

2 **SSB 6058 - H COMM AMD NOT CONSIDERED 04/15/99**

3 By Committee on Finance

4

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

7 "NEW SECTION. **Sec. 1.** The legislature finds that the recent
8 appellate court decision in the case of *Valley Fruit v. Department of*
9 *Revenue*, has created confusion regarding the taxability of apple
10 growers, packers, and farmers and the availability of different
11 exemptions for apple growers, packers, and farmers. It is the intent
12 of the legislature to make clear that growing or packing any
13 agricultural product, is not a manufacturing activity.

14 **Sec. 2.** RCW 82.04.120 and 1998 c 168 s 1 are each amended to read
15 as follows:

16 "To manufacture" embraces all activities of a commercial or
17 industrial nature wherein labor or skill is applied, by hand or
18 machinery, to materials so that as a result thereof a new, different or
19 useful substance or article of tangible personal property is produced
20 for sale or commercial or industrial use, and shall include: (1) The
21 production or fabrication of special made or custom made articles; and
22 (2) the production or fabrication of dental appliances, devices,
23 restorations, substitutes, or other dental laboratory products by a
24 dental laboratory or dental technician.

25 "To manufacture" shall not include: Conditioning of seed for use
26 in planting; cubing hay or alfalfa; ((or)) activities which consist of
27 cutting, grading, or ice glazing seafood which has been cooked, frozen,
28 or canned outside this state; the growing, harvesting, or producing of
29 agricultural products; or packing of agricultural products, including
30 sorting, washing, rinsing, grading, waxing, treating with fungicide,
31 packaging, chilling, or placing in controlled atmospheric storage.

32 **Sec. 3.** RCW 82.60.020 and 1996 c 290 s 4 are each amended to read
33 as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

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

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

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

25 (4)(a) "Eligible investment project" means:

26 (i) An investment project in an eligible area as defined in
27 subsection (3)(a), (b), (c), (e), or (f) of this section; or

28 (ii) That portion of an investment project in an eligible area as
29 defined in subsection (3)(d) or (g) of this section which is directly
30 utilized to create at least one new full-time qualified employment
31 position for each three hundred thousand dollars of investment on which
32 a deferral is requested in an application approved before July 1, 1994,
33 and for each seven hundred fifty thousand dollars of investment on
34 which a deferral is requested in an application approved after June 30,
35 1994.

36 (b) The lessor/owner of a qualified building is not eligible for a
37 deferral unless the underlying ownership of the buildings, machinery,
38 and equipment vests exclusively in the same person, or unless the

1 lessor by written contract agrees to pass the economic benefit of the
2 deferral to the lessee in the form of reduced rent payments.

3 (c) For purposes of (a)(ii) of this subsection:

4 (i) The department shall consider the entire investment project,
5 including any investment in machinery and equipment that otherwise
6 qualifies for exemption under RCW 82.08.02565 or 82.12.02565, for
7 purposes of determining the portion of the investment project that
8 qualifies for deferral as an eligible investment project; and

9 (ii) The number of new full-time qualified employment positions
10 created by an investment project shall be deemed to be reduced by the
11 number of full-time employment positions maintained by the recipient in
12 any other community in this state that are displaced as a result of the
13 investment project.

14 (d) "Eligible investment project" does not include any portion of
15 an investment project undertaken by a light and power business as
16 defined in RCW 82.16.010(5), other than that portion of a cogeneration
17 project that is used to generate power for consumption within the
18 manufacturing site of which the cogeneration project is an integral
19 part, or investment projects which have already received deferrals
20 under this chapter.

21 (5) "Investment project" means an investment in qualified buildings
22 or qualified machinery and equipment, including labor and services
23 rendered in the planning, installation, and construction of the
24 project.

25 (6) "~~Manufacturing~~" means ~~((all activities of a commercial or~~
26 ~~industrial nature wherein labor or skill is applied, by hand or~~
27 ~~machinery, to materials so that as a result thereof a new, different,~~
28 ~~or useful substance or article of tangible personal property is~~
29 ~~produced for sale or commercial or industrial use and shall include the~~
30 ~~production or fabrication of specially made or custom made articles))~~
31 the same as defined in RCW 82.04.120. "Manufacturing" also includes
32 computer programming, the production of computer software, and other
33 computer-related services, and the activities performed by research and
34 development laboratories and commercial testing laboratories.

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

36 (8) "Qualified buildings" means construction of new structures, and
37 expansion or renovation of existing structures for the purpose of
38 increasing floor space or production capacity used for manufacturing
39 and research and development activities, including plant offices and

1 warehouses or other facilities for the storage of raw material or
2 finished goods if such facilities are an essential or an integral part
3 of a factory, mill, plant, or laboratory used for manufacturing or
4 research and development. If a building is used partly for
5 manufacturing or research and development and partly for other
6 purposes, the applicable tax deferral shall be determined by
7 apportionment of the costs of construction under rules adopted by the
8 department.

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

12 (10) "Qualified machinery and equipment" means all new industrial
13 and research fixtures, equipment, and support facilities that are an
14 integral and necessary part of a manufacturing or research and
15 development operation. "Qualified machinery and equipment" includes:
16 Computers; software; data processing equipment; laboratory equipment;
17 manufacturing components such as belts, pulleys, shafts, and moving
18 parts; molds, tools, and dies; operating structures; and all equipment
19 used to control or operate the machinery.

20 (11) "Recipient" means a person receiving a tax deferral under this
21 chapter.

22 (12) "Research and development" means the development, refinement,
23 testing, marketing, and commercialization of a product, service, or
24 process before commercial sales have begun. As used in this
25 subsection, "commercial sales" excludes sales of prototypes or sales
26 for market testing if the total gross receipts from such sales of the
27 product, service, or process do not exceed one million dollars.

28 **Sec. 4.** RCW 82.62.010 and 1996 c 290 s 5 are each amended to read
29 as follows:

30 Unless the context clearly requires otherwise, the definitions in
31 this section apply throughout this chapter.

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

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

35 (3) "Eligible area" means: (a) A county in which the average level
36 of unemployment for the three years before the year in which an
37 application is filed under this chapter exceeds the average state
38 unemployment for those years by twenty percent; (b) a county that has

1 a median household income that is less than seventy-five percent of the
2 state median household income for the previous three years; (c) a
3 metropolitan statistical area, as defined by the office of federal
4 statistical policy and standards, United States department of commerce,
5 in which the average level of unemployment for the calendar year
6 immediately preceding the year in which an application is filed under
7 this chapter exceeds the average state unemployment for such calendar
8 year by twenty percent; (d) a designated community empowerment zone
9 approved under RCW 43.63A.700; or (e) subcounty areas in those counties
10 that are not covered under (a) of this subsection that are timber
11 impact areas as defined in RCW 43.31.601.

12 (4)(a) "Eligible business project" means manufacturing or research
13 and development activities which are conducted by an applicant in an
14 eligible area at a specific facility, provided the applicant's average
15 full-time qualified employment positions at the specific facility will
16 be at least fifteen percent greater in the year for which the credit is
17 being sought than the applicant's average full-time qualified
18 employment positions at the same facility in the immediately preceding
19 year.

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

25 (5) ~~"Manufacturing" means ((all activities of a commercial or~~
26 ~~industrial nature wherein labor or skill is applied, by hand or~~
27 ~~machinery, to materials so that as a result thereof a new, different,~~
28 ~~or useful substance or article of tangible personal property is~~
29 ~~produced for sale or commercial or industrial use and shall include the~~
30 ~~production or fabrication of specially made or custom made articles))~~
31 the same as defined in RCW 82.04.120. "Manufacturing" also includes
32 computer programming, the production of computer software, and other
33 computer-related services, and the activities performed by research and
34 development laboratories and commercial testing laboratories.

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

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

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

1 (9) "Recipient" means a person receiving tax credits under this
2 chapter.

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

9 **Sec. 5.** RCW 82.04.120 and 1999 c . . . s 2 (section 2 of this act)
10 are each amended to read as follows:

11 "To manufacture" embraces all activities of a commercial or
12 industrial nature wherein labor or skill is applied, by hand or
13 machinery, to materials so that as a result thereof a new, different or
14 useful substance or article of tangible personal property is produced
15 for sale or commercial or industrial use, and shall include: (1) The
16 production or fabrication of special made or custom made articles; and
17 (2) the production or fabrication of dental appliances, devices,
18 restorations, substitutes, or other dental laboratory products by a
19 dental laboratory or dental technician.

20 "To manufacture" shall not include: Conditioning of seed for use
21 in planting; cubing hay or alfalfa; activities which consist of
22 cutting, grading, or ice glazing seafood which has been cooked, frozen,
23 or canned outside this state; the growing, harvesting, or producing of
24 agricultural products; ~~((or))~~ packing of agricultural products,
25 including sorting, washing, rinsing, grading, waxing, treating with
26 fungicide, packaging, chilling, or placing in controlled atmospheric
27 storage; or activities which consist of the assembly of an article from
28 pumping equipment, motor equipment, or compressor equipment, including
29 starters, controls, couplings, blowers, and other accessories for such
30 equipment, if some of the equipment and accessories are purchased from
31 another person and the amount paid for the purchased equipment and
32 accessories is at least eighty percent of the costs of the goods sold,
33 based on materials, labor, and direct overhead.

34 NEW SECTION. **Sec. 6.** Sections 2 through 4 of this act are
35 intended to clarify that this is the intent of the legislature both
36 retroactively and prospectively.

1 NEW SECTION. **Sec. 7.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 immediately."

9 Correct the title.

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