

2 **E2SSB 5594** - H COMM AMD NOT ADOPTED 04/13/99
3 By Committee on Finance

4
5 Strike everything after the enacting clause and insert the
6 following:

7 "PART I
8 **DISTRESSED AREA SALES AND USE TAX DEFERRAL**

9 **Sec. 101.** RCW 82.60.020 and 1996 c 290 s 4 are each amended to
10 read as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

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

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

16 (3) "Eligible area" means(~~(:~~—(a) A county in which the average
17 level of unemployment for the three years before the year in which an
18 application is filed under this chapter exceeds the average state
19 unemployment for those years by twenty percent; (b) a county that has
20 a median household income that is less than seventy five percent of the
21 state median household income for the previous three years; (c) a
22 metropolitan statistical area, as defined by the office of federal
23 statistical policy and standards, United States department of commerce,
24 in which the average level of unemployment for the calendar year
25 immediately preceding the year in which an application is filed under
26 this chapter exceeds the average state unemployment for such calendar
27 year by twenty percent; (d) a designated community empowerment zone
28 approved under RCW 43.63A.700 or a county containing such a community
29 empowerment zone; (e) a town with a population of less than twelve
30 hundred persons in those counties that are not covered under (a) of
31 this subsection that are timber impact areas as defined in RCW
32 43.31.601; (f) a county designated by the governor as an eligible area
33 under RCW 82.60.047; or (g) a county that is contiguous to a county
34 that qualifies as an eligible area under (a) or (f) of this
35 subsection)) a county with fewer than one hundred persons per square

1 mile as determined annually by the office of financial management and
2 published by the department of revenue effective for the period July
3 1st through June 30th.

4 (4)(a) "Eligible investment project" means(~~(i~~
5 ~~(i))~~) an investment project in an eligible area as defined in
6 subsection (3)((~~a~~), (~~b~~), (~~c~~), (~~e~~), or (~~f~~)) of this section(~~(i~~ or
7 ~~(ii)~~) ~~That portion of an investment project in an eligible area as~~
8 ~~defined in subsection (3)(d) or (g) of this section which is directly~~
9 ~~utilized to create at least one new full-time qualified employment~~
10 ~~position for each three hundred thousand dollars of investment on which~~
11 ~~a deferral is requested in an application approved before July 1, 1994,~~
12 ~~and for each seven hundred fifty thousand dollars of investment on~~
13 ~~which a deferral is requested in an application approved after June 30,~~
14 ~~1994)).~~

15 (b) The lessor/owner of a qualified building is not eligible for a
16 deferral unless the underlying ownership of the buildings, machinery,
17 and equipment vests exclusively in the same person, or unless the
18 lessor by written contract agrees to pass the economic benefit of the
19 deferral to the lessee in the form of reduced rent payments.

20 (c) (~~For purposes of (a)(ii) of this subsection:~~

21 ~~(i) The department shall consider the entire investment project,~~
22 ~~including any investment in machinery and equipment that otherwise~~
23 ~~qualifies for exemption under RCW 82.08.02565 or 82.12.02565, for~~
24 ~~purposes of determining the portion of the investment project that~~
25 ~~qualifies for deferral as an eligible investment project; and~~

26 ~~(ii) The number of new full-time qualified employment positions~~
27 ~~created by an investment project shall be deemed to be reduced by the~~
28 ~~number of full-time employment positions maintained by the recipient in~~
29 ~~any other community in this state that are displaced as a result of the~~
30 ~~investment project.~~

31 ~~(d))~~ "Eligible investment project" does not include any portion of
32 an investment project undertaken by a light and power business as
33 defined in RCW 82.16.010(5), other than that portion of a cogeneration
34 project that is used to generate power for consumption within the
35 manufacturing site of which the cogeneration project is an integral
36 part, or investment projects which have already received deferrals
37 under this chapter.

38 (5) "Investment project" means an investment in qualified buildings
39 or qualified machinery and equipment, including labor and services

1 rendered in the planning, installation, and construction of the
2 project.

3 (6) "~~Manufacturing~~" means ~~((all activities of a commercial or~~
4 ~~industrial nature wherein labor or skill is applied, by hand or~~
5 ~~machinery, to materials so that as a result thereof a new, different,~~
6 ~~or useful substance or article of tangible personal property is~~
7 ~~produced for sale or commercial or industrial use and shall include the~~
8 ~~production or fabrication of specially made or custom made articles))~~
9 the same as defined in RCW 82.04.120. "Manufacturing" also includes
10 computer programming, the production of computer software, and other
11 computer-related services, and the activities performed by research and
12 development laboratories and commercial testing laboratories.

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

14 (8) "Qualified buildings" means construction of new structures, and
15 expansion or renovation of existing structures for the purpose of
16 increasing floor space or production capacity used for manufacturing
17 and research and development activities, including plant offices and
18 warehouses or other facilities for the storage of raw material or
19 finished goods if such facilities are an essential or an integral part
20 of a factory, mill, plant, or laboratory used for manufacturing or
21 research and development. If a building is used partly for
22 manufacturing or research and development and partly for other
23 purposes, the applicable tax deferral shall be determined by
24 apportionment of the costs of construction under rules adopted by the
25 department.

26 (9) ~~(("Qualified employment position" means a permanent full-time~~
27 ~~employee employed in the eligible investment project during the entire~~
28 ~~tax year.~~

29 ~~(10))~~ "Qualified machinery and equipment" means all new industrial
30 and research fixtures, equipment, and support facilities that are an
31 integral and necessary part of a manufacturing or research and
32 development operation. "Qualified machinery and equipment" includes:
33 Computers; software; data processing equipment; laboratory equipment;
34 manufacturing components such as belts, pulleys, shafts, and moving
35 parts; molds, tools, and dies; operating structures; and all equipment
36 used to control or operate the machinery.

37 ~~((11))~~ (10) "Recipient" means a person receiving a tax deferral
38 under this chapter.

1 (~~(12)~~) (11) "Research and development" means the development,
2 refinement, testing, marketing, and commercialization of a product,
3 service, or process before commercial sales have begun. As used in
4 this subsection, "commercial sales" excludes sales of prototypes or
5 sales for market testing if the total gross receipts from such sales of
6 the product, service, or process do not exceed one million dollars.

7 **Sec. 102.** RCW 82.60.040 and 1997 c 156 s 5 are each amended to
8 read as follows:

9 (1) The department shall issue a sales and use tax deferral
10 certificate for state and local sales and use taxes due under chapters
11 82.08, 82.12, and 82.14 RCW on each eligible investment project that(~~(:~~

12 ~~(a))~~ is located in an eligible area as defined in RCW
13 82.60.020(~~(3) (a), (b), (c), (e), or (f);~~

14 ~~(b) Is located in an eligible area as defined in RCW~~
15 ~~82.60.020(3)(g) if seventy five percent of the new qualified employment~~
16 ~~positions are to be filled by residents of a contiguous county that is~~
17 ~~an eligible area as defined in RCW 82.60.020(3) (a) or (f); or~~

18 ~~(c) Is located in an eligible area as defined in RCW~~
19 ~~82.60.020(3)(d) if seventy five percent of the new qualified employment~~
20 ~~positions are to be filled by residents of a designated community~~
21 ~~empowerment zone approved under RCW 43.63A.700 located within the~~
22 ~~county in which the eligible investment project is located)).~~

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

25 (3) This section expires July 1, 2004.

26 **Sec. 103.** RCW 82.60.070 and 1995 1st sp.s. c 3 s 9 are each
27 amended to read as follows:

28 (1) (~~Each recipient of a deferral granted under this chapter prior~~
29 ~~to July 1, 1994, shall submit a report to the department on December~~
30 ~~31st of each year during the repayment period until the tax deferral is~~
31 ~~repaid.)) Each recipient of a deferral granted under this chapter
32 after June 30, 1994, shall submit a report to the department on
33 December 31st of the year in which the investment project is certified
34 by the department as having been operationally completed, and on
35 December 31st of each of the seven succeeding calendar years. The
36 report shall contain information, as required by the department, from
37 which the department may determine whether the recipient is meeting the~~

1 requirements of this chapter. If the recipient fails to submit a
2 report or submits an inadequate report, the department may declare the
3 amount of deferred taxes outstanding to be immediately assessed and
4 payable.

5 (2) If, on the basis of a report under this section or other
6 information, the department finds that an investment project is not
7 eligible for tax deferral under this chapter (~~for reasons other than~~
8 ~~failure to create the required number of qualified employment~~
9 ~~positions)), the amount of deferred taxes outstanding for the project~~
10 shall be immediately due.

11 (3) (~~If, on the basis of a report under this section or other~~
12 ~~information, the department finds that an investment project for which~~
13 ~~a deferral has been granted under this chapter prior to July 1, 1994,~~
14 ~~has been operationally complete for three years and has failed to~~
15 ~~create the required number of qualified employment positions, the~~
16 ~~department shall assess interest, but not penalties, on the deferred~~
17 ~~taxes for the project. The interest shall be assessed at the rate~~
18 ~~provided for delinquent excise taxes, shall be assessed retroactively~~
19 ~~to the date of deferral, and shall accrue until the deferred taxes are~~
20 ~~repaid.~~

21 (4) ~~If, on the basis of a report under this section or other~~
22 ~~information, the department finds that an investment project for which~~
23 ~~a deferral has been granted under this chapter after June 30, 1994, has~~
24 ~~been operationally complete for three years and has failed to create~~
25 ~~the required number of qualified employment positions, the amount of~~
26 ~~taxes not eligible for deferral shall be immediately due. The~~
27 ~~department shall assess interest at the rate provided for delinquent~~
28 ~~excise taxes, but not penalties, retroactively to the date of deferral.~~

29 (5) ~~If, on the basis of a report under this section or other~~
30 ~~information, the department finds that an investment project qualifying~~
31 ~~for deferral under RCW 82.60.040(1) (b) or (c) has failed to comply~~
32 ~~with any requirement of RCW 82.60.045 for any calendar year for which~~
33 ~~reports are required under subsection (1) of this section, twelve and~~
34 ~~one-half percent of the amount of deferred taxes shall be immediately~~
35 ~~due. The department shall assess interest at the rate provided for~~
36 ~~delinquent excise taxes, but not penalties, retroactively to the date~~
37 ~~of deferral.~~

38 (6)) Notwithstanding any other subsection of this section,
39 deferred taxes need not be repaid on machinery and equipment for lumber

1 and wood products industries, and sales of or charges made for labor
2 and services, of the type which qualifies for exemption under RCW
3 82.08.02565 or 82.12.02565 to the extent the taxes have not been repaid
4 before July 1, 1995.

5 ~~((7))~~ (4) Notwithstanding any other subsection of this section,
6 deferred taxes on the following need not be repaid:

7 (a) Machinery and equipment, and sales of or charges made for labor
8 and services, which at the time of purchase would have qualified for
9 exemption under RCW 82.08.02565; and

10 (b) Machinery and equipment which at the time of first use would
11 have qualified for exemption under RCW 82.12.02565.

12 PART II

13 DISTRESSED AREA BUSINESS AND OCCUPATION TAX JOB CREDIT

14 **Sec. 201.** RCW 82.62.010 and 1996 c 290 s 5 are each amended to
15 read as follows:

16 Unless the context clearly requires otherwise, the definitions in
17 this section apply throughout this chapter.

18 (1) "Applicant" means a person applying for a tax credit under this
19 chapter.

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

21 (3) "Eligible area" means(~~:(a) A county in which the average~~
22 ~~level of unemployment for the three years before the year in which an~~
23 ~~application is filed under this chapter exceeds the average state~~
24 ~~unemployment for those years by twenty percent; (b) a county that has~~
25 ~~a median household income that is less than seventy five percent of the~~
26 ~~state median household income for the previous three years; (c) a~~
27 ~~metropolitan statistical area, as defined by the office of federal~~
28 ~~statistical policy and standards, United States department of commerce,~~
29 ~~in which the average level of unemployment for the calendar year~~
30 ~~immediately preceding the year in which an application is filed under~~
31 ~~this chapter exceeds the average state unemployment for such calendar~~
32 ~~year by twenty percent; (d) a designated community empowerment zone~~
33 ~~approved under RCW 43.63A.700; or (e) subcounty areas in those counties~~
34 ~~that are not covered under (a) of this subsection that are timber~~
35 ~~impact areas as defined in RCW 43.31.601)) an area as defined in RCW
36 82.60.020.~~

1 (4)(a) "Eligible business project" means manufacturing or research
2 and development activities which are conducted by an applicant in an
3 eligible area at a specific facility, provided the applicant's average
4 full-time qualified employment positions at the specific facility will
5 be at least fifteen percent greater in the year for which the credit is
6 being sought than the applicant's average full-time qualified
7 employment positions at the same facility in the immediately preceding
8 year.

9 (b) "Eligible business project" does not include any portion of a
10 business project undertaken by a light and power business as defined in
11 RCW 82.16.010(5) or that portion of a business project creating
12 qualified full-time employment positions outside an eligible area or
13 those recipients of a sales tax deferral under chapter 82.61 RCW.

14 (5) "Manufacturing" means (~~all activities of a commercial or~~
15 ~~industrial nature wherein labor or skill is applied, by hand or~~
16 ~~machinery, to materials so that as a result thereof a new, different,~~
17 ~~or useful substance or article of tangible personal property is~~
18 ~~produced for sale or commercial or industrial use and shall include the~~
19 ~~production or fabrication of specially made or custom made articles))
20 the same as defined in RCW 82.04.120. "Manufacturing" also includes
21 computer programming, the production of computer software, and other
22 computer-related services, and the activities performed by research and
23 development laboratories and commercial testing laboratories.~~

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

25 (7) "Qualified employment position" means a permanent full-time
26 employee employed in the eligible business project during the entire
27 tax year.

28 (8) "Tax year" means the calendar year in which taxes are due.

29 (9) "Recipient" means a person receiving tax credits under this
30 chapter.

31 (10) "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. 202.** RCW 82.62.030 and 1997 c 366 s 5 are each amended to
38 read as follows:

1 (1) A person shall be allowed a credit against the tax due under
2 chapter 82.04 RCW as provided in this section. (~~For an application~~
3 ~~approved before January 1, 1996, the credit shall equal one thousand~~
4 ~~dollars for each qualified employment position directly created in an~~
5 ~~eligible business project. For an application approved on or after~~
6 ~~January 1, 1996, the credit shall equal two thousand dollars for each~~
7 ~~qualified employment position directly created in an eligible business~~
8 ~~project. For an application approved on or after July 1, 1997,~~) The
9 credit shall equal: (a) Four thousand dollars for each qualified
10 employment position with wages and benefits greater than forty thousand
11 dollars annually that is directly created in an eligible business(~~(-~~
12 ~~For an application approved on or after July 1, 1997, the credit shall~~
13 ~~equal)~~) and (b) two thousand dollars for each qualified employment
14 position with wages and benefits less than or equal to forty thousand
15 dollars annually that is directly created in an eligible business.

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

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

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

32 PART III

33 COMMUNITY EMPOWERMENT ZONES

34 NEW SECTION. **Sec. 301.** A new section is added to chapter 82.60
35 RCW to read as follows:

36 (1) For the purposes of this section:

1 (a) "Eligible area" also means a designated community empowerment
2 zone approved under RCW 43.63A.700.

3 (b) "Eligible investment project" also means an investment project
4 in an eligible area as defined in this section.

5 (2) In addition to the provisions of RCW 82.60.040, the department
6 shall issue a sales and use tax deferral certificate for state and
7 local sales and use taxes due under chapters 82.08, 82.12, and 82.14
8 RCW, on each eligible investment project that is located in an eligible
9 area, if the applicant establishes that at the time the project is
10 operationally complete:

11 (a) The applicant will hire at least one qualified employment
12 position for each seven hundred fifty thousand dollars of investment on
13 which a deferral is requested; and

14 (b) The positions will be filled by persons who at the time of hire
15 are residents of the community empowerment zone in which the project is
16 located. As used in this subsection, "resident" means the person makes
17 his or her home in the community empowerment zone. A mailing address
18 alone is insufficient to establish that a person is a resident for the
19 purposes of this section. The persons must be hired after the date the
20 application is filed with the department.

21 (3) All other provisions and eligibility requirements of this
22 chapter apply to applicants eligible under this section.

23 (4) If a person does not meet the requirements of this section by
24 the end of the calendar year following the year in which the project is
25 certified as operationally complete, all deferred taxes are immediately
26 due.

27 NEW SECTION. **Sec. 302.** A new section is added to chapter 82.62
28 RCW to read as follows:

29 (1) For the purposes of this section "eligible area" also means a
30 designated community empowerment zone approved under RCW 43.63A.700.

31 (2) An eligible business project located within an eligible area as
32 defined in this section qualifies for a credit under this chapter for
33 those employees who at the time of hire are residents of the community
34 empowerment zone in which the project is located, if the fifteen
35 percent threshold is met. As used in this subsection, "resident" means
36 the person makes his or her home in the community empowerment zone. A
37 mailing address alone is insufficient to establish that a person is a
38 resident for the purposes of this section.

1 (3) All other provisions and eligibility requirements of this
2 chapter apply to applicants eligible under this section.

3 **PART IV**
4 **MISCELLANEOUS**

5 NEW SECTION. **Sec. 401.** Part headings and subheadings used in this
6 act are not any part of the law.

7 NEW SECTION. **Sec. 402.** This act takes effect August 1, 1999.

8 NEW SECTION. **Sec. 403.** Sections 101 through 103, 201, and 202 of
9 this act do not affect any existing right acquired or liability or
10 obligation under the sections amended or repealed in those sections or
11 any rule or order adopted under those sections, nor does it affect any
12 proceeding instituted under those sections.

13 NEW SECTION. **Sec. 404.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected."

17 **E2SSB 5594** - H COMM AMD
18 By Committee on Finance

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20 On page 1, line 1 of the title, after "vitality;" strike the
21 remainder of the title and insert "amending RCW 82.60.020, 82.60.040,
22 82.60.070, 82.62.010, and 82.62.030; adding a new section to chapter
23 82.60 RCW; adding a new section to chapter 82.62 RCW; creating new
24 sections; providing an effective date; and providing an expiration
25 date."

--- END ---