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SENATE BILL 5734

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Kastama, Chase, and Shin

Read first time 02/09/11. Referred to Committee on Economic Development, Trade & Innovation.

1 AN ACT Relating to tax credits for economic development for  
2 eligible business projects in rural counties; amending RCW 82.62.010,  
3 82.62.020, and 82.62.030; providing an effective date; and declaring an  
4 emergency.

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

6 **Sec. 1.** RCW 82.62.010 and 2010 1st sp.s. c 16 s 11 are each  
7 amended to read as follows:

8 Unless the context clearly requires otherwise, the definitions in  
9 this section apply throughout this chapter.

10 (1) "Applicant" means a person applying for a tax credit under this  
11 chapter.

12 (2) "Department" means the department of revenue.

13 (3) "Eligible area" means a "rural county" as defined in RCW  
14 82.14.370.

15 (4)(a) "Eligible business project" means manufacturing or research  
16 and development activities which are conducted by an applicant in an  
17 eligible area at a specific facility, provided either:

18 (i) The applicant's average qualified employment positions at the  
19 specific facility will be at least fifteen percent greater in the four

1 consecutive full calendar quarters after the calendar quarter during  
2 which the first qualified employment position is filled (~~than the~~  
3 ~~applicant's average qualified employment positions at the same facility~~  
4 ~~in the four consecutive full calendar quarters immediately preceding~~  
5 ~~the calendar quarter during which the first qualified employment~~  
6 ~~position is filled~~));

7 (ii) The applicant has made an investment in new equipment exempt  
8 under RCW 82.08.02565 or 82.12.02565 of at least one million dollars  
9 after July 1, 2011; or

10 (iii) The applicant has expended at least fifty thousand dollars in  
11 employee skill training after July 1, 2011. Expenditures for which a  
12 credit is claimed under RCW 82.04.449 may not be included in  
13 calculating whether the fifty thousand dollar threshold has been met.

14 (b) "Eligible business project" does not include any portion of a  
15 business project undertaken by a light and power business as defined in  
16 RCW 82.16.010 or that portion of a business project creating qualified  
17 full-time employment positions outside an eligible area.

18 (5) "Employee skill training" means training at, or certified by,  
19 a qualified training institution as defined by RCW 28B.67.010 or formal  
20 on the job training as authorized by the federal workforce investment  
21 act, P.L. 105-220, or its successor.

22 (6) "First qualified employment position" means the first qualified  
23 employment position filled for which a credit under this chapter is  
24 sought.

25 ~~((6))~~ (7) "Manufacturing" means the same as defined in RCW  
26 82.04.120. "Manufacturing" also includes:

27 (a) Before July 1, 2010: (i) Computer programming, the production  
28 of computer software, and other computer-related services, but only  
29 when the computer programming, production of computer software, or  
30 other computer-related services are performed by a manufacturer as  
31 defined in RCW 82.04.110 and contribute to the production of a new,  
32 different, or useful substance or article of tangible personal property  
33 for sale; and (ii) the activities performed by research and development  
34 laboratories and commercial testing laboratories; and

35 (b) Beginning July 1, 2010, the activities performed by research  
36 and development laboratories and commercial testing laboratories.

37 ~~((7))~~ (8) "Person" has the meaning given in RCW 82.04.030.

1       ~~((+8+))~~ (9)(a)(i) "Qualified employment position" means a permanent  
2 full-time employee employed in the eligible business project during  
3 four consecutive full calendar quarters.

4       (ii) For seasonal employers, "qualified employment position" also  
5 includes the equivalent of a full-time employee in work hours for four  
6 consecutive full calendar quarters.

7       (b) For purposes of this subsection, "full time" means a normal  
8 work week of at least thirty-five hours.

9       (c) Once a permanent, full-time employee has been employed, a  
10 position does not cease to be a qualified employment position solely  
11 due to periods in which the position goes vacant, as long as:

12       (i) The cumulative period of any vacancies in that position is not  
13 more than one hundred twenty days in the four-quarter period; and

14       (ii) During a vacancy, the employer is training or actively  
15 recruiting a replacement permanent, full-time employee for the  
16 position.

17       ~~((+9+))~~ (10) "Recipient" means a person receiving tax credits under  
18 this chapter.

19       ~~((+10+))~~ (11) "Research and development" means the development,  
20 refinement, testing, marketing, and commercialization of a product,  
21 service, or process before commercial sales have begun, but only when  
22 such activities are intended to ultimately result in the production of  
23 a new, different, or useful substance or article of tangible personal  
24 property for sale. As used in this subsection, "commercial sales"  
25 excludes sales of prototypes or sales for market testing if the total  
26 gross receipts from such sales of the product, service, or process do  
27 not exceed one million dollars.

28       ~~((+11+))~~ (12) "Seasonal employee" means an employee of a seasonal  
29 employer who works on a seasonal basis. For the purposes of this  
30 subsection and subsection ~~((+12+))~~ (13) of this section, "seasonal  
31 basis" means a continuous employment period of less than twelve  
32 consecutive months.

33       ~~((+12+))~~ (13) "Seasonal employer" means a person who regularly  
34 hires more than fifty percent of its employees to work on a seasonal  
35 basis.

36       **Sec. 2.** RCW 82.62.020 and 2007 c 485 s 2 are each amended to read  
37 as follows:

1       (1) Application for tax credits under this chapter must be made  
2 within ninety consecutive days after and not before:

3       (a) The first qualified employment position is filled;

4       (b) The investment threshold for new equipment in RCW  
5 82.62.010(4)(a)(ii) is met; or

6       (c) The expenditure threshold for employee skill training in RCW  
7 82.62.010(4)(a)(iii) is met.

8       (2) The application ((shall)) must be made to the department in a  
9 form and manner prescribed by the department.

10       (3) The application ((shall)) must contain information regarding  
11 the location of the business project, the applicant's average  
12 employment, if any, at the facility for the four consecutive full  
13 calendar quarters immediately preceding the earlier of the calendar  
14 quarter during which the application required by this section is  
15 submitted to the department or the first qualified employment position  
16 is filled, estimated or actual new employment related to the project,  
17 estimated or actual wages of employees related to the project,  
18 estimated or actual costs, time schedules for completion and operation,  
19 and other information required by the department.

20       (4) The department ((shall)) must prescribe a method for  
21 calculating a seasonal employer's average employment levels.

22       (5) The department ((shall)) must rule on the application within  
23 sixty days.

24       (6) Applicants must elect to apply for tax credits based on either  
25 hiring qualified employment positions, investing in new equipment, or  
26 spending for employee skill training and may not receive credits for  
27 more than one of these activities per application.

28       (7) A person cannot apply for a credit under this chapter more than  
29 once within any four consecutive full calendar quarter period.

30       **Sec. 3.** RCW 82.62.030 and 2007 c 485 s 3 are each amended to read  
31 as follows:

32       (1)(a) A person ((shall-be)) is allowed a credit against the tax  
33 due under chapter 82.04 RCW as provided in this section. The credit  
34 ((shall)) equals:

35       (i) Four thousand dollars for each qualified employment position  
36 with wages and benefits greater than ((forty)) fifty thousand dollars

1 annually that is directly created in an eligible business project  
2 (~~and~~);  
3 (ii) Two thousand dollars for each qualified employment position  
4 with wages and benefits less than or equal to (~~forty~~) fifty thousand  
5 dollars annually that is directly created in an eligible business  
6 project;  
7 (iii) One percent of the value of the investment in new equipment  
8 exempt under RCW 82.08.02565 or 82.12.02565 and used by the person in  
9 an eligible business project; and  
10 (iv) One hundred percent of the value of the expenditure in  
11 employee skill training for employees employed at an eligible business  
12 project, but no more than three thousand dollars per worker trained.  
13 (b) For purposes of calculating the amount of credit under (a) of  
14 this subsection with respect to qualified employment positions as  
15 defined in RCW 82.62.010(~~(+8)~~) (9)(a)(ii):  
16 (i) In determining the number of qualified employment positions, a  
17 fractional amount is rounded down to the nearest whole number; and  
18 (ii) Wages and benefits for each qualified employment position  
19 shall be equal to the quotient derived by dividing: (A) The sum of the  
20 wages and benefits earned for the four consecutive full calendar  
21 quarter period for which a credit under this chapter is earned by all  
22 of the person's new seasonal employees hired during that period; by (B)  
23 the number of qualified employment positions plus any fractional amount  
24 subject to rounding as provided under (b)(i) of this subsection. For  
25 purposes of this chapter, a credit is earned for the four consecutive  
26 full calendar quarters after the calendar quarter during which the  
27 first qualified employment position is filled.  
28 (2) The department shall keep a running total of all credits  
29 allowed under this chapter during each fiscal year. The department  
30 shall not allow any credits which would cause the total to exceed seven  
31 million five hundred thousand dollars in any fiscal year. If all or  
32 part of an application for credit is disallowed under this subsection,  
33 the disallowed portion shall be carried over to the next fiscal year.  
34 However, the carryover into the next fiscal year is only permitted to  
35 the extent that the cap for the next fiscal year is not exceeded.  
36 (3) No recipient may use the tax credits to decertify a union or to  
37 displace existing jobs in any community in the state.

1 (4) The credit may be used against any tax due under chapter 82.04  
2 RCW, and may be carried over until used. No refunds may be granted for  
3 credits under this section.

4 (5) The credit may not be claimed for expenditures for which a  
5 credit is claimed under RCW 82.04.449.

6 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
7 preservation of the public peace, health, or safety, or support of the  
8 state government and its existing public institutions, and takes effect  
9 July 1, 2011.

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