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ENGROSSED SECOND SUBSTITUTE SENATE BILL 5074

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State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Sellar and Snyder)

Read first time 04/07/97.

1 AN ACT Relating to increasing interstate trade through tax  
2 incentives for warehouse and grain elevator operations; amending RCW  
3 81.104.170; adding a new section to chapter 82.08 RCW; adding a new  
4 section to chapter 82.12 RCW; adding a new section to chapter 82.14  
5 RCW; creating new sections; 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 the state's  
8 overall economic health and prosperity is bolstered through tax  
9 incentives targeted to specific industries. The warehouse and  
10 distribution industry is critical to other businesses. The  
11 transportation sector, the retail sector, the ports, and the  
12 wholesalers all rely on the warehouse and distribution industry. It is  
13 the intent of the legislature to stimulate interstate trade by  
14 providing tax incentives to those persons in the warehouse and  
15 distribution industry engaged in highly competitive trade.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW  
17 to read as follows:

1 (1) Wholesalers or third-party warehouse owners who own or operate  
2 warehouses or grain elevators and retailers who own or operate  
3 distribution centers, and who have paid the tax levied by RCW 82.08.020  
4 on:

5 (a) Material-handling and racking equipment, and labor and services  
6 rendered in respect to installing, repairing, cleaning, altering, or  
7 improving the equipment; or

8 (b) Construction of a warehouse or grain elevator, including  
9 materials, and including service and labor costs,  
10 are eligible for an exemption in the form of a remittance. The amount  
11 of the remittance is computed under subsection (3) of this section and  
12 is based on the state share of sales tax.

13 (2) For purposes of this section and section 3 of this act:

14 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

15 (b) "Construction" means the actual construction of a warehouse or  
16 grain elevator that did not exist before the construction began.  
17 "Construction" includes expansion if the expansion adds at least two  
18 hundred thousand square feet of additional space to an existing  
19 warehouse or additional storage capacity of at least one million  
20 bushels to an existing grain elevator. "Construction" does not include  
21 renovation, remodeling, or repair;

22 (c) "Department" means the department of revenue;

23 (d) "Distribution center" means a warehouse that is used  
24 exclusively by a retailer solely for the storage and distribution of  
25 finished goods to retail outlets of the retailer. "Distribution  
26 center" does not include a warehouse at which retail sales occur;

27 (e) "Finished goods" means tangible personal property intended for  
28 sale by a retailer or wholesaler. "Finished goods" does not include  
29 agricultural products stored by wholesalers, third-party warehouses, or  
30 retailers if the storage takes place on the land of the person who  
31 produced the agricultural product. "Finished goods" does not include  
32 logs, minerals, petroleum, gas, or other extracted products stored as  
33 raw materials or in bulk;

34 (f) "Grain elevator" means a structure used for storage and  
35 handling of grain in bulk;

36 (g) "Material-handling equipment and racking equipment" means  
37 equipment in a warehouse or grain elevator that is primarily used to  
38 handle, store, organize, convey, package, or repackage finished goods.  
39 The term includes tangible personal property with a useful life of one

1 year or more that becomes an ingredient or component of the equipment,  
2 including repair and replacement parts. The term does not include  
3 equipment in offices, lunchrooms, restrooms, and other like space,  
4 within a warehouse or grain elevator, or equipment used for  
5 nonwarehousing purposes. "Material-handling equipment" includes but is  
6 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-  
7 place units, cranes, hoists, mechanical arms, and robots; mechanized  
8 systems, including containers that are an integral part of the system,  
9 whose purpose is to lift or move tangible personal property; and  
10 automated handling, storage, and retrieval systems, including computers  
11 that control them, whose purpose is to lift or move tangible personal  
12 property; and forklifts and other off-the-road vehicles that are used  
13 to lift or move tangible personal property and that cannot be operated  
14 legally on roads and streets. "Racking equipment" includes, but is not  
15 limited to, conveying systems, chutes, shelves, racks, bins, drawers,  
16 pallets, and other containers and storage devices that form a necessary  
17 part of the storage system;

18 (h) "Person" has the meaning given in RCW 82.04.030;

19 (i) "Retailer" means a person who makes "sales at retail" as  
20 defined in chapter 82.04 RCW of tangible personal property;

21 (j) "Square footage" means the product of the two horizontal  
22 dimensions of each floor of a specific warehouse. The entire footprint  
23 of the warehouse shall be measured in calculating the square footage,  
24 including space that juts out from the building profile such as loading  
25 docks. "Square footage" does not mean the aggregate of the square  
26 footage of more than one warehouse at a location or the aggregate of  
27 the square footage of warehouses at more than one location;

28 (k) "Third-party warehouse" means a person taxable under RCW  
29 82.04.280(4);

30 (l) "Warehouse" means an enclosed building or structure in which  
31 finished goods are stored. A warehouse building or structure may have  
32 more than one storage room and more than one floor. Office space,  
33 lunchrooms, restrooms, and other space within the warehouse and  
34 necessary for the operation of the warehouse are considered part of the  
35 warehouse as are loading docks and other such space attached to the  
36 building and used for handling of finished goods. Landscaping and  
37 parking lots are not considered part of the warehouse. A storage yard  
38 is not a warehouse, nor is a building in which manufacturing takes  
39 place; and

1 (m) "Wholesaler" means a person who makes "sales at wholesale" as  
2 defined in chapter 82.04 RCW of tangible personal property, but  
3 "wholesaler" does not include a person who makes sales exempt under  
4 82.04.330.

5 (3)(a) A person claiming an exemption from state tax in the form of  
6 a remittance under this section must pay the tax imposed by RCW  
7 82.08.020. The buyer may then apply to the department for remittance  
8 of all or part of the tax paid under RCW 82.08.020. For grain  
9 elevators with bushel capacity of one million but less than two  
10 million, the remittance is equal to fifty percent of the amount of tax  
11 paid. For warehouses with square footage of two hundred thousand or  
12 more and for grain elevators with bushel capacity of two million or  
13 more, the remittance is equal to one hundred percent of the amount of  
14 tax paid for qualifying construction, materials, service, and labor,  
15 and fifty percent of the amount of tax paid for qualifying material-  
16 handling equipment and racking equipment, and labor and services  
17 rendered in respect to installing, repairing, cleaning, altering, or  
18 improving the equipment.

19 (b) The department shall determine eligibility under this section  
20 based on information provided by the buyer and through audit and other  
21 administrative records. The buyer shall on a quarterly basis submit an  
22 information sheet, in a form and manner as required by the department  
23 by rule, specifying the amount of exempted tax claimed and the  
24 qualifying purchases or acquisitions for which the exemption is  
25 claimed. The buyer shall retain, in adequate detail to enable the  
26 department to determine whether the equipment or construction meets the  
27 criteria under this section: Invoices; proof of tax paid; documents  
28 describing the material-handling equipment and racking equipment;  
29 location and size of warehouses and grain elevators; and construction  
30 invoices and documents.

31 (c) The department shall on a quarterly basis remit exempted  
32 amounts to qualifying persons who submitted applications during the  
33 previous quarter.

34 (4) Warehouses, grain elevators, and material-handling equipment  
35 and racking equipment for which an exemption, credit, or deferral has  
36 been or is being received under chapter 82.60, 82.61, 82.62, or 82.63  
37 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any  
38 remittance under this section. Warehouses and grain elevators upon

1 which construction was initiated before the effective date of this act  
2 are not eligible for a remittance under this section.

3 (5) The lessor or owner of a warehouse or grain elevator is not  
4 eligible for a remittance under this section unless the underlying  
5 ownership of the warehouse or grain elevator and the material-handling  
6 equipment and racking equipment vests exclusively in the same person,  
7 or unless the lessor by written contract agrees to pass the economic  
8 benefit of the remittance to the lessee in the form of reduced rent  
9 payments.

10 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW  
11 to read as follows:

12 (1) Wholesalers or third-party warehouseers who own or operate  
13 warehouses or grain elevators, and retailers who own or operate  
14 distribution centers, and who have paid the tax levied under RCW  
15 82.12.020 on:

16 (a) Material-handling equipment and racking equipment; or

17 (b) Materials incorporated in the construction of a warehouse or  
18 grain elevator.

19 (2)(a) A person claiming an exemption from state tax in the form of  
20 a remittance under this section must pay the tax imposed by RCW  
21 82.12.020 to the department. The person may then apply to the  
22 department for remittance of all or part of the tax paid under RCW  
23 82.12.020. For grain elevators with bushel capacity of one million but  
24 less than two million, the remittance is equal to fifty percent of the  
25 amount of tax paid. For warehouses with square footage of two hundred  
26 thousand and for grain elevators with bushel capacity of two million or  
27 more, the remittance is equal to one hundred percent of the amount of  
28 tax paid for qualifying construction materials, and fifty percent of  
29 the amount of tax paid for qualifying material-handling equipment and  
30 racking equipment.

31 (b) The department shall determine eligibility under this section  
32 based on information provided by the buyer and through audit and other  
33 administrative records. The buyer shall on a quarterly basis submit an  
34 information sheet, in a form and manner as required by the department  
35 by rule, specifying the amount of exempted tax claimed and the  
36 qualifying purchases or acquisitions for which the exemption is  
37 claimed. The buyer shall retain, in adequate detail to enable the  
38 department to determine whether the equipment or construction meets the

1 criteria under this section: Invoices; proof of tax paid; documents  
2 describing the material-handling equipment and racking equipment;  
3 location and size of warehouses, if applicable; and construction  
4 invoices and documents.

5 (c) The department shall on a quarterly basis remit or credit  
6 exempted amounts to qualifying persons who submitted applications  
7 during the previous quarter.

8 (3) Warehouse, grain elevators, and material-handling equipment and  
9 racking equipment for which an exemption, credit, or deferral has been  
10 or is being received under chapter 82.60, 82.61, 82.62, or 82.63 RCW or  
11 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance  
12 under this section. Materials incorporated in warehouses and grain  
13 elevators upon which construction was initiated prior to the effective  
14 date of this act are not eligible for a remittance under this section.

15 (4) The lessor or owner of the warehouse or grain elevator is not  
16 eligible for a remittance or credit under this section unless the  
17 underlying ownership of the warehouse or grain elevator and  
18 material-handling equipment and racking equipment vests exclusively in  
19 the same person, or unless the lessor by written contract agrees to  
20 pass the economic benefit of the exemption to the lessee in the form of  
21 reduced rent payments.

22 (5) The definitions in section 2 of this act apply to this section.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.14 RCW  
24 to read as follows:

25 The exemptions in sections 2 and 3 of this act are for the state  
26 portion of the sales and use tax and do not extend to the tax imposed  
27 in this chapter.

28 **Sec. 5.** RCW 81.104.170 and 1992 c 101 s 28 are each amended to  
29 read as follows:

30 Cities that operate transit systems, county transportation  
31 authorities, metropolitan municipal corporations, public transportation  
32 benefit areas, and regional transit authorities may submit an  
33 authorizing proposition to the voters and if approved by a majority of  
34 persons voting, fix and impose a sales and use tax in accordance with  
35 the terms of this chapter, solely for the purpose of providing high  
36 capacity transportation service.

1       The tax authorized pursuant to this section shall be in addition to  
2 the tax authorized by RCW 82.14.030 and shall be collected from those  
3 persons who are taxable by the state pursuant to chapters 82.08 and  
4 82.12 RCW upon the occurrence of any taxable event within the taxing  
5 district. The maximum rate of such tax shall be approved by the voters  
6 and shall not exceed one percent of the selling price (in the case of  
7 a sales tax) or value of the article used (in the case of a use tax).  
8 The maximum rate of such tax that may be imposed shall not exceed  
9 nine-tenths of one percent in any county that imposes a tax under RCW  
10 82.14.340, or within a regional transit authority if any county within  
11 the authority imposes a tax under RCW 82.14.340. The exemptions in  
12 sections 2 and 3 of this act are for the state portion of the sales and  
13 use tax and do not extend to the tax authorized in this section.

14       NEW SECTION.   **Sec. 6.**   The legislative fiscal committees shall  
15 report to the legislature by December 1, 2001, on the economic impacts  
16 of this act. This report shall analyze employment and other relevant  
17 economic data pertaining to the tax exemptions authorized under this  
18 act and shall measure the effect on the creation or retention of  
19 family-wage jobs and diversification of the state's economy. The  
20 report must include the committee's findings on the tax incentive  
21 program's performance in achieving its goals and recommendations on  
22 ways to improve its effectiveness. Analytic techniques may include,  
23 but not be limited to, comparisons of Washington to other states that  
24 did not enact business tax changes, comparisons across Washington  
25 counties based on usage of the tax exemptions, and comparisons across  
26 similar firms based on their use of the tax exemptions. In performing  
27 the analysis, the legislative fiscal committees shall consult with  
28 business and labor interests. The department of revenue, the  
29 employment security department, and other agencies shall provide to the  
30 legislative fiscal committees such data as the legislative fiscal  
31 committees may request in performing the analysis required under this  
32 section.

33       NEW SECTION.   **Sec. 7.**   This act is necessary for the immediate  
34 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect  
2 immediately.

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