

2 **EHB 2664** - CONF REPT
3 By Conference Committee

4 ADOPTED 3/14/94

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 82.60.020 and 1993 sp.s. c 25 s 403 are each amended
8 to read as follows:

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

11 (1) "Applicant" means a person applying for a tax deferral 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; (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 preceding 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; ~~((or))~~ (c) a designated neighborhood reinvestment area
24 approved under RCW 43.63A.700; (d) a town with a population of less
25 than twelve hundred persons in those counties that are not covered
26 under (a) of this subsection that are timber impact areas as defined in
27 RCW 43.31.601; or (e) a county designated by the governor as an
28 eligible area under section 9 of this act.

29 (4)(a) "Eligible investment project" means that portion of an
30 investment project which:

31 (i) Is directly utilized to create at least one new full-time
32 qualified employment position for each three hundred thousand dollars
33 of investment on which a deferral is requested in an application
34 approved before July 1, 1994, and for each seven hundred fifty thousand
35 dollars of investment on which a deferral is requested in an
36 application approved after June 30, 1994; and

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

6 ~~(iii) Acquires machinery and equipment to be used for either~~
7 ~~manufacturing or research and development if the machinery and~~
8 ~~equipment is housed in a new leased structure)).~~ The lessor/owner of
9 (~~the structure~~) a qualified building is not eligible for a deferral
10 unless the underlying ownership of the buildings, machinery, and
11 equipment vests exclusively in the same person, or unless the lessor by
12 written contract agrees to pass the economic benefit of the deferral to
13 the lessee in the form of reduced rent payments.

14 (b) For purposes of (a)(i) of this subsection, the number of new
15 full-time qualified employment positions created by an investment
16 project shall be deemed to be reduced by the number of full-time
17 employment positions maintained by the recipient in any other community
18 in this state that are displaced as a result of the investment project.

19 (c) "Eligible investment project" does not include any portion of
20 an investment project undertaken by a light and power business as
21 defined in RCW 82.16.010(5), other than cogeneration projects that are
22 both an integral part of a manufacturing facility and owned at least
23 fifty percent by the manufacturer, or investment projects which have
24 already received deferrals under this chapter.

25 (5) "Investment project" means an investment in qualified buildings
26 (~~and~~) or qualified machinery and equipment, including labor and
27 services rendered in the planning, installation, and construction of
28 the project.

29 (6) "Manufacturing" means all activities of a commercial or
30 industrial nature wherein labor or skill is applied, by hand or
31 machinery, to materials so that as a result thereof a new, different,
32 or useful substance or article of tangible personal property is
33 produced for sale or commercial or industrial use and shall include the
34 production or fabrication of specially made or custom made articles.
35 "Manufacturing" also includes computer programming, the production of
36 computer software, and other computer-related services, and the
37 activities performed by research and development laboratories and
38 commercial testing laboratories.

39 (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 deferral 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 deferral under this
23 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.

30 **Sec. 2.** RCW 82.60.030 and 1985 c 232 s 3 are each amended to read
31 as follows:

32 Application for deferral of taxes under this chapter must be made
33 before initiation of the construction of the investment project or
34 acquisition of equipment or machinery. The application shall be made
35 to the department in a form and manner prescribed by the department.
36 The application shall contain information regarding the location of the
37 investment project, the applicant's average employment in the state for
38 the prior year, estimated or actual new employment related to the

1 project, estimated or actual wages of employees related to the project,
2 estimated or actual costs, time schedules for completion and operation,
3 and other information required by the department. The department shall
4 rule on the application within sixty days.

5 **Sec. 3.** RCW 82.60.040 and 1986 c 116 s 13 are each amended to read
6 as follows:

7 (1) The department shall issue a sales and use tax deferral
8 certificate for state and local sales and use taxes due under chapters
9 82.08, 82.12, and 82.14 RCW on each eligible investment project that:

10 (a) Is located in an eligible area other than a designated
11 neighborhood reinvestment area approved under RCW 43.63A.700;

12 (b) Is located in any county if seventy-five percent of the new
13 qualified employment positions are to be filled by residents of a
14 contiguous county that qualifies as an eligible area; or

15 (c) Is located in a designated neighborhood reinvestment area
16 approved under RCW 43.63A.700, or in a county containing such a
17 neighborhood reinvestment area, if seventy-five percent of the new
18 qualified employment positions are to be filled by residents of the
19 neighborhood reinvestment area.

20 (2) The department shall keep a running total of all deferrals
21 granted under this chapter during each fiscal biennium.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.60 RCW
23 to read as follows:

24 In addition to the other requirements of this chapter, a recipient
25 of a tax deferral under RCW 82.60.040(1) (b) or (c) shall meet the
26 following requirements:

27 (1) The recipient shall fill at least seventy-five percent of the
28 new qualified employment positions with residents of the contiguous
29 county or neighborhood reinvestment area by December 31 of the calendar
30 year during which the department certifies that the investment project
31 is operationally completed, and shall maintain the required percentage
32 during each of the seven succeeding calendar years.

33 (2) If the deferral is for expansion or diversification of an
34 existing facility, the recipient shall ensure that the percentage of
35 qualified employment positions filled by residents of the contiguous
36 county or neighborhood reinvestment area for periods prior to the
37 application be maintained for seven calendar years after the year

1 during which the department certifies that the investment project is
2 operationally completed.

3 **Sec. 5.** RCW 82.60.070 and 1985 c 232 s 6 are each amended to read
4 as follows:

5 (1) Each recipient of a deferral granted under this chapter prior
6 to July 1, 1994, shall submit a report to the department on December
7 31st of each year during the repayment period until the tax deferral is
8 repaid. Each recipient of a deferral granted under this chapter after
9 June 30, 1994, shall submit a report to the department on December 31st
10 of the year in which the investment project is certified by the
11 department as having been operationally completed, and on December 31st
12 of each of the seven succeeding calendar years. The report shall
13 contain information, as required by the department, from which the
14 department may determine whether the recipient is meeting the
15 requirements of this chapter. If the recipient fails to submit a
16 report or submits an inadequate report, the department may declare the
17 amount of deferred taxes outstanding to be immediately assessed and
18 payable.

19 (2) If, on the basis of a report under this section or other
20 information, the department finds that an investment project is not
21 eligible for tax deferral under this chapter for reasons other than
22 failure to create the required number of qualified employment
23 positions, the amount of deferred taxes outstanding for the project
24 shall be immediately due.

25 (3) If, on the basis of a report under this section or other
26 information, the department finds that an investment project for which
27 a deferral has been granted under this chapter prior to July 1, 1994,
28 has been operationally complete for three years and has failed to
29 create the required number of qualified employment positions, the
30 department shall assess interest, but not penalties, on the deferred
31 taxes for the project. The interest shall be assessed at the rate
32 provided for delinquent excise taxes, shall be assessed retroactively
33 to the date of deferral, and shall accrue until the deferred taxes are
34 repaid.

35 (4) If, on the basis of a report under this section or other
36 information, the department finds that an investment project for which
37 a deferral has been granted under this chapter after June 30, 1994, has
38 been operationally complete for three years and has failed to create

1 the required number of qualified employment positions, the amount of
2 taxes not eligible for deferral shall be immediately due. The
3 department shall assess interest at the rate provided for delinquent
4 excise taxes, but not penalties, retroactively to the date of deferral.

5 (5) If, on the basis of a report under this section or other
6 information, the department finds that an investment project qualifying
7 for deferral under RCW 82.60.040(1) (b) or (c) has failed to comply
8 with any requirement of section 4 of this act for any calendar year for
9 which reports are required under subsection (1) of this section, twelve
10 and one-half percent of the amount of deferred taxes shall be
11 immediately due. The department shall assess interest at the rate
12 provided for delinquent excise taxes, but not penalties, retroactively
13 to the date of deferral.

14 **Sec. 6.** RCW 82.60.065 and 1986 c 116 s 14 are each amended to read
15 as follows:

16 (~~Notwithstanding any other provision of this chapter,~~) Except as
17 provided in RCW 82.60.070:

18 (1) Taxes deferred under this chapter on the sale or use of labor
19 that is directly used in the construction of an investment project for
20 which a deferral has been granted under this chapter after June 11,
21 1986, and prior to July 1, 1994, need not be repaid.

22 (2) Taxes deferred under this chapter on an investment project for
23 which a deferral has been granted under this chapter after June 30,
24 1994, need not be repaid.

25 **Sec. 7.** RCW 82.60.050 and 1993 sp.s. c 25 s 404 are each amended
26 to read as follows:

27 RCW 82.60.030 and 82.60.040 shall expire July 1, (~~1998~~) 2004.

28 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.60 RCW
29 to read as follows:

30 If the department determines that an investment project for which
31 an exemption is granted under this chapter competes with an investment
32 project for which a deferral is granted under this chapter, the
33 department shall study the impacts on the project for which a deferral
34 is granted and report to the fiscal committees of the legislature
35 concerning revenue matters.

