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ENGROSSED HOUSE BILL 2664

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State of Washington

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1994 Regular Session

By Representatives Springer, Foreman, Jones, G. Fisher, Shin, Chappell, Basich, Pruitt, Holm, Ogden, Wolfe, Sheldon, H. Myers, Kessler, Conway, Cothorn, Morris and Rayburn; by request of Governor Lowry

Read first time 01/19/94. Referred to Committee on Revenue.

1 AN ACT Relating to tax deferrals for investment projects in  
2 distressed areas; amending RCW 82.60.020, 82.60.030, 82.60.040,  
3 82.60.065, and 82.60.050; and providing an effective date.

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

5 **Sec. 1.** RCW 82.60.020 and 1993 sp.s. c 25 s 403 are each amended  
6 to read as follows:

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

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

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

12 (3) "Eligible area" means: (a) A county in which the average level  
13 of unemployment for the three years before the year in which an  
14 application is filed under this chapter exceeds the average state  
15 unemployment for those years by twenty percent; (b) a metropolitan  
16 statistical area, as defined by the office of federal statistical  
17 policy and standards, United States department of commerce, in which  
18 the average level of unemployment for the calendar year immediately  
19 preceding the year in which an application is filed under this chapter

1 exceeds the average state unemployment for such calendar year by twenty  
2 percent; ~~((or))~~ (c) a designated neighborhood reinvestment area  
3 approved under RCW 43.63A.700; or (d) counties where thirty percent or  
4 more of total employment is federal department of defense related.

5 (4)(a) "Eligible investment project" means that portion of an  
6 investment project which:

7 (i) Is directly utilized to create at least one new full-time  
8 qualified employment position for each three hundred thousand dollars  
9 of investment on which a deferral is requested in an application  
10 approved before July 1, 1994, and for each one million dollars of  
11 investment on which a deferral is requested in an application approved  
12 after June 30, 1994; and

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

18 ~~((iii))~~ ~~Acquires machinery and equipment to be used for either~~  
19 ~~manufacturing or research and development if the machinery and~~  
20 ~~equipment is housed in a new leased structure)).~~ The lessor/owner of  
21 ~~((the structure))~~ a qualified building is not eligible for a deferral  
22 unless the underlying ownership of the buildings, machinery, and  
23 equipment vests exclusively in the same person, or unless the lessor by  
24 written contract agrees to pass the economic benefit of the deferral to  
25 the lessee in the form of reduced rent payments.

26 (b) "Eligible investment project" does not include any portion of  
27 an investment project undertaken by a light and power business as  
28 defined in RCW 82.16.010(5), other than cogeneration projects that are  
29 both an integral part of a manufacturing facility and owned at least  
30 fifty percent by the manufacturer, or investment projects which have  
31 already received deferrals under this chapter.

32 (5) "Investment project" means an investment in qualified buildings  
33 ~~((and))~~ or qualified machinery and equipment, including labor and  
34 services rendered in the planning, installation, and construction of  
35 the project.

36 (6) "Manufacturing" means all activities of a commercial or  
37 industrial nature wherein labor or skill is applied, by hand or  
38 machinery, to materials so that as a result thereof a new, different,  
39 or useful substance or article of tangible personal property is

1 produced for sale or commercial or industrial use and shall include the  
2 production or fabrication of specially made or custom made articles.  
3 "Manufacturing" also includes computer programming, the production of  
4 computer software, and other computer-related services, and the  
5 activities performed by research and development laboratories and  
6 commercial testing laboratories.

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

8 (8) "Qualified buildings" means ((new)) structures used for  
9 manufacturing and research and development activities, including plant  
10 offices and warehouses or other facilities for the storage of raw  
11 material or finished goods if such facilities are an essential or an  
12 integral part of a factory, mill, plant, or laboratory used for  
13 manufacturing or research and development. If a building is used  
14 partly for manufacturing or research and development and partly for  
15 other purposes, the applicable tax deferral shall be determined by  
16 apportionment of the costs of construction under rules adopted by the  
17 department.

18 (9) "Qualified employment position" means a permanent full-time  
19 employee employed in the eligible investment project during the entire  
20 tax year.

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

29 (11) "Recipient" means a person receiving a tax deferral under this  
30 chapter.

31 (12) "Research and development" means the development, refinement,  
32 testing, marketing, and commercialization of a product, service, or  
33 process before commercial sales have begun. As used in this  
34 subsection, "commercial sales" excludes sales of prototypes or sales  
35 for market testing if the total gross receipts from such sales of the  
36 product, service, or process do not exceed one million dollars.

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

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

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

14 (1) The department shall issue a sales and use tax deferral  
15 certificate for state and local sales and use taxes due under chapters  
16 82.08, 82.12, and 82.14 RCW on each eligible investment project that:

17 (a) Is located in an eligible area;

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

21 (c) Is located in a county containing a designated neighborhood  
22 reinvestment area approved under RCW 43.63A.700 if seventy-five percent  
23 of the new qualified employment positions are to be filled by residents  
24 of the neighborhood reinvestment area.

25 (2) A recipient of a tax deferral under subsection (1) (b) or (c)  
26 of this section shall maintain the required percentage of qualified  
27 employment positions filled by residents of the contiguous county or  
28 neighborhood reinvestment area for three calendar years after the date  
29 on which the department certifies the investment project as having been  
30 operationally completed.

31 (3) The department shall keep a running total of all deferrals  
32 granted under this chapter during each fiscal biennium.

33 **Sec. 4.** RCW 82.60.065 and 1986 c 116 s 14 are each amended to read  
34 as follows:

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

1       (1) Taxes deferred under this chapter on the sale or use of labor  
2 that is directly used in the construction of an investment project for  
3 which a deferral has been granted under this chapter after June 11,  
4 1986, and prior to July 1, 1994, need not be repaid.

5       (2) Taxes deferred under this chapter on an investment project for  
6 which a deferral has been granted under this chapter after June 30,  
7 1994, need not be repaid.

8       **Sec. 5.** RCW 82.60.050 and 1993 sp.s. c 25 s 404 are each amended  
9 to read as follows:

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

11       NEW SECTION. **Sec. 6.** This act shall take effect July 1, 1994.

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