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SENATE BILL 5168

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State of Washington

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By Senators T. Sheldon, Rasmussen, Swecker, Franklin, Hargrove, Honeyford, Patterson, Morton, Haugen, Benton, Goings, Snyder, Zarelli and McCaslin

Read first time 01/15/1999. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to distressed area programs; amending RCW  
2 82.14.370, 82.60.020, 82.62.010, and 82.62.030; and providing an  
3 effective date.

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

5 **Sec. 1.** RCW 82.14.370 and 1998 c 55 s 6 are each amended to read  
6 as follows:

7 (1) The legislative authority of a distressed county may impose a  
8 sales and use tax in accordance with the terms of this chapter. The  
9 tax is in addition to other taxes authorized by law and shall be  
10 collected from those persons who are taxable by the state under  
11 chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event  
12 within the county. The rate of tax shall not exceed 0.04 percent of  
13 the selling price in the case of a sales tax or value of the article  
14 used in the case of a use tax.

15 (2) The legislative authority of a distressed county may impose a  
16 sales and use tax in accordance with the terms of this chapter. The  
17 tax is in addition to other taxes authorized by law and shall be  
18 collected from those persons who are taxable by the state under  
19 chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event

1 within the county. The rate of tax shall not exceed 0.04 percent of  
2 the selling price in the case of a sales tax or value of the article  
3 used in the case of a use tax.

4 (3) The tax imposed under subsection (1) or (2) of this section  
5 shall be deducted from the amount of tax otherwise required to be  
6 collected or paid over to the department of revenue under chapter 82.08  
7 or 82.12 RCW. The department of revenue shall perform the collection  
8 of such taxes on behalf of the county at no cost to the county.

9 ~~((+3))~~ (4) Moneys collected under subsection (1) of this section  
10 shall only be used for the purpose of financing public facilities in  
11 rural counties.

12 ~~((+4))~~ (5) Moneys collected under subsection (2) of this section  
13 shall only be used for the purpose of financing public facilities that  
14 are a part of that county's economic development plan.

15 (6) 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))~~ (7) For purposes of this section, "distressed county" means  
20 ~~((a county in which the average level of unemployment for the three~~  
21 ~~years before the year in which a tax is first imposed under this~~  
22 ~~section exceeds the average state unemployment for those years by~~  
23 ~~twenty percent))~~ an eligible area as defined in RCW 82.60.020.

24 **Sec. 2.** RCW 82.60.020 and 1996 c 290 s 4 are each amended to read  
25 as follows:

26 Unless the context clearly requires otherwise, the definitions in  
27 this section apply throughout this chapter.

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

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

31 (3) "Eligible area" means(~~(:—(a) A county in which the average~~  
32 ~~level of unemployment for the three years before the year in which an~~  
33 ~~application is filed under this chapter exceeds the average state~~  
34 ~~unemployment for those years by twenty percent; (b) a county that has~~  
35 ~~a median household income that is less than seventy five percent of the~~  
36 ~~state median household income for the previous three years; (c) a~~  
37 ~~metropolitan statistical area, as defined by the office of federal~~  
38 ~~statistical policy and standards, United States department of commerce,~~

1 in which the average level of unemployment for the calendar year  
2 immediately preceding the year in which an application is filed under  
3 this chapter exceeds the average state unemployment for such calendar  
4 year by twenty percent; (d) a designated community empowerment zone  
5 approved under RCW 43.63A.700 or a county containing such a community  
6 empowerment zone; (e) a town with a population of less than twelve  
7 hundred persons in those counties that are not covered under (a) of  
8 this subsection that are timber impact areas as defined in RCW  
9 43.31.601; (f) a county designated by the governor as an eligible area  
10 under RCW 82.60.047; or (g) a county that is contiguous to a county  
11 that qualifies as an eligible area under (a) or (f) of this  
12 subsection)) a county with fewer than one hundred persons per square  
13 mile as determined annually by the office of financial management.

14 (4)(a) "Eligible investment project" means(~~(:~~  
15 (i)) an investment project in an eligible area as defined in  
16 subsection (3)((a), (b), (c), (e), or (f)) of this section((; or  
17 (ii) That portion of an investment project in an eligible area as  
18 defined in subsection (3)(d) or (g) of this section which is directly  
19 utilized to create at least one new full-time qualified employment  
20 position for each three hundred thousand dollars of investment on which  
21 a deferral is requested in an application approved before July 1, 1994,  
22 and for each seven hundred fifty thousand dollars of investment on  
23 which a deferral is requested in an application approved after June 30,  
24 1994)).

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

30 (c) ~~((For purposes of (a)(ii) of this subsection:~~  
31 (i) ~~The department shall consider the entire investment project,~~  
32 ~~including any investment in machinery and equipment that otherwise~~  
33 ~~qualifies for exemption under RCW 82.08.02565 or 82.12.02565, for~~  
34 ~~purposes of determining the portion of the investment project that~~  
35 ~~qualifies for deferral as an eligible investment project; and~~

36 (ii) ~~The number of new full-time qualified employment positions~~  
37 ~~created by an investment project shall be deemed to be reduced by the~~  
38 ~~number of full-time employment positions maintained by the recipient in~~

1 ~~any other community in this state that are displaced as a result of the~~  
2 ~~investment project.~~

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

10 (5) "Investment project" means an investment in qualified buildings  
11 or qualified machinery and equipment, including labor and services  
12 rendered in the planning, installation, and construction of the  
13 project.

14 (6) "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 "Manufacturing" also includes computer programming, the production of  
21 computer software, and other computer-related services, and the  
22 activities performed by research and development laboratories and  
23 commercial testing laboratories.

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

25 (8) "Qualified buildings" means construction of new structures, and  
26 expansion or renovation of existing structures for the purpose of  
27 increasing floor space or production capacity used for manufacturing  
28 and research and development activities, including plant offices and  
29 warehouses or other facilities for the storage of raw material or  
30 finished goods if such facilities are an essential or an integral part  
31 of a factory, mill, plant, or laboratory used for manufacturing or  
32 research and development. If a building is used partly for  
33 manufacturing or research and development and partly for other  
34 purposes, the applicable tax deferral shall be determined by  
35 apportionment of the costs of construction under rules adopted by the  
36 department.

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

1       ~~(10))~~) "Qualified machinery and equipment" means all new industrial  
2 and research fixtures, equipment, and support facilities that are an  
3 integral and necessary part of a manufacturing or research and  
4 development operation. "Qualified machinery and equipment" includes:  
5 Computers; software; data processing equipment; laboratory equipment;  
6 manufacturing components such as belts, pulleys, shafts, and moving  
7 parts; molds, tools, and dies; operating structures; and all equipment  
8 used to control or operate the machinery.

9       ~~((11))~~) (10) "Recipient" means a person receiving a tax deferral  
10 under this chapter.

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

17       **Sec. 3.** RCW 82.62.010 and 1996 c 290 s 5 are each amended to read  
18 as follows:

19       Unless the context clearly requires otherwise, the definitions in  
20 this section apply throughout this chapter.

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

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

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

1 ~~impact areas as defined in RCW 43.31.601))~~ an area as defined in RCW  
2 82.60.020.

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

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

16 (5) "Manufacturing" means 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,  
19 or useful substance or article of tangible personal property is  
20 produced for sale or commercial or industrial use and shall include the  
21 production or fabrication of specially made or custom made articles.  
22 "Manufacturing" also includes computer programming, the production of  
23 computer software, and other computer-related services, and the  
24 activities performed by research and development laboratories and  
25 commercial testing laboratories.

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

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

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

31 (9) "Recipient" means a person receiving tax credits under this  
32 chapter.

33 (10) "Research and development" means the development, refinement,  
34 testing, marketing, and commercialization of a product, service, or  
35 process before commercial sales have begun. As used in this  
36 subsection, "commercial sales" excludes sales of prototypes or sales  
37 for market testing if the total gross receipts from such sales of the  
38 product, service, or process do not exceed one million dollars.

1       **Sec. 4.** RCW 82.62.030 and 1997 c 366 s 5 are each amended to read  
2 as follows:

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

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

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

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

34       NEW SECTION. **Sec. 5.** This act takes effect August 1, 1999.

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