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**SUBSTITUTE SENATE BILL 6460**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** Senate Committee on Commerce & Labor (originally sponsored by Senators Anderson, Hale, Swecker, T. Sheldon, Snyder, Loveland, Hargrove, Franklin, Haugen, Fraser, Spanel, Jacobsen, Goings, B. Sheldon, Thibaudeau, Patterson, Schow, Rasmussen and Kohl; by request of Governor Locke)

Read first time 02/06/98.

1 AN ACT Relating to tax incentives for the development of job  
2 opportunities in distressed counties; amending RCW 81.104.170,  
3 82.62.030, and 82.14.370; adding new sections to chapter 82.04 RCW;  
4 adding a new section to chapter 82.08 RCW; adding a new section to  
5 chapter 82.12 RCW; adding a new section to chapter 82.14 RCW; adding a  
6 new section to chapter 82.32 RCW; adding a new section to chapter 82.16  
7 RCW; adding new sections to chapter 43.31 RCW; adding a new section to  
8 chapter 44.28 RCW; adding a new chapter to Title 84 RCW; creating new  
9 sections; and providing an effective date.

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

11 NEW SECTION. **Sec. 1.** The legislature finds that the state's  
12 overall economic health and prosperity is bolstered through tax  
13 incentives targeted to specific industries and locations. The  
14 legislature further finds that to address economic stimulation and job  
15 opportunity, a new state policy is necessary to attract and retain  
16 private-sector businesses. The legislature hereby establishes an array  
17 of tax incentives designed to target businesses who will make  
18 investments in the state of Washington, both in terms of financial  
19 commitment and in terms of jobs.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 82.04 RCW  
2 to read as follows:

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

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

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

12        (c) "Distressed county" means 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.

16        (d) "Employment position" means a position in which a permanent  
17 full-time employee is employed in a project during the entire tax year.  
18 "The entire tax year" means the full-time position is filled for a  
19 period of twelve consecutive months. "Full-time" means at least  
20 thirty-five hours a week.

21        (e) "Equipping and operating" means the acquisition of tangible  
22 personal property for use at the manufacturing operation complex, and  
23 includes labor and services rendered in respect to the installation of  
24 tangible personal property.

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

28        (g) "Manufacturing operation complex" means the buildings,  
29 structures, and improvements located at the site where the  
30 manufacturing activity occurs. The complex includes the buildings,  
31 structures, and improvements used to receive, store, and ship raw  
32 materials and finished products as well as buildings, structures, and  
33 improvements used for the manufacturing production line. In addition,  
34 the term includes all administrative offices, employee support  
35 facilities, and production support facilities located at the site. The  
36 manufacturing operation complex does not include buildings, structures,  
37 and improvements located off of the site.

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

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

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

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

8 (l) "Site preparation" means demolition of existing improvements,  
9 environmental remediation, earth moving, land clearing, site  
10 excavation, and shoring, and includes labor and services rendered in  
11 respect to site preparation.

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

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

17 (b) The business must commit to an investment, by the time of  
18 completion of the project, in land, structures, and equipment, the  
19 value of which must be at least four percent of the total of the  
20 equalized assessed value in the county in which the project is located.  
21 The total equalized assessed value in the county is as published  
22 annually by the department in accordance with RCW 84.48.080.  
23 Continuing eligibility is conditioned on this investment having  
24 actually occurred;

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

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

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

1 (d) The business must commit to and must pay an average wage of at  
2 least one hundred fifty percent of the average wage in the county. The  
3 employment security department shall determine the average wage in the  
4 county and shall report this amount to the department of community,  
5 trade, and economic development; and

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

10 (3)(a) The department of community, trade, and economic development  
11 shall determine the eligibility of a business and certify eligibility  
12 to the department of revenue. A component of the department's  
13 eligibility review must include a determination as to whether the  
14 project would have a major adverse impact on an existing in-state  
15 company that is engaged in manufacturing a similar product. If the  
16 department does find a major adverse impact would occur and that a  
17 competitive alternative location is not available in the northwest,  
18 then the project may be deemed ineligible for the purposes of sections  
19 2 through 5 of this act, RCW 81.104.170(3), section 7 of this act, RCW  
20 82.62.030(5), sections 9 through 19 of this act, RCW 82.14.370, and  
21 sections 21 through 23 of this act.

22 (b) Approval of the project by a public vote of the governing body  
23 of the county or city in which the project is located is a precondition  
24 to deferral certification by the department of revenue. If the county  
25 or city approves the project, the county or city shall send a written  
26 notification of the approval to the department of revenue. If the  
27 project is in two jurisdictions, both jurisdictions must approve the  
28 project.

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

32 (4) In addition to the initial certification under subsection (3)  
33 of this section, the project must be reviewed by the department of  
34 community, trade, and economic development each year for continuing  
35 eligibility. The business shall provide an annual report to the  
36 department of community, trade, and economic development, in a form as  
37 required by the department, of its status relative to the eligibility  
38 criteria under subsection (2) of this section. The department of  
39 community, trade, and economic development shall review the annual

1 report and determine whether the project continues to meet the  
2 eligibility criteria. The department of community, trade, and economic  
3 development shall provide a written notice of this determination to the  
4 business and to the department of revenue. Annual reapproval by the  
5 county or city in which the project is located is not required. If the  
6 project fails to meet the eligibility criteria the amount of taxes  
7 deferred under sections 3 and 4 of this act are immediately due.

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

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

16 (7) The employment security department shall provide such data to  
17 the department of revenue and the department of community, trade, and  
18 economic development as is necessary to administer this section wage  
19 data shall be updated annually to reflect current state and county  
20 conditions.

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.08 RCW  
22 to read as follows:

23 (1) A person that has received a certification from the department  
24 under section 2(3)(c) of this act may use that certificate for deferral  
25 of the state share of taxes due under this chapter on the site  
26 preparation, construction, and equipping and operating of the project.

27 (2) The certificate is not valid for sales that occurred before  
28 certification by the department. After the project is determined to be  
29 complete under section 2(2)(c) of this act, the certificate is limited  
30 to taxes related to equipping and operating of the project.

31 (3)(a) The certificate may be used for fifteen years after its  
32 issuance.

33 (b) The deferral under this section is conditioned on the business  
34 remaining eligible under section 2 of this act. If the project fails  
35 to meet the eligibility criteria, the amount of taxes deferred under  
36 this section are immediately due. The department shall assess interest  
37 at the rate provided for delinquent excise taxes, but not penalties,  
38 retroactively to the date of deferral.

1 (4) The buyer must keep such records as the department requires for  
2 audit and verification purposes.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.12 RCW  
4 to read as follows:

5 (1) A person that has received a certification from the department  
6 under section 2(3)(c) of this act may use that certificate for deferral  
7 of the state share of taxes due under this chapter on the site  
8 preparation, construction, and equipping and operating of the project.

9 (2) The certificate is not valid for tax due on use that occurred  
10 before certification by the department. After the project is  
11 determined to be complete under section 2(2)(c) of this act, the  
12 certificate is limited to tax due on use of tangible personal property  
13 related to equipping and operating of the project.

14 (3)(a) The certificate may be used for fifteen years after its  
15 issuance.

16 (b) The deferral under this section is conditioned on the business  
17 remaining eligible under section 2 of this act. If the project fails  
18 to meet the eligibility criteria, the amount of taxes deferred under  
19 this section are immediately due. The department shall assess interest  
20 at the rate provided for delinquent excise taxes, but not penalties,  
21 retroactively to the date of deferral.

22 (4) The buyer must keep such records as the department requires for  
23 audit and verification purposes.

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.14 RCW  
25 to read as follows:

26 The deferral under sections 3 and 4 of this act is for the state  
27 portion of the sales and use tax and does not extend to the tax imposed  
28 in this chapter.

29 **Sec. 6.** RCW 81.104.170 and 1997 c 450 s 5 are each amended to read  
30 as follows:

31 (1) Cities that operate transit systems, county transportation  
32 authorities, metropolitan municipal corporations, public transportation  
33 benefit areas, and regional transit authorities may submit an  
34 authorizing proposition to the voters and if approved by a majority of  
35 persons voting, fix and impose a sales and use tax in accordance with

1 the terms of this chapter, solely for the purpose of providing high  
2 capacity transportation service.

3 (2) The tax authorized pursuant to this section shall be in  
4 addition to the tax authorized by RCW 82.14.030 and shall be collected  
5 from those persons who are taxable by the state pursuant to chapters  
6 82.08 and 82.12 RCW upon the occurrence of any taxable event within the  
7 taxing district. The maximum rate of such tax shall be approved by the  
8 voters and shall not exceed one percent of the selling price (in the  
9 case of a sales tax) or value of the article used (in the case of a use  
10 tax). The maximum rate of such tax that may be imposed shall not  
11 exceed nine-tenths of one percent in any county that imposes a tax  
12 under RCW 82.14.340, or within a regional transit authority if any  
13 county within the authority imposes a tax under RCW 82.14.340. The  
14 exemptions in RCW 82.08.820 and 82.12.820 are for the state portion of  
15 the sales and use tax and do not extend to the tax authorized in this  
16 section.

17 (3) The deferral in sections 3 and 4 of this act is for the state  
18 portion of the sales tax and does not extend to the tax imposed in this  
19 chapter.

20 NEW SECTION. Sec. 7. A new section is added to chapter 82.32 RCW  
21 to read as follows:

22 The department of revenue may develop and institute a tax reporting  
23 method whereby the taxpayer uses deductions, credits, or other  
24 accounting techniques, as directed by the department, to allow the  
25 department to administer, and the taxpayer to report, the deferral in  
26 sections 3 and 4 of this act simply and efficiently. Taxpayers who are  
27 entitled to this deferral and sellers who receive deferral certificates  
28 from buyers shall keep their records in a form and manner as directed  
29 by the department so that the department can distinguish between  
30 taxable and exempt transactions.

31 **Sec. 8.** RCW 82.62.030 and 1997 c 366 s 5 are each amended to read  
32 as follows:

33 (1) A person shall be allowed a credit against the tax due under  
34 chapter 82.04 RCW as provided in this section. For an application  
35 approved before January 1, 1996, the credit shall equal one thousand  
36 dollars for each qualified employment position directly created in an  
37 eligible business project. For an application approved on or after

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

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

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

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

26 (5) A business that has received certification from the department  
27 of revenue under section 2 of this act is eligible for an annual credit  
28 of four thousand dollars for each of the positions used to establish  
29 project eligibility. Positions created in excess of those required to  
30 maintain eligibility are also eligible for the credit under this  
31 subsection. The business may apply for the credit once the project is  
32 complete, as determined in section 2 of this act. The business may  
33 apply each of the successive seven years following its initial  
34 application under this subsection and shall receive the credit if the  
35 continuing employment requirements of section 2 of this act are met.  
36 The credits granted under this subsection do not affect the caps under  
37 subsection (2) of this section and the fifteen percent requirement  
38 under RCW 82.62.010. Application for the credit under this subsection  
39 may not be accepted before the effective date of this section.



1        NEW SECTION.    **Sec. 9.**    (1) All real and personal property, not  
2 including land, belonging to a business and used in connection with a  
3 project that qualifies under this chapter is exempt from ad valorem  
4 property taxation for fifteen successive years from completion of  
5 construction and certification of the project, as determined under  
6 section 2 of this act.

7        (2) The exemption does not include real or personal property  
8 acquired or constructed prior to the approval of the application  
9 prescribed in this chapter. The exemption provided by this chapter is  
10 in addition to any other incentives, tax credits, or grants provided by  
11 law.

12        (3) The definitions in section 2 of this act apply to this chapter,  
13 where applicable.

14        NEW SECTION.    **Sec. 10.**    A person making application for exemption  
15 under this chapter must meet the requirements of section 2 of this act  
16 and must enter into a contract approved by the department and the  
17 governing body or bodies of the city or county in which the project is  
18 located. In the contract the applicant must agree to the requirements  
19 of section 2 of this act and this chapter. The department of revenue  
20 may not accept any application for exemption under this chapter after  
21 June 30, 2003.

22        NEW SECTION.    **Sec. 11.**    An applicant seeking a tax exemption under  
23 this chapter must complete the following procedures:

24        (1) The applicant shall apply to the department on forms prepared  
25 by the department. The application for exemption must contain the  
26 following:

27        (a) A description of the manner in which the applicant intends to  
28 proceed with acquisition and construction of the project, together with  
29 proposed time frames for accomplishing the requirements of section 2 of  
30 this act and this chapter; and

31        (b) A statement that the applicant is aware of the potential tax  
32 liability that will be imposed if the property ceases to be eligible  
33 for the exemption provided under this chapter.

34        (2) The applicant must verify the application for exemption by oath  
35 or affirmation.

1 (3) The department may permit the applicant to revise an  
2 application for exemption before final action on the application is  
3 taken by the department.

4 NEW SECTION. **Sec. 12.** The department may approve the application  
5 for exemption filed under this chapter if it finds that:

6 (1) The proposed project is or will be, at the time of completion,  
7 in conformance with all applicable local government regulations in  
8 effect at the time the application for exemption is approved;

9 (2) The applicant has complied with all requirements under this  
10 chapter;

11 (3) The site of the project is located in a distressed county, as  
12 defined by section 2 of this act; and

13 (4) The governing body of the county or city in which the project  
14 is located has by a public vote approved the project and has sent a  
15 written notification of the approval to the department.

16 NEW SECTION. **Sec. 13.** (1) The department shall approve or deny an  
17 application for exemption filed under this chapter within sixty days  
18 after it is received, unless in the discretion of the department  
19 additional time is necessary in order to make a decision.

20 (2) If the application for exemption is approved, the department  
21 shall issue the applicant a conditional certificate of tax exemption.  
22 The certificate must contain a statement by a duly authorized  
23 administrative official of the department that the applicant has  
24 complied with the requirements of this chapter.

25 (3) If the application for exemption is denied by the department,  
26 the deciding administrative official shall state in writing the reasons  
27 for the denial and mail the notice to the applicant at the applicant's  
28 last known address within ten days of the denial.

29 (4) Upon receiving a denial of the application for a property tax  
30 exemption under this chapter, the applicant may appeal the denial to  
31 the board of tax appeals in accordance with the rules of practice and  
32 procedure of the board. This appeal must be submitted within thirty  
33 days of the date the notice is received. If the exemption is denied,  
34 the sixty-day time period for approving the application for exemption  
35 regarding the project must be extended to the extent necessary to  
36 accommodate the appeal process.

1        NEW SECTION.    **Sec. 14.**    (1) Upon completion of construction of a  
2 project for which an application for exemption under this chapter has  
3 been approved, the owner of the eligible business shall file with the  
4 department the following:

5        (a) A statement of the amount of expenditures for structures,  
6 machinery, and equipment made with respect to the project;

7        (b) A description of the work that has been completed and a  
8 statement that the owner's property qualifies the property for  
9 exemption under this chapter; and

10       (c) A statement that the work has been completed within two years  
11 of the issuance of the conditional certificate of tax exemption.

12       (2) Within thirty days of the date the statements required under  
13 subsection (1) of this section are received, the authorized  
14 representative of the department shall determine whether the work  
15 completed is consistent with the application for exemption and the  
16 contract approved by the legislative authority of the local taxing  
17 districts and is qualified for exemption under this chapter. The  
18 department shall also determine which completed improvements  
19 specifically meet the requirements and required findings.

20       (3) The department shall file the certificate of tax exemption with  
21 the county assessor within ten days of approval if:

22       (a) The construction is completed within two years of the date the  
23 conditional certificate of tax exemption was issued or within an  
24 authorized extension of this time limit; and

25       (b) The authorized representative of the department determines that  
26 improvements were constructed consistent with the application for  
27 exemption and other applicable requirements and the applicant's  
28 property is qualified for exemption under this chapter.

29       (4) The authorized representative of the department shall notify  
30 the applicant that a certificate of tax exemption will not be issued if  
31 the representative determines that:

32       (a) The construction was not completed within two years of the  
33 approval date or within any authorized extension of the time limit;

34       (b) The improvements were not constructed consistent with the  
35 application for exemption or other applicable requirements; or

36       (c) The applicant's property is otherwise not qualified for  
37 exemption under this chapter.

38       (5) If the authorized representative of the department finds that  
39 the project was not completed within the required time period is due to

1 circumstances beyond the control of the applicant and that the  
2 applicant has been acting and could reasonably be expected to act in  
3 good faith and with due diligence, the department may extend the  
4 deadline for completion of the project for a period not to exceed  
5 twenty-four consecutive months.

6 (6) The decision by the deciding officer that an owner of an  
7 eligible business is not entitled to a certificate of tax exemption may  
8 be appealed to the board of tax appeals in accordance with the rules of  
9 practice and procedure of the board.

10 NEW SECTION. **Sec. 15.** (1) Within thirty days of the anniversary  
11 of the date the certificate of tax exemption was issued and each year  
12 thereafter for a period of fifteen years, the owner of the eligible  
13 business shall file with a designated representative of the department  
14 of community, trade, and economic development an annual report  
15 indicating the following:

16 (a) A certification by the owner that the use of the property has  
17 not changed since the date the certificate was approved by the  
18 department; and

19 (b) A description of changes or improvements made after the  
20 certificate of tax exemption was issued.

21 (2) The department of community, trade, and economic development  
22 shall annually determine whether the business meets the requirements of  
23 this chapter and shall annually report this determination to the  
24 department of revenue.

25 NEW SECTION. **Sec. 16.** (1) Structures and machinery and equipment  
26 that have been exempted under this chapter shall continue to be exempt  
27 if not converted to another use for at least fifteen years from the  
28 date of issuance of the certificate of tax exemption. If the owner  
29 intends to convert the development to another use, the owner must  
30 notify the assessor within sixty days of the change in use. If, after  
31 a certificate of tax exemption has been filed with the county assessor,  
32 the assessor discovers that the use of a portion of the property has  
33 changed or will be changed to a use that no longer meets the  
34 requirements as previously approved or agreed upon by contract between  
35 the department and the owner and that the eligible business no longer  
36 qualifies for the exemption, the tax exemption must be canceled and the  
37 following must occur:

1 (a) Additional property tax must be imposed upon the property in  
2 the amount that would normally be imposed, plus a penalty amounting to  
3 twenty percent of the additional tax. This additional tax is  
4 calculated based upon the difference between the property tax paid and  
5 the amount of property tax otherwise due and payable had the property  
6 not been granted an exemption. The tax, together with penalty and  
7 interest, is due in accordance with RCW 84.56.020 the year following  
8 the year the property no longer qualifies for exemption;

9 (b) The tax must include interest upon the amount of additional tax  
10 at the same statutory rate charged on delinquent property taxes from  
11 the dates on which the additional tax could have been paid without  
12 penalty if the property had been assessed at a value without regard to  
13 this chapter; and

14 (c) An additional tax unpaid on its due date is delinquent. From  
15 the date of delinquency until the additional tax and penalty are paid,  
16 interest must be charged at the same rate applied by law to delinquent  
17 ad valorem property taxes. The additional tax owed together with  
18 interest and penalty become a lien on the land and attach at the time  
19 the property or portion of the property no longer meets applicable  
20 requirement. The lien has priority to and must be fully paid and  
21 satisfied before a recognizance, mortgage, judgment, debt, obligation,  
22 or responsibility to or with which the land may become charged or  
23 liable. The lien may be foreclosed upon expiration of the same period  
24 after delinquency and in the same manner provided by law for  
25 foreclosure of liens for delinquent real or personal property taxes.

26 (2) When a determination has been made that a tax exemption is to  
27 be canceled for a reason stated in this section, the department shall  
28 notify the owner of the property, shown by the tax rolls, by mail that  
29 the exemption will be canceled. Upon receiving the notice that the  
30 exemption is to be canceled, the owner may appeal the cancellation to  
31 the board of tax appeals in accordance with the rules of practice and  
32 procedures of the board. This appeal must be submitted within thirty  
33 days of the date the notice of cancellation is received and must  
34 specify the factual and legal basis on which the determination of  
35 cancellation is alleged to be erroneous.

36 (3) Upon receiving notice from the department or its authorized  
37 representative that an exemption has been canceled, the county  
38 officials having possession of the assessment and tax rolls shall

1 correct the rolls and collect additional taxes, interest, and penalty  
2 in accordance with this section.

3 NEW SECTION. **Sec. 17.** A new section is added to chapter 82.04 RCW  
4 to read as follows:

5 (1) As used in this section:

6 (a) "Board" means the community economic revitalization board under  
7 chapter 43.160 RCW;

8 (b) "Private-sector business" or "business" means "person" as  
9 defined in RCW 82.04.030. "Private-sector business" does not include  
10 a public agency. "Public agency" means the state or its agencies,  
11 instrumentalities, or political subdivisions, or the United States or  
12 any instrumentality thereof, or an Indian tribe or nation; and

13 (c) "Public facilities" means bridges, roads, domestic and  
14 industrial water, sanitary sewer, storm sewer, railroad, electricity,  
15 natural gas, buildings or structures, and port facilities, in the state  
16 of Washington.

17 (2) A person shall be allowed a credit against tax due under this  
18 chapter or chapter 82.16 RCW as provided in this section. The credit  
19 shall equal fifty cents for each dollar of private funds spent on  
20 qualifying public facilities. A person may not receive credit for  
21 funds spent by another person. Eligible spending is limited to  
22 construction, reconstruction, or improvement of the public facility,  
23 and includes rights of way and real property acquisition, engineering  
24 and design work, environmental assessment and mitigation, and materials  
25 acquisition.

26 (3) The department, subject to the limitations of subsection (4) of  
27 this section, shall approve applications for tax credits upon  
28 occurrence of the following:

29 (a) A written certification is submitted by the board to the  
30 department, stating the applicant has been approved for a loan or grant  
31 under chapter 43.160 RCW. The tax credit applicant shall provide a  
32 written request to the board, requesting the board to provide such  
33 certification to the department;

34 (b) A written agreement is submitted to the department before the  
35 start of the public facility project, signed by the public agency  
36 responsible for the public facility and the business spending money on  
37 the public facility, establishing the financial obligations of the

1 business and stating that the public facility is to be owned and  
2 controlled by the public agency;

3 (c) If the facility will be owned by the business until completion,  
4 a written agreement is submitted to the department providing a  
5 mechanism for transfer of ownership of the facility to the public  
6 agency upon completion of the project; and

7 (d) The business, in consultation with the public agency, provides  
8 a letter to the department establishing that the public facility will  
9 enable the business to create, retain, or expand jobs. The business  
10 making the expenditures must be the same business upon which the job  
11 criteria is based. A business may not use the jobs upon which an  
12 earlier project was based to justify additional projects for which the  
13 business is applying for tax credits.

14 (4)(a) Tax credits are available on a first-come basis, with  
15 priority based on the date an application is received by the  
16 department. Upon completion of a public facility, as determined by the  
17 department, the department shall certify the business as eligible for  
18 tax credits under this section. An applicant is not eligible for tax  
19 credits under this section in excess of the amount of tax that would  
20 otherwise be due under this chapter. Approved credit may be carried  
21 over one calendar year after the year in which the credit is approved.  
22 Any unused credit remaining after the one-year carry-over period has  
23 elapsed expires. Refunds shall not be given in place of credits.

24 (b) The department shall keep a running total of all credits  
25 approved. The sum total of credits granted under this section and  
26 section 18 of this act shall be no more than five million dollars of  
27 credits each fiscal year. If the amount requested for a credit in an  
28 application will cause the cap to be exceeded, the department shall  
29 give a partial approval of the project, equal to the amount of  
30 remaining credit available for the fiscal year.

31 (c) The amount of credit taken is not confidential or subject to  
32 RCW 82.32.330, and is disclosable by the department as a public record.

33 (5) Investments in a public facility do not give the private-sector  
34 business a right or privilege, or any other benefit in the public  
35 facility.

36 (6) An application under this section may not be approved after  
37 June 30, 2005.

38 (7) Tax credits shall not be granted for spending that occurred  
39 before the effective date of this section. Applicants are not eligible

1 based on a loan or grant approved before the effective date of this  
2 section.

3 (8) If a person has used a credit granted under this section  
4 against tax due under chapter 82.16 RCW the person may not use the same  
5 credit for tax due under this chapter.

6 (9) The tax credit program under this section and section 18 of  
7 this act is limited to expenditures for public facilities located in  
8 distressed counties. "Distressed county" means a county in which the  
9 average level of unemployment for the three years before the year in  
10 which an application is filed under this section exceeds the average  
11 state unemployment for those years by twenty percent.

12 NEW SECTION. **Sec. 18.** A new section is added to chapter 82.16 RCW  
13 to read as follows:

14 The tax credit program under section 17 of this act is available to  
15 persons for tax due under this chapter. If a person has used a credit  
16 granted under this section against tax due under chapter 82.04 RCW the  
17 person may not use the same credit for tax due under this chapter.

18 NEW SECTION. **Sec. 19.** It is the intent of the legislature to  
19 promote the creation and the retention of jobs. To that end section  
20 20, chapter . . . , Laws of 1998 (section 20 of this act) allows  
21 counties to provide public facilities that will attract and retain  
22 businesses, thereby creating and maintaining jobs.

23 **Sec. 20.** RCW 82.14.370 and 1997 c 366 s 3 are each amended to read  
24 as follows:

25 (1) The legislative authority of a distressed county may impose a  
26 sales and use tax in accordance with the terms of this chapter. The  
27 tax is in addition to other taxes authorized by law and shall be  
28 collected from those persons who are taxable by the state under  
29 chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event  
30 within the county. The rate of tax shall not exceed (~~0.04~~) 0.12  
31 percent of the selling price in the case of a sales tax or value of the  
32 article used in the case of a use tax.

33 (2) The tax imposed under subsection (1) of this section shall be  
34 deducted from the amount of tax otherwise required to be collected or  
35 paid over to the department of revenue under chapter 82.08 or 82.12



1 RCW. The department of revenue shall perform the collection of such  
2 taxes on behalf of the county at no cost to the county.

3 (3) Moneys collected under this section shall only be used for the  
4 purpose of financing qualifying public facilities in rural counties.  
5 The public facility must be listed as an item in the officially adopted  
6 county overall economic development plan or the economic development  
7 section of the comprehensive plan for those counties planning under RCW  
8 36.70A.040, or, for those counties who do not plan under the growth  
9 management act and do not have an adopted overall economic development  
10 plan, the public facility must be listed in the county's capital  
11 facilities plan. For the purposes of this section, "public facilities"  
12 means bridges, roads, domestic and industrial water, sanitary sewer,  
13 storm sewer, railroad, electricity, natural gas, buildings or  
14 structures, and port facilities, in the state of Washington.

15 (4) No tax may be collected under this section before July 1, 1998.  
16 No tax may be collected under this section by a county more than  
17 twenty-five years after the date that a tax is first imposed under this  
18 section.

19 (5) For purposes of this section, "distressed county" means a  
20 county in which the average level of unemployment for the three years  
21 before the year in which a tax is first imposed under this section  
22 exceeds the average state ((~~employment~~)) unemployment for those years  
23 by twenty percent.

24 NEW SECTION. Sec. 21. A new section is added to chapter 43.31 RCW  
25 to read as follows:

26 The department of community, trade, and economic development is  
27 directed to emphasize business assistance and recruitment for rural  
28 distressed areas within its trade and economic sectors, and local  
29 development assistance. The primary goal of the rural initiative is to  
30 coordinate and administer a comprehensive and effective set of business  
31 assistance programs and services including:

32 (1) Business recruitment. The department of community, trade, and  
33 economic development shall: Provide a comprehensive and aggressive  
34 program to attract viable businesses to rural distressed areas; work  
35 with local communities to identify select industry sectors that have a  
36 competitive advantage in specific rural distressed areas; collaborate  
37 with state and local officials to modify their infrastructure plans and

1 priorities to facilitate business growth; and assist rural distressed  
2 areas in developing strategic business recruitment plans.

3 (2) Business permitting and zoning one-stop shop. The department  
4 of community, trade, and economic development shall: Provide a  
5 streamlined and customer-driven siting service to businesses in order  
6 to promote their attraction and expansion in rural distressed areas;  
7 provide preliminary permit application and zoning information and  
8 services for businesses in order to attract firms and facilitate  
9 business growth in rural distressed areas.

10 (3) Business regulatory assistance and ombudsman services. The  
11 department of community, trade, and economic development shall:  
12 Provide comprehensive business regulatory services to assist businesses  
13 in addressing and responding to local, state, and federal regulations;  
14 and provide recommendations on streamlining and modifying government  
15 regulations.

16 (a) The department of community, trade, and economic development is  
17 authorized to review state zoning, permitting, or regulatory  
18 requirements that pose difficulty for businesses wishing or likely to  
19 site in a rural enterprise area. In situations where the department of  
20 community, trade, and economic development considers the zoning,  
21 permitting, or regulatory requirements placed on a business in a rural  
22 enterprise area unfairly burdensome the director may petition the  
23 regulatory agency or agencies for regulatory relief. In addition the  
24 director may petition the agency or agencies for relief under the  
25 regulatory fairness act, chapter 19.85 RCW.

26 (b) In situations where a business or entity in a rural enterprise  
27 area is encountering regulatory oversight from more than one state  
28 agency and is experiencing conflicting direction or confusing process,  
29 the business or entity may petition the director to intercede. The  
30 director upon review of the circumstances involved is authorized to  
31 designate a lead agency to collaborate with other state agencies in  
32 order to streamline and reduce the regulatory difficulties.

33 (c) Businesses or entities in a rural enterprise zone may petition  
34 the director for an accelerated zoning, permitting, or regulatory  
35 process. The director upon reviewing the petition and the  
36 circumstances involved may make a finding of regulatory unfairness and  
37 may direct the state agency or agencies to process the business or  
38 entities application in an expeditious manner with a maximum timeline  
39 of six months from the director's receipt of the petition.

1 The director shall establish a pilot process in cooperation with  
2 other state agencies to implement this subsection (3) during 1997 and  
3 1998 and report annually to the legislature on the impact of the  
4 program.

5 (4) "Brown Fields" program. The department of community, trade,  
6 and economic development shall develop with the department of ecology  
7 and recommend to the legislature a streamlined and cost-effective  
8 process to redevelop hazardous industrial sites in order to promote  
9 business growth in rural distressed areas.

10 (5) Rural enterprise zone development and foreign trade zone. The  
11 department of community, trade, and economic development is authorized  
12 to provide technical assistance to local governments in rural  
13 distressed areas to establish rural enterprise zones and foreign trade  
14 zones. The department of community, trade, and economic development  
15 shall target rural enterprise zones and foreign trade zones in the  
16 delivery of its services in order to maximize the impact of its  
17 economic development assistance to businesses and rural distressed  
18 areas.

19 NEW SECTION. **Sec. 22.** A new section is added to chapter 43.31 RCW  
20 to read as follows:

21 The rural initiative shall be administered by a director appointed  
22 by the director of community, trade, and economic development, in  
23 consultation with the rural distressed areas economic recovery  
24 coordination board. The rural initiative director shall coordinate  
25 activities with the rural community assistance team and report on the  
26 activities and performance of the rural initiative to the legislature  
27 on a quarterly basis.

28 NEW SECTION. **Sec. 23.** A new section is added to chapter 44.28 RCW  
29 to read as follows:

30 The joint committee shall review and study the public facility  
31 financing program under RCW 82.14.370 and make a report to the  
32 legislature in January 2002. The report must include the local  
33 revenues generated by the tax, the facilities constructed, and to the  
34 extent possible, the number of jobs in each county created or retained  
35 due to this public facility financing program.

1        NEW SECTION.    **Sec. 24.**    Sections 9 through 16 of this act  
2 constitute a new chapter in Title 84 RCW.

3        NEW SECTION.    **Sec. 25.**    If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

7        NEW SECTION.    **Sec. 26.**    This act takes effect July 1, 1998.

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