

2 **HB 2335** - S AMD - 1019

3 By Senators Hargrove, T. Sheldon and Snyder

4 RULED OUTSIDE SCOPE AND OBJECT 3/11/98

5 On page 8, after line 31, insert the following:

6 "NEW SECTION. **Sec. 10.** A new section is added to chapter 82.04  
7 RCW to read as follows:

8 In order to consolidate business and occupation taxes in distressed  
9 areas the legislature intends to adopt sections 11 and  
10 12 of this act.

11 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.04 RCW  
12 to read as follows:

13 (1) The definitions in this subsection apply to this section,  
14 sections 3 and 4 of this act, RCW 82.62.030, and sections 9 through 16  
15 of this act, unless the context clearly requires otherwise.

16 (a) "Business" means the person applying for the tax deferral,  
17 credit, or exemption.

18 (b) "Construction" means the construction of a manufacturing  
19 operation complex and includes labor and services rendered in respect  
20 to construction. "Construction" ends when a project is completed as  
21 determined under subsection (2)(c) of this section.

22 (c) "Distressed county" means a county in which the average level  
23 of unemployment for the three years before the year in which an  
24 application is filed under this chapter exceeds the average state  
25 unemployment for those years by twenty percent.

26 (d) "Employment position" means a position in which a permanent  
27 full-time employee is employed in a project during the entire tax year.  
28 "The entire tax year" means the full-time position is filled for a  
29 period of twelve consecutive months. "Full-time" means at least  
30 thirty-five hours a week.

31 (e) "Equipping and operating" means the acquisition of tangible  
32 personal property for use at the manufacturing operation complex, and  
33 includes labor and services rendered in respect to the installation of  
34 tangible personal property.

1 (f) "Finished product" means an article, substance, or commodity  
2 that is manufactured at and shipped from the manufacturing operation  
3 complex.

4 (g) "Manufacturing operation complex" means the buildings,  
5 structures, and improvements located at the site where the  
6 manufacturing activity occurs. The complex includes the buildings,  
7 structures, and improvements used to receive, store, and ship raw  
8 materials and finished products as well as buildings, structures, and  
9 improvements used for the manufacturing production line. In addition,  
10 the term includes all administrative offices, employee support  
11 facilities, and production support facilities located at the site. The  
12 manufacturing operation complex does not include buildings, structures,  
13 and improvements located off of the site.

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

15 (i) "Project" means the site preparation, construction, and  
16 equipping and operating of a manufacturing operation complex.

17 (j) "Raw material" means the ingredients, components, substances,  
18 articles, or other tangible personal property that is received at the  
19 manufacturing operation complex for use as ingredients or components of  
20 the finished product.

21 (k) "Site" means a discrete geographical location.

22 (l) "Site preparation" means demolition of existing improvements,  
23 environmental remediation, earth moving, land clearing, site  
24 excavation, and shoring, and includes labor and services rendered in  
25 respect to site preparation.

26 (2) As a condition to receiving initial approval and as a condition  
27 of continuing eligibility, the following criteria must be met:

28 (a) The project must be located in a distressed county and must be  
29 owned and operated by a person who meets the definition of  
30 "manufacturer" as defined in RCW 82.04.110;

31 (b) The business must commit to an investment, by the time of  
32 completion of the project, in land, structures, and equipment, the  
33 value of which must be at least four percent of the total of the  
34 equalized assessed value in the county in which the project is located.  
35 The total equalized assessed value in the county is as published  
36 annually by the department in accordance with RCW 84.48.080.  
37 Continuing eligibility is conditioned on this investment having  
38 actually occurred;

1 (c)(i) The business must commit to and must create a minimum of  
2 twenty new employment positions at the project within two years of  
3 completion of the project.

4 (ii) The business must commit to and create one new employment  
5 position for each two million dollars invested in the project within  
6 two years of completion of the project. The twenty minimum positions  
7 in (c)(i) of this subsection are part of and not in addition to the  
8 positions required to meet the investment to job ratio.

9 (iii) The individuals in the new employment positions must be the  
10 employees of the business and must not have been relocated from other  
11 locations of the business within this state. Completion of the project  
12 is deemed to have occurred when the project is capable of operating and  
13 producing finished products. The department of community, trade, and  
14 economic development shall determine when the project is complete;

15 (d) The business must commit to and must pay an average wage of at  
16 least one hundred fifty percent of the average wage in the county. The  
17 employment security department shall determine the average wage in the  
18 county and shall report this amount to the department of community,  
19 trade, and economic development; and

20 (e) The business must remain operational for a fifteen-year period  
21 after the project is completed. "Operational" means that the level of  
22 employment at the manufacturing operation complex must not drop below  
23 the total employment positions required under (c) of this subsection.

24 (3)(a) The department of community, trade, and economic development  
25 shall determine the eligibility of a business and certify eligibility  
26 to the department of revenue. A component of the department's  
27 eligibility review must include a determination as to whether the  
28 project would have a major adverse impact on an existing in-state  
29 company that is engaged in manufacturing a similar product. If the  
30 department does find a major adverse impact would occur and that a  
31 competitive alternative location is not available in the northwest,  
32 then the project may be deemed ineligible for the purposes of sections  
33 2 through 5 of this act, RCW 81.104.170(3), section 7 of this act, RCW  
34 82.62.030(5), sections 9 through 19 of this act, RCW 82.14.370, and  
35 sections 21 through 23 of this act.

36 (b) Approval of the project by a public vote of the governing body  
37 of the county or city in which the project is located is a precondition  
38 to deferral certification by the department of revenue. If the county  
39 or city approves the project, the county or city shall send a written

1 notification of the approval to the department of revenue. If the  
2 project is in two jurisdictions, both jurisdictions must approve the  
3 project.

4 (c) When both of the notices under (a) and (b) of this subsection  
5 are received, the department of revenue shall issue a sales and use tax  
6 deferral certificate for use under sections 3 and 4 of this act.

7 (4) In addition to the initial certification under subsection (3)  
8 of this section, the project must be reviewed by the department of  
9 community, trade, and economic development each year for continuing  
10 eligibility. The business shall provide an annual report to the  
11 department of community, trade, and economic development, in a form as  
12 required by the department, of its status relative to the eligibility  
13 criteria under subsection (2) of this section. The department of  
14 community, trade, and economic development shall review the annual  
15 report and determine whether the project continues to meet the  
16 eligibility criteria. The department of community, trade, and economic  
17 development shall provide a written notice of this determination to the  
18 business and to the department of revenue. Annual reapproval by the  
19 county or city in which the project is located is not required. If the  
20 project fails to meet the eligibility criteria the amount of taxes  
21 deferred under sections 3 and 4 of this act are immediately due.

22 (5) Taxes deferred under sections 3 and 4 of this act need not be  
23 repaid if the project maintains its eligibility criteria for a fifteen-  
24 year period. The fifteen-year period begins when the deferral  
25 certificate is sent under subsection (3)(c) of this section by the  
26 department of revenue to the business.

27 (6) Application for the deferral under sections 3 and 4 of this act  
28 may not be accepted before the effective date of this section or after  
29 June 30, 2003.

30 (7) The employment security department shall provide such data to  
31 the department of revenue and the department of community, trade, and  
32 economic development as is necessary to administer this section wage  
33 data shall be updated annually to reflect current state and county  
34 conditions.

35 **Sec. 12.** RCW 82.62.030 and 1997 c 366 s 5 are each amended to read  
36 as follows:

37 (1) A person shall be allowed a credit against the tax due under  
38 chapter 82.04 RCW as provided in this section. For an application

1 approved before January 1, 1996, the credit shall equal one thousand  
2 dollars for each qualified employment position directly created in an  
3 eligible business project. For an application approved on or after  
4 January 1, 1996, the credit shall equal two thousand dollars for each  
5 qualified employment position directly created in an eligible business  
6 project. For an application approved on or after July 1, 1997, the  
7 credit shall equal four thousand dollars for each qualified employment  
8 position with wages and benefits greater than forty thousand dollars  
9 annually that is directly created in an eligible business. For an  
10 application approved on or after July 1, 1997, the credit shall equal  
11 two thousand dollars for each qualified employment position with wages  
12 and benefits less than or equal to forty thousand dollars annually that  
13 is directly created in an eligible business.

14 (2) The department shall keep a running total of all credits  
15 granted under this chapter during each fiscal year. The department  
16 shall not allow any credits which would cause the tabulation to exceed  
17 five million five hundred thousand dollars in fiscal year 1998 or 1999  
18 or seven million five hundred thousand dollars in any fiscal year  
19 thereafter. If all or part of an application for credit is disallowed  
20 under this subsection, the disallowed portion shall be carried over for  
21 approval the next fiscal year. However, the applicant's carryover into  
22 the next fiscal year is only permitted if the tabulation for the next  
23 fiscal year does not exceed the cap for that fiscal year as of the date  
24 on which the department has disallowed the application.

25 (3) No recipient may use the tax credits to decertify a union or to  
26 displace existing jobs in any community in the state.

27 (4) No recipient may receive a tax credit on taxes which have not  
28 been paid during the taxable year.

29 (5) A business that has received certification from the department  
30 of revenue under section 11 of this act is eligible for an annual  
31 credit of four thousand dollars for each of the positions used to  
32 establish project eligibility. Positions created in excess of those  
33 required to maintain eligibility are also eligible for the credit under  
34 this subsection. The business may apply for the credit once the  
35 project is complete, as determined in section 11 of this act. The  
36 business may apply each of the successive seven years following its  
37 initial application under this subsection and shall receive the credit  
38 if the continuing employment requirements of section 11 of this act are  
39 met. The credits granted under this subsection do not affect the caps

1 under subsection (2) of this section and the fifteen percent  
2 requirement under RCW 82.62.010. Application for the credit under this  
3 subsection may not be accepted before the effective date of this  
4 section."

5 Renumber the sections consecutively and correct any internal  
6 references accordingly.

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10 Make necessary title amendments

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