
HOUSE BILL 2864

State of Washington

52nd Legislature

1992 Regular Session

By Representatives Sheldon, Brumsickle, Riley, P. Johnson, Orr, H. Myers, G. Fisher, Pruitt, Roland, Bowman, Carlson and Rasmussen

Read first time 01/29/92. Referred to Committee on Revenue.

1 AN ACT Relating to tax exemptions for eligible investment projects;
2 adding a new chapter to Title 82 RCW; repealing RCW 82.60.010,
3 82.60.020, 82.60.030, 82.60.040, 82.60.050, 82.60.060, 82.60.065,
4 82.60.070, 82.60.080, 82.60.090, 82.60.100, and 82.60.900; providing an
5 expiration date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that there are
8 several areas in the state that are characterized by very high levels
9 of unemployment and poverty. The legislature further finds that
10 economic stagnation is the primary cause of this high unemployment rate
11 and poverty; that new state policies are necessary in order to promote
12 economic stimulation and new employment opportunities in these
13 distressed areas; and that policies providing incentives for economic
14 growth in these distressed areas are essential. For these reasons, the

1 legislature hereby establishes a tax exemption program to be effective
2 solely in distressed areas and under circumstances where the exempted
3 tax payments are for investments or costs that result in the creation
4 of a specified number of jobs. The legislature declares that this
5 limited program serves the vital public purpose of creating employment
6 opportunities and reducing poverty in the distressed areas of the
7 state.

8 NEW SECTION. **Sec. 2.** Unless the context clearly requires
9 otherwise, the definitions in this section apply throughout this
10 chapter.

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

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

14 (3) "Eligible area" means: (a) A county in which the average level
15 of unemployment for the three years before the year in which an
16 application is filed under this chapter exceeds the average state
17 unemployment for those years by twenty percent; or (b) a metropolitan
18 statistical area, as defined by the office of federal statistical
19 policy and standards, United States department of commerce, in which
20 the average level of unemployment for the calendar year immediately
21 proceeding the year in which an application is filed under this chapter
22 exceeds the average state unemployment for such calendar year by twenty
23 percent. Applications under this subsection (3)(b) shall be filed by
24 April 30, 1993.

25 (4)(a) "Eligible investment project" means that portion of an
26 investment project that:

27 (i) Is directly utilized to create at least one new full-time
28 qualified employment position for each three hundred thousand dollars
29 of investment on which an exemption is requested; and

1 (ii) Either initiates a new operation, or expands or diversifies a
2 current operation by expanding or renovating an existing building with
3 costs in excess of twenty-five percent of the true and fair value of
4 the plant complex prior to improvement; or

5 (iii) Acquires machinery and equipment to be used for either
6 manufacturing or research and development if the machinery and
7 equipment is housed in a new leased structure: PROVIDED, That the
8 lessor/owner of the structure is not eligible for an exemption unless
9 the underlying ownership of the buildings, machinery, and equipment
10 vests exclusively in the same person.

11 (b) "Eligible investment project" does not include any portion of
12 an investment project undertaken by a light and power business as
13 defined in RCW 82.16.010(5) or investment projects that have already
14 received exemptions under this chapter.

15 (5) "Investment project" means an investment in qualified buildings
16 and qualified machinery and equipment, including labor and services
17 rendered in the planning, installation, and construction of the
18 project.

19 (6) "Manufacturing" means all activities of a commercial or
20 industrial nature wherein labor or skill is applied, by hand or
21 machinery, to materials so that as a result thereof a new, different,
22 or useful substance or article of tangible personal property is
23 produced for sale or commercial or industrial use and shall include the
24 production or fabrication of specially made or custom made articles.
25 "Manufacturing" also includes computer programming, the production of
26 computer software, and other computer-related services, and the
27 activities performed by research and development laboratories and
28 commercial testing laboratories.

29 (7) "Person" has the meaning given in RCW 82.04.030.

1 (8) "Qualified buildings" means new structures used for
2 manufacturing and research and development activities, including plant
3 offices and warehouses or other facilities for the storage of raw
4 material or finished goods if such facilities are an essential or an
5 integral part of a factory, mill, plant, or laboratory used for
6 manufacturing or research and development. If a building is used
7 partly for manufacturing or research and development and partly for
8 other purposes, the applicable tax exemption shall be determined by
9 apportionment of the costs of construction under rules adopted by the
10 department.

11 (9) "Qualified employment position" means a permanent, full-time
12 employee employed in the eligible investment project during the entire
13 tax year.

14 (10) "Qualified machinery and equipment" means all new industrial
15 and research fixtures, equipment, and support facilities that are an
16 integral and necessary part of a manufacturing or research and
17 development operation. "Qualified machinery and equipment" includes:
18 Computers; software; data processing equipment; laboratory equipment;
19 manufacturing components such as belts, pulleys, shafts, and moving
20 parts; molds, tools, and dies; operating structures; and all equipment
21 used to control or operate the machinery.

22 (11) "Recipient" means a person receiving a tax exemption under
23 this chapter.

24 (12) "Research and development" means the development, refinement,
25 testing, marketing, and commercialization of a product, service, or
26 process before commercial sales have begun. As used in this
27 subsection, "commercial sales" excludes sales of prototypes or sales
28 for market testing if the total gross receipts from such sales of the
29 product, service, or process do not exceed one million dollars.

1 NEW SECTION. **Sec. 3.** Application for exemption of taxes under
2 this chapter must be made before initiation of the construction of the
3 investment project. The application shall be made to the department in
4 a form and manner prescribed by the department. The application shall
5 contain information regarding the location of the investment project,
6 the applicant's average employment in the state for the prior year,
7 estimated or actual new employment related to the project, estimated or
8 actual wages of employees related to the project, estimated or actual
9 costs, time schedules for completion and operation, and other
10 information required by the department. The department shall rule on
11 the application within sixty days.

12 NEW SECTION. **Sec. 4.** (1) The department shall issue a sales
13 and use tax exemption certificate for state and local sales and use
14 taxes due under chapters 82.08, 82.12, and 82.14 RCW on each eligible
15 investment project located in an eligible area.

16 (2) The department shall keep a running total of all exemptions
17 granted under this chapter during each fiscal biennium.

18 NEW SECTION. **Sec. 5.** (1) Each recipient shall submit a report
19 to the department on December 31st of each year. The report shall
20 contain information, as required by the department, from which the
21 department may determine whether the recipient is meeting the
22 requirements of this chapter. If the recipient fails to submit a
23 report or submits an inadequate report, the department may declare the
24 amount of exempted taxes to be immediately assessed and payable.

25 (2) If, on the basis of a report under this section or other
26 information, the department finds that an investment project is not
27 eligible for tax exemption under this chapter for reasons other than
28 failure to create the required number of qualified employment

1 positions, the amount of exempted taxes for the project shall be
2 immediately due.

3 (3) If, on the basis of a report under this section or other
4 information, the department finds that an investment project has failed
5 to create the required number of qualified employment positions, the
6 department shall assess interest, but not penalties, on the exempted
7 taxes for the project. The interest shall be assessed at the rate
8 provided for delinquent excise taxes, shall be assessed retroactively
9 to the date of exemption, and shall accrue until the exempted taxes are
10 repaid.

11 NEW SECTION. **Sec. 6.** The employment security department shall
12 make, and certify to the department of revenue, all determinations of
13 employment and wages under this chapter.

14 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act shall
15 constitute a new chapter in Title 82 RCW.

16 NEW SECTION. **Sec. 8.** Sections 3 and 4 of this act shall
17 expire July 1, 1996.

18 NEW SECTION. **Sec. 9.** The following acts or parts of acts are
19 each repealed:

20 (1) RCW 82.60.010 and 1985 c 232 s 1;

21 (2) RCW 82.60.020 and 1988 c 42 s 16, 1986 c 116 s 12 & 1985 c 232
22 s 2;

23 (3) RCW 82.60.030 and 1985 c 232 s 3;

24 (4) RCW 82.60.040 and 1986 c 116 s 13 & 1985 c 232 s 4;

25 (5) RCW 82.60.050 and 1988 c 41 s 5 & 1985 c 232 s 10;

26 (6) RCW 82.60.060 and 1985 c 232 s 5;

- 1 (7) RCW 82.60.065 and 1986 c 116 s 14;
- 2 (8) RCW 82.60.070 and 1985 c 232 s 6;
- 3 (9) RCW 82.60.080 and 1985 c 232 s 7;
- 4 (10) RCW 82.60.090 and 1985 c 232 s 8;
- 5 (11) RCW 82.60.100 and 1987 c 49 s 1; and
- 6 (12) RCW 82.60.900 and 1985 c 232 s 11.

7 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of the
9 state government and its existing public institutions, and shall take
10 effect immediately.