
SENATE BILL 5417

State of Washington

56th Legislature

1999 Regular Session

By Senators Hargrove, Swecker, Snyder, Franklin, Rasmussen, T. Sheldon, Benton and Kohl-Welles; by request of Governor Locke

Read first time 01/21/1999. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to providing excise tax incentives for persons
2 engaged in software technology businesses in distressed counties;
3 adding new sections to chapter 82.04 RCW; adding a new section to
4 chapter 82.62 RCW; creating a new section; providing an effective date;
5 and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
8 attract and retain technology-based businesses in distressed counties.
9 Section 2 of this act provides a tax incentive to those businesses that
10 develop or manufacture software in distressed counties. Section 3 of
11 this act provides a tax incentive to those businesses that are engaged
12 in the business of providing technical support services from distressed
13 counties. Encouragement of these types of business will stimulate the
14 information technology industry and be of benefit to the state economy
15 in general. To further the impact and benefit of this program, this
16 incentive is limited to those counties of the state that are
17 characterized by unemployment or low income. The legislature finds
18 that providing this targeted incentive will both increase its

1 effectiveness and create a high technology work force in distressed
2 counties.

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

5 (1) Subject to the limits and provisions of this section, a credit
6 is authorized against the tax otherwise due under this chapter for
7 persons engaged in a distressed county in the business of manufacturing
8 or programming of software, as those terms are defined in this section.

9 (2) A person who partially or totally relocates a business from one
10 distressed county to another distressed county is eligible for any
11 qualifying new jobs created as a result of the relocation but is not
12 eligible to receive credit for the jobs moved from one county to the
13 other.

14 (3)(a) To qualify for the credit, the qualifying activity of the
15 person must be conducted in a distressed county and the qualified
16 employment position must be located in the distressed county.

17 (b) If an activity is conducted both from a distressed county and
18 outside of a distressed county, the credit is available if at least
19 ninety percent of the qualifying activity takes place within a
20 distressed county. If the qualifying activity is a service taxable
21 activity, the place where the work is performed is the place at which
22 the activity is conducted.

23 (4)(a) The credit under this section shall equal one thousand
24 dollars for each qualified employment position created after July 1,
25 1999, in an eligible area. A credit is earned for the calendar year
26 the person is hired to fill the position. Additionally a credit is
27 earned for each year the position is maintained over the subsequent
28 consecutive years, up to six years. The county must meet the
29 definition of a distressed county at the time the position is filled.
30 If the county does not have a distressed county status the following
31 year or years, the position is still eligible for the remaining years
32 if all other conditions are met.

33 (b) Credit may not be taken for hiring of persons into positions
34 that exist before July 1, 1999. Credit is authorized for new employees
35 hired for new positions created on or after July 1, 1999. New
36 positions filled by existing employees are eligible for the credit
37 under this section only if the position vacated by the existing
38 employee is filled by a new hire. A business that is a sole

1 proprietorship without any employees is equivalent to one employee
2 position and this type of business is eligible to receive credit for
3 one position.

4 (c) If a position is filled before July 1st, this position is
5 eligible for the full yearly credit. If it is filled after June 30th,
6 this position is eligible for half of the credit.

7 (d) A person that has engaged in qualifying activities in the
8 distressed county before the effective date of this section qualifies
9 for the credit under this section for positions created and filled
10 after the effective date of this section.

11 (5) No application is necessary for the tax credit. The person
12 must keep records necessary for the department to verify eligibility
13 under this section. This information includes information relating to
14 description of qualifying activity engaged in the distressed county and
15 outside the distressed county by the person as well as detailed records
16 on positions and employees. The department shall, in consultation with
17 a representative group of affected taxpayers, develop a method of
18 segregating activity and related income so that those persons who
19 engage in multiple activities can determine eligibility for credit
20 under this section.

21 (6) If at any time the department finds that a person is not
22 eligible for tax credit under this section, the amount of taxes for
23 which a credit has been claimed shall be immediately due. The
24 department shall assess interest, but not penalties, on the taxes for
25 which the person is not eligible. The interest shall be assessed at
26 the rate provided for delinquent excise taxes under chapter 82.32 RCW,
27 shall be assessed retroactively to the date the tax credit was taken,
28 and shall accrue until the taxes for which a credit has been used are
29 repaid.

30 (7) The credit under this section may be used against any tax due
31 under this chapter, but in no case may a credit earned during one
32 calendar year be carried over to be credited against taxes incurred in
33 a subsequent calendar year. A person is not eligible to receive a
34 credit under this section if the person is receiving credit for the
35 same position under chapter 82.62 RCW or RCW 82.04.44525 or is taking
36 the credit under section 3 of this act. No refunds may be granted for
37 credits under this section.

38 (8) County eligibility under this section shall be based on the
39 same list as published by the department under chapter 82.60 RCW. The

1 eligibility period is from July 1st of each year to June 30th of the
2 next year.

3 (9) A person taking tax credits under this section shall make an
4 annual report to the department. The report shall be in a letter form
5 and shall include the following information: Number of positions for
6 which credit is being claimed, type of position for which credit is
7 being claimed, type of activity in which the person is engaged in the
8 county, and how long the person has been located in the county. The
9 report must be filed by January 30th of each year for which credit was
10 claimed during the previous year.

11 (10) Transfer of ownership does not affect credit eligibility;
12 however, the credit is available to the successor for remaining periods
13 in the seven years only if the eligibility conditions of this section
14 are met.

15 (11) As used in this section:

16 (a) "Distressed county" means either (i) a county in which the
17 average level of unemployment for the previous three years exceeds the
18 average state unemployment for those years by twenty percent or (ii) a
19 county that has a median household income that is less than seventy-
20 five percent of the state median household income for the previous
21 three years.

22 (b) "Manufacturing" means the same as "to manufacture" under RCW
23 82.04.120. Manufacturing includes the activities of both manufacturers
24 and processors for hire.

25 (c) "Programming" means the activities that involve the creation or
26 modification of software, as that term is defined in this chapter, and
27 that are taxable as "service and other" under RCW 82.04.290(2) or
28 retail under RCW 82.04.050.

29 (d) "Qualifying activity" means manufacturing or programming of
30 software.

31 (e) "Qualified employment position" means a permanent full-time
32 position doing programming of software or manufacturing of software.
33 This excludes administrative, professional, service, executive, and
34 other similar positions. If an employee is either voluntarily or
35 involuntarily separated from employment, the employment position is
36 considered filled on a full-time basis if the employer is either
37 training or actively recruiting a replacement employee. Full-time
38 means a position for at least thirty-five hours a week.

39 (f) "Software" has the same meaning as defined in this chapter.

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

3 (1) Subject to the limits and provisions of this section, a credit
4 is authorized against the tax otherwise due under this chapter for
5 persons engaged in a distressed county in the business of providing
6 information technology help desk services to third parties.

7 (2) To qualify for the credit, the help desk services must be
8 conducted from a distressed county.

9 (3)(a) For the first eighty-four months in which the person is
10 engaged in the activity of providing information technology help desk
11 services in the distressed county, the amount of the credit shall be
12 equal to one hundred percent of the amount of tax due under this
13 chapter that is attributable to providing the services from the
14 distressed county. In order to qualify for the credit under this
15 subsection (3)(a), the county must meet the definition of "distressed
16 county" at the time the person begins to conduct qualifying business in
17 the county. If the county subsequently does not qualify for distressed
18 county status, the person may continue to take the credit for the
19 remaining time in the eighty-four months if all other conditions are
20 met. A person who locates in a county during a period of time for
21 which the county does not meet the distressed county status is not
22 eligible to receive the credit under this subsection (3)(a).

23 (b) A person who is not eligible for the credit under (a) of this
24 subsection is potentially eligible for credit under this subsection
25 (3)(b). If the person is engaged in the activity of providing
26 information technology help desk services in a distressed county, the
27 amount of the credit shall equal sixty-eight percent of the amount of
28 tax due under this chapter that is attributable to providing the
29 service from the distressed county. In order to qualify for the credit
30 under this subsection, the county must meet the definition of
31 "distressed county" during the period of time for which the credit is
32 being claimed. A person is not eligible for a credit under this
33 subsection (3)(b) for activity conducted during any period of time the
34 county does not have a distressed county status.

35 (c) A person who that has engaged in providing information
36 technology help desk services in the distressed county before the
37 effective date of this section qualifies for the credit under (a) of
38 this subsection for any remaining time in the eighty-four months, after
39 which time the person is potentially eligible for the credit under (b)

1 of this subsection. A person who has engaged in providing information
2 technology help desk services in the distressed county before the
3 effective date of this section for more than eighty-four months is
4 potentially eligible for the credit under (b) of this subsection.

5 (4) No application is necessary for the tax credit. The person
6 must keep records necessary for the department to verify eligibility
7 under this section. These records include information relating to
8 description of activity engaged in a distressed county by the person.

9 (5) If at any time the department finds that a person is not
10 eligible for tax credit under this section, the amount of taxes for
11 which a credit has been used is immediately due. The department shall
12 assess interest, but not penalties, on the credited taxes for which the
13 person is not eligible. The interest shall be assessed at the rate
14 provided for delinquent excise taxes under chapter 82.32 RCW, shall be
15 assessed retroactively to the date the tax credit was taken, and shall
16 accrue until the taxes for which a credit has been used are repaid.

17 (6) The credit under this section may be used against any tax due
18 under this chapter, but in no case may a credit earned during one
19 calendar year be carried over to be credited against taxes incurred in
20 a subsequent calendar year. No refunds may be granted for credits
21 under this section.

22 (7) County eligibility under this section shall be based on the
23 same list as published by the department under chapter 82.60 RCW. The
24 eligibility period is from July 1st of each year to June 30th of the
25 next year.

26 (8) A person taking tax credits under this section shall make an
27 annual report to the department. The report shall be in a letter form
28 and shall include the following information: Type of activity in which
29 the person is engaged in the county, number of employees in the
30 distressed county, and how long the person has been located in the
31 county. The report must be filed by January 30th of each year for
32 which credit was claimed during the previous year.

33 (9) Transfer of ownership does not affect credit eligibility;
34 however, the credit is available to the successor only if the
35 eligibility conditions of this section are met.

36 (10) As used in this section:

37 (a) "Distressed county" means either (i) a county in which the
38 average level of unemployment for the previous three years exceeds the
39 average state unemployment for those years by twenty percent or (ii) a

1 county that has a median household income that is less than seventy-
2 five percent of the state median household income for the previous
3 three years.

4 (b) "First eighty-four months" means the eighty-four months of
5 operation in a county following commencement of business activity.
6 Business activity is deemed to commence upon the act of engaging in the
7 business of providing the help desk services from the county.

8 (c) "Information technology help desk services" means the following
9 services performed using electronic and telephonic communication:

- 10 (i) Software maintenance;
- 11 (ii) Software diagnostics and troubleshooting;
- 12 (iii) Software installation;
- 13 (iv) Software repair;
- 14 (v) Software information and training; and
- 15 (vi) Software upgrade.

16 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.62 RCW
17 to read as follows:

18 A person is not eligible to receive a credit under this chapter if
19 the person is receiving credit for the same position under section 2 of
20 this act or RCW 82.04.44525 or is receiving a credit under section 3 of
21 this act.

22 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
23 preservation of the public peace, health, or safety, or support of the
24 state government and its existing public institutions, and takes effect
25 July 1, 1999.

--- END ---