personnel needed to operate a business. Insurance should be available to individuals and businesses with fewer state-imposed mandates and pricing that reflects its actual value to consumers.

2) Open competition and allow consumers and associations to purchase insurance plans from other states

One proposal suggested by Conference participants is to allow consumers to purchase health care coverage from across state lines. Currently, no one in Washington state can purchase insurance from companies in Idaho, Oregon or any other state if an insurer is offering cheaper health insurance in one of those states.

One reason this proposal has not progressed very far is that federal law would need to be reconfigured. U.S. Senate Bill 1955, "The Health Insurance Marketplace Modernization and Affordability Act" would, among other things, establish a process to create uniformity among the varying state health insurance regulations while maintaining state oversight and administration of insurance.

The U.S. Chamber of Commerce has estimated that the savings from these measures could help reduce the cost of health insurance from 15 to 30 percent for small businesses.[1]

This is a particularly contentious issue because state insurance commissioners and some insurance companies will line up against this proposal. Insurance companies have little competition in the state of Washington—competing companies from other states could flood the market with less-expensive alternatives in large part because several other states have imposed fewer mandates on health plans that can be offered by private companies.

3) Freeze health care mandates until current mandates are studied

Washington state health insurance coverage currently includes 51 mandated benefits. A "mandated benefit" is a requirement that an insurance company cover (or offer coverage for) certain procedures, benefits or populations. Medical care mandates in Washington state include such options as mental health, acupuncture, and massage therapy. These mandates are a substantial reason why health insurance coverage is so expensive in Washington.

Mandated benefits increase the price of health insurance premiums. While often times the mandated benefit adds less than

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[1] More information available at: http://www.uschamber.com/issues/index/health/ahps.htm

1% to the total cost of the premiums, the cumulative effect of Washington's 51 mandates can price many small businesses out of the market.

Small businesses recommend that state officials refrain from imposing any additional health insurance mandates until their potential impact is studied. Sufficient time should be set aside to let the insurance industry absorb the rapidly growing number of mandates. During the same timeframe, the legislature should legalize the purchase of core-benefit plans to avoid future years of unsustainable double-digit health insurance cost increases.

Tax Reform

The people and businesses of Washington pay over 50 different kinds of taxes at the state and local level. The largest single revenue source for state and local government is the general sales and use tax, representing about 55 percent of all taxes. The next largest revenue source is the Business and Occupation (B&O) tax at about 18 percent.

The proper function of taxation is to raise money for government, not to direct the behavior of citizens. This is true regardless of whether government is big or small, and this is true for lawmakers at all levels of government. Taxation will always impose some damage on an economy's performance and few disagree that tax reform is a vital issue for Washington's economic competitiveness and general prosperity.

Lawmakers need to build on that consensus and engage in serious tax and budget reform. Simply shifting the tax burden from one sector of the economy to another is to shirk the larger problems of a tax system that continually asks citizens and businesses to pay a larger share of their income to the government. Much of that money could be used for further investment, research and development.

1) Repeal the estate tax

Small businesses worry about the estate tax because owners fear their death could result in the eventual disintegration of their family business because of tax liability. This could end a family-owned local business and potentially causing the loss of jobs. Larger corporations are exempt from this additional tax and therefore have a competitive advantage over family-owned businesses.

In 2005, the State Supreme Court ruled that the way the Department of Revenue applied the estate tax was unconstitutional. Legislators responded by passing a new estate tax system—which the Governor signed in May of 2005. The current system exempts estates worth under $2 million, so if a business owner dies and his business, along with the rest of the estate, is worth less than $2 million, they are exempt from paying the tax. However, it is very easy to surpass a net worth of $2 million when business and personal estates are combined. The state's estate tax rates vary from 10 to 19 percent. This tax is separate from the federal estate tax—with tax rates going up to 35 percent (45 percent beginning in 2011).

Voters attempted to repeal the estate tax with Initiative 920 in 2006, but the initiative was defeated. Initiative 920 would have repealed the entire estate tax system but small business owners stress that a first move should be to exempt family-owned businesses from this tax. Already, family-owned farming businesses are exempted. This gives a competitive advantage to family-owned businesses in the agriculture community that is not enjoyed by any other industries. Legislation to exempt family non-farm businesses was introduced in the 2007 Session but the bill never made it out of committee.

2) Restore the intent of Initiatives 601 and 747

Since tax liability lowers the economic welfare of citizens, policymakers should try to minimize the economic and social problems that taxation imposes. Businesses and citizens then directly gain the benefits of a low tax burden.

For this reason, policymakers should consider the meritorious arguments behind Initiatives 601 and 747—designed largely to limit the amount that state and local governments could raise taxes in a given time period.

Passed in 1993, Initiative 601's main points included limiting the growth of state spending to a calculation based on inflation and population growth (called the fiscal growth factor); requiring a two-thirds vote by the legislature for tax increases; requiring legislative approval of any fee increases in excess of the fiscal growth factor, and; requiring voter approval of any tax increase that would exceed the established spending limit.

Even with Initiative 601 in place, state government spending grew, and grew dramatically. After Initiative 601 was on the books for two years, it became possible to chip away at provisions of the initiative with only a simple majority vote. Because many of the spending-limit provisions in 601 were reversed, government spending began to increase exponentially. Initiative 960's goal, in part, was to put back in place some of these spending restrictions, including a public advisory vote on tax increases and two-thirds legislative approval for tax and fee increases.

In the previous biennium of 2005-2007, state general fund expenditures grew by 16%. That is well above the level of inflation combined with population increases.

Passed in 2001, Initiative 747's main points included a state and local 1% limit on property tax increases per year unless voters at an election approve an increase greater than 1%. The Washington Supreme Court threw out I-747's provisions in early November 2007, saying voters were unaware of the true impacts of the initiative. However, the state legislature held an emergency legislative session on November 20, 2007 to reinstate the 1% property tax limit.

Even with portions of Initiatives 601 and 747 existing today, small business owners know that as state and local government spending continue to escalate, that leaves less money in the private sector for capital investments and economic expansion.

3) Responsible, performance-based government spending

This third suggestion comes on the heels of recommendation #2, in that a limited government must also be a responsible government. One way to help ensure maximum utility of taxpayer dollars—thereby hopefully needing less from the taxpaying public—is to have a system of accountability.

Voters passed Initiative 900 overwhelmingly in 2006 with the intent of using the elected State Auditor's Office to conduct performance audits of some of the largest state and local government agencies. By auditing these agencies (e.g. Washington State Department of Transportation), the goal is to cut down on wasted taxpayer money. Already the State Auditor has highlighted hundreds of millions of dollars in savings in a variety of state and local programs.

Another goal for state government spending policy should be to re-engage the Priorities of Government (POG) process to slow the rate of spending growth. The POG standard has proved successful in the past. POG brings discipline to public spending, slows the growth of the tax burden government places on its citizens and directs limited government funding to where it is needed most.

Paid Family Leave

The idea behind mandatory paid medical leave insurance for employees is not a new one; nor is it exclusive to Washington state. Many states have debated this issue for several years. Proposals for mandatory paid medical leave have been in existence in the Washington legislature for several years but began picking up steam a couple of years ago. During the 2007 Legislative Session legislators passed a program mandating a new state program that entitles workers up to 5 weeks paid time off—$250 a week—to care for the birth or adoption of a newborn child. There are few eligibility requirements and every business is covered and must be part of the system regardless of size.

Currently, under the federal Family and Medical Leave Act (FMLA) of 1993, full-time employees of larger businesses (with more than 50 employees) are entitled to up to 12 weeks of job-protected, unpaid leave for specific medical purposes. This leave is primarily used to take care of an ailing spouse, parent or maternity/paternity leave. When Congress passed the FMLA, it did so based on the compromise that the leave would be unpaid, and small businesses would be exempt. They recognized that this mandate would harm the business community and wanted to take steps to minimize the negative impact while still looking out for the American worker.

But now, state legislators are saying that merely having unpaid time off for the birth of a child is not enough and a system should be put in place to provide some sort of wage assistance for new parents.

Small business owners are nervous about this new, untested and overarching program. There is little precedent for this type of program – only California has a similar system (although New Jersey, New York, Rhode Island and Hawaii have had state-run temporary disability programs).

1. Get rid of it

National studies show that about two-thirds of small businesses provide some sort of paid family leave options to their employees, while the other one-third report taking steps to handle leave requests on a case-by-case basis.[2]

Small business owners feel they are taking adequate steps towards taking care of their employees and are disappointed that the legislature feels differently. Even though legislators failed to attach a funding mechanism to the program last year, and even though there are doubts as to if the system can be set up in time to meet the

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[2] More detailed information available at: http://www.nfib.com/attach/7956

October 1, 2009 deadline, there is little talk of repealing the system.

2. Allow an opt-out

Even though small business owners' first response to the new state-run family leave program is to repeal it, their second choice is to allow for an opt-out system. If a small business could show that it has a similar leave system in place, it could opt-out of the proposed state program. This would help alleviate the regulatory burden small businesses face once subjected to the parameters of the program.

Currently, there is no option to exempt small businesses (as there is for FMLA and the state's medical leave act).

3. Refocus the program on those who need it

Another suggestion made by small business owners is to come up with a program of assistance tailor-made for those who actually need it. One of the criticisms about the proposed family leave program is that any worker is eligible; even ones who might not normally be eligible for other types of government assistance.

Most government programs that provide some sort of wage or living assistance (tax credits, reduced housing costs, food stamps, free lunches, etc.) require a type of means testing. Those applying for help who earn over a certain amount do not qualify for that particular assistance.

With paid family leave, there is no targeting of needy families. "Everyone pays into the system, therefore everyone benefits" is the supposed logic behind the plan but this means that everyone who works—from a janitor, to a carpenter, to an engineer to a corporate executive, is now eligible for this government assistance program, even if they do not really need the $250 a week for five weeks. This creates an entitlement mentality that even though a person may plan accordingly and not really "need" the $1,250 entitlement, they would be fools to leave the benefit unused—a rather symbiotic relationship. Conversely, those workers paying into the system who do not have children would never be able to use the benefit they are paying for.

Transportation

Over the past 20 years, Washington's population has increased almost 40 percent, yet the state road network has not kept pace. The basic highway network was planned in the 1950s and largely built in the 1960s. Since then, only parts of Interstate 90 and Interstate 405, serving Seattle and its suburbs, have received large increases in traffic-carrying capacity. Even so, the Puget Sound region has become one of the most congested metro areas in the nation. Other major traffic corridors around the state have received minor capacity improvements at best, offering little relief to the state's almost five million drivers.

The contentious nature of transportation policy, particularly surrounding the I-5 Puget Sound corridor, and the recent Proposition 1 ballot measure, portray a state deeply divided over how to solve our transportation problems.

Transportation is important to small business owners because time is not only money, but it also contributes to quality of life indicators. Businesses (particularly in the Puget Sound region) lose just over $1 billion a year, or $866 per peak-time driver, in lost time sitting on congested highways.[3] Alleviating traffic congestion helps everyone, not just small businesses.

1) Fix traffic chokepoints

As elementary as this recommendation sounds, it is basic common sense and small business owners want to know their taxpayer dollars are being spent improving

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[3]Texas Transportation Institute report, Performance Measures Summary, http://mobility.tamu.edu/ums/congestion_data/tables/seattle.pdf

the system and the best, most immediate, way to accomplish that is by focusing on the high-traffic chokepoint areas. One area of success in this approach has been the Tacoma Narrows bridge project. Specific steps were taken to alleviate a bottleneck on a specific portion of Highway 16 and traffic rates improved after the project was finished. The Washington State Department of Transportation identified an additional 114 bottlenecks to be addressed.

2) Improve freight mobility

Freight mobility possesses a significant economic role in transportation policy and yet the state's transportation investment strategy is an obstacle for improving the efficiency of moving goods. The freight industry pays about 25% of total revenues from fuel taxes and vehicle registration and weight fees in Washington state. Yet, very little goes to pay for freight-specific infrastructure. The industry is forced to rely on projects that prioritize other transportation areas.

Unfortunately, few of those other areas involve congestion relief and as a result freight mobility suffers. Policymakers could consider creating a freight investment account to fund freight specific projects; increase heavy rail capacity to allow medium and long range freight more choice to shift from roads to rail, and; creating freight-only lanes.

3) Link spending to traffic relief

Small business owners at the Conference are not alone in thinking that transportation spending should be linked to congestion relief. In 2000, Washington's Blue Ribbon Commission on Transportation identified several benchmarks to measure the effectiveness of the state's transportation system. These performance measures were very specific and some of them were adopted into law. They include:

- Traffic congestion on urban state highways shall be significantly reduced and be no worse than the national mean;
- Delay per driver shall be significantly reduced and no worse than the national mean.

However, during the 2007 Legislative Session, the legislature passed Senate Bill 5412, which repealed these benchmarks. Instead, the legislature substituted five broader policy goals: preservation, safety, mobility, environment and stewardship.

In this case, "mobility" means a strategy to move people, rather than improving vehicle flows. This means spending shifts from fixing congestion to providing alternatives to congestion.

It will take a coordinated effort to solve the state's transportation problems but a quick and relatively easy way to begin the process is to retool transportation policy towards linking spending and congestion relief.

Streamlined Sales Tax

On July 1, 2008, Washington will change the way retailers who ship or deliver goods to Washington state customers collect local sales taxes. The Streamlined Sales Tax (SST) bill was signed into law in 2007 and affects how consumers and business collect and pay taxes on goods and services procured over the Internet. It changes our state's tax code from an origin-based system for local retail sales tax to a destination-based system.

According to the Department of Revenue, under the current system, Washington retailers collect local sales tax based on the jurisdiction from which a product is shipped or delivered – "origin-based." Starting next year, they will need to collect based on the destination of the shipment or delivery – "destination-based." This only affects shipments and deliveries to locations within Washington state.

Destination-based sales tax will apply only to businesses that ship or deliver the goods they sell to locations within Washington state. Again, according to the Department of Revenue, under the new rules, if a retailer delivers or ships merchandise to a buyer in Washington state, the sales tax is collected based on the rate at the location where the buyer receives or takes possession of the merchandise. There is no change for deliveries outside the state or over-the-counter sales where customers take home goods from the store location.[4]

1. No business license fees or B&O taxes in localities where no nexus exists.

One of the business community's concerns is the complexity of implementing this new taxing structure. Requiring that businesses file for business licenses or pay B&O taxes in a taxing jurisdiction where the business has no presence was the top concern among small business owners.

A nexus means that the business has some sort of physical presence inside the city and that some portion of the business' activity occurs within the jurisdiction. If a nexus is

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http://dor.wa.gov/Content/GetAFormOrPublication/PublicationBySubject/TaxTopics/MoreSST.aspx#change. Accessed on December 27, 2007 established, a city may levy a B&O tax on the entire value of the transaction or specific activity involved. But because of a broad interpretation of nexus, two cities may simultaneously impose tax on income from the same sale or activity. Steps have been taken in the past to counteract any double-taxation but with the SST businesses are again nervous about the implication the new system could have on taxing business transactions twice.

2. Consolidate local B&O filings with multiple locations or jurisdictions

Because the new system shifts from an "origin-based" system to a "destination-based" system, businesses are worried that they will have to maintain two separate accounting systems—one to account for the B&O tax where the business' physical address is and another system to account for the B&O tax to wherever the "destination" of their goods lie. Not all cities levy a city B&O tax, and those that do charge different rates, which adds to the complexity. Business owners are leery of keeping track of too many overlapping taxing systems.

3. Raise mitigation threshold from $500,000 to $1 million.

The new destination-based sales tax will only apply to businesses that ship or deliver the goods they sell to locations within Washington. But any time a new system is implemented, such as the SST, it costs businesses time and money. To help retailers transition to a destination-based sales tax, the Department of Revenue is providing various forms of assistance to ease any transition costs.

In addition to forums and workshops, the Department authorized certain small retailers up to $1,000 in tax credits in order to offset any necessary changes to their accounting, point-of-sale, etc. One of the eligibility requirements is that the retailer grosses less than $500,000 annually.

Small Business Conference attendees thought that the $500,000 threshold should be raised to $1 million in order to help the smaller retail-oriented businesses. A retail business doing upwards of $1 million in gross revenues is still a relatively small business and should also be eligible for the assistance from the Department of Revenue.

Workers' Compensation

Washington state's workers' compensation system is a complex and important social program and yet it often elicits vacant stares or furrowed brows by anyone who has not been helped by the system. The program replaces employer liability for workplace-related injuries to workers, but it is often confusing and tedious for employers, workers, policymakers, and the public alike.

The Department of Labor and Industries (L&I), which administers the state's workers' compensation program, is one of the largest agencies in state government, with more than 2,700 full-time staff and a budget of just under $600 million. The Department is the sole insurer for most businesses in Washington since private worker compensation insurance is illegal in the state—except for a few rare cases of large companies insuring themselves. The program provides insurance covering over 161,000 employers, 3.2 million workers, and collects over $1.2 billion in premiums each year.

Because of the Department's role of sole insurer for small businesses, the insurance program it administers is extremely large. In the past several years, small business owners have become frustrated with the Department and inconsistent rate increases. Near the end of 2006, Governor Gregoire called for a workers' comp tax-rate holiday for the second half of 2007. There were several reasons for this beneficial move, not the least being that the workers' comp reserve fund had over $1 billion in its reserves. But rather than extending the rate holiday, worker comp rates are scheduled to rise by an average of 3% across the board in

2008. This is much better than the double digit increases from earlier this decade (topping out at a 29% increase in 2003), but small business owners are burdened by the uncertainty of these fluctuating rates.

1. Private industrial insurance

Washington is one of only five states nationwide that make it illegal for companies to purchase private workers' compensation insurance. Large or cash-rich companies may qualify for self-insurance but all others must purchase insurance from an external source—the state government.

L&I therefore plays two important, and possibly contradicting roles, that of regulatory agency and insurance agency. Banning private industrial insurance forces all employers who cannot afford to self-insure to purchase into the state monopoly—and monopolies are notoriously inefficient at meeting the needs of consumers.

Allowing private insurers to compete for workers' compensation insurance business with the state would bring market discipline to the industry. Successful insurers must provide effective, efficient service at comparable rates in order to compete, as they do in Oregon, Idaho and forty-three other states. Insurance companies will try to mitigate workplace injuries through education and other innovative programs because no employee, employer or insurance company wants workplace injuries to occur.

Allowing private insurers to manage the insurance side of workers' compensation would free the personnel at the Department of Labor and Industries to concentrate on their core function: the regulation, oversight and promotion of safe workplaces.

2. Allow compromise and release

Also referred to as "final settlement agreements," compromise and release is an agreement between the employer and the injured worker to allow the worker to receive payments—like a pension—through a flexible structured annuity. The benefit to the small business owner would be to structure an agreement that they would not have to administer. This would lead to faster claim closures and the initial filing and would benefit all involved.[5]

3. Increase fraud prevention for Unemployment Insurance and Workers' Compensation

By the state's own assessment, millions of dollars are lost each year to workers' compensation and unemployment insurance

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[5] For more information on "final settlement agreements," see the WashACE report, "Workers' Compensation 2006." Available online at http://researchcouncil.blogs.com/weblog/files/washace_cb_0606.pdf

fraud. The more fraud that occurs, the higher the future premiums will rise. Regular, thorough audits will help point out and prosecute fraudulent activity.

Over the past several years, due to legislation the Department of Labor and Industries and the Employment Security Department (in charge of Unemployment Insurance) have taken steps to crack down on claims fraud – with much success. Agency personnel will need to continue to be diligent in auditing claims and the system in order to improve operational efficiency.

Property Rights/Eminent Domain Abuse

Private property owners—including those who own businesses—have been on edge since the 2005 *Kelo v. New London* U.S. Supreme Court decision that ruled the U.S. Constitution does not prevent state and local governments from seizing homes and small businesses and transferring them to private developers.

Private property rights are one of the cornerstones of a free society. The ability to hold onto or profit from one's hard work and careful planning is what leads to innovation and entrepreneurship. Small business owners are just as worried that they could lose their business as a private homeowner who is scared to lose his house to eminent domain abuse.

1. Return property if not used as claimed

If an issue arises where a piece of property that was seized for a "public good" is not to be used per the initial justification, then that property should be given back to the original owner. If eminent domain is used to procure property from a private owner, it should be used for the expressed purpose for which it was taken. Otherwise, abuse of the eminent domain law could occur if a government body takes private property for a specific reason but decides to use it for something else—perhaps something that would fall outside the realm of a "public good."

2. Return profits of sale to original owner

If the condemner decides that the property is no longer necessary for a public purpose and should be sold, the prior owner should be eligible to receive any profits from the sale of the property. The government often seizes property and pays what it says the property is worth, but then receives any profits if the property is later sold due to a change of plans. The original property owner should receive any profits from a sale because the property would have still been theirs if not for the intervening government eminent domain action.

3. Increase public disclosure process
While some progress was made in improving the public disclosure process during the 2007 Legislative Session, more needs to be done in order to provide adequate notice to those facing eminent domain decisions.

The government entity condemning a piece of private property is now required to give a property owner 15 days notice before holding a public meeting or taking final action that will select the owners' property for condemnation or that will authorize the use of condemnation to acquire the property.

Suggestions on what better disclosure practices could be implemented ranged from more than 15 days notice to receiving an acknowledged response from the property owner. Legislators must recognize the importance of fairness and equity when dealing with an issue as sensitive as taking away private property.

High-Tech and Identity Theft

As fast as electronic technology develops for legitimate and legal purposes, so too does technology intended for malicious reasons. As quickly as code writers produce software designed to enhance security, someone with criminal motives is seeking a way around it.

As e-commerce continues to grow, particularly in the high-tech-minded Washington state, a steadily increasing number of individuals and organizations rely on electronic and web-based means of storing and exchanging information. The privacy and security of this information is more important than ever before.

Cyber-threats affect virtually everyone in modern society, since sensitive financial and medical records are often stored on vulnerable computer systems, and an increasing amount of shopping, commerce and other routine business takes place over the internet.

Identity thieves use other people's information to pile up charges in their names and then disappear, leaving victims holding the bag—including a wrecked credit profile and a massive problem to clean up.

This subject is important enough that Attorney General Rob McKenna addressed Conference attendees and following his address a breakout session was held that focused on how small business owners could protect themselves and their customers' sensitive data. The recommendations that emerged from the panel were geared more towards small business owners, rather than policymakers.

1. Internal Controls

It is extremely important that businesses have their own sets of internal policies in place in order to combat identity theft. Stories appear monthly about an employee of a business that has a laptop stolen containing sensitive employee or customer data. Carelessness with information is often the number one method identity thieves rely on to access sensitive information.

2. Training

Many businesses are beginning to undertake the training necessary for staff that deals with sensitive employee or client information. Obviously, sensitive information has been around longer than there have been computers and electronic storage, but with new technology comes new challenges. Small business owners in particular often are behind the curve of the latest data-protection methods and should take steps to ensure their staff becomes up-to-speed on data protection and security.

3. More Public Education

As the threat of identity and data theft continues to grow, consumers and business owners must continue to educate themselves. Various state agencies, including the state's

Attorney General's office, are taking steps to be proactive in helping people combat identity theft. Various bills were introduced during the 2007 Legislative Session that authorize further education of consumers, as well as setting up help lines and other resources for victims of identity theft. Expect more measures to pass during the next couple of sessions as the threat continues to increase.[6]

Conclusion

It is important to remember small businesses and their employees when considering legislation. All too often the needs of small businesses are overlooked because they tend to have less of a presence in the halls where legislation is produced.

It is Washington Policy Center's goal that legislators, policymakers, state agency personnel and media use this report as a guide to how many small business owners across the state feel about several of the more important issues affecting them in

[6] For more information on protecting yourself and your business from identity theft, please visit the Attorney General's "Protecting Personal Information Best Practices Report," available online at: http://www.atg.wa.gov/uploadedFiles/Home/Safeguarding_Consumers/Consumer_Issues_A-Z/Identity_Theft_(Privacy)/PrivacyPolicy.pdf

their everyday lives—both personally and professionally.

Many of these ideas are not new, and many are hardly revolutionary. Small businesses take pride in the nose-to-the-grindstone that sustains them through tough and beneficial times. Likewise, most of these recommendations are the common-sense type of suggestions that in the end just make sense for all businesses, not just smaller ones.

About the Author

Carl Gipson is a policy analyst and director for small business and technology at Washington Policy Center. He was formerly Director of Communications and Operations for WPC and regularly writes opinion pieces, legislative memos, policy notes, and is the author of *Reviving Washington's Small Business Climate.* He holds a bachelor's degree in political science from Western Washington University.

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