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SENATE BILL 6207

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State of Washington 57th Legislature 2001 Second Special Session

By Senator Gardner

Read first time 06/15/2001. Referred to Committee on Ways & Means.

1 AN ACT Relating to tax incentives for industrial facilities that  
2 use large amounts of electricity and that have curtailed production;  
3 adding a new chapter to Title 82 RCW; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply  
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Department" means the department of revenue.

8 (2) "Electrical generating equipment or facilities" means any  
9 machinery, equipment, and buildings used in the generation of  
10 electricity. The term excludes administrative buildings and other  
11 buildings or parts of buildings not related to the generation of  
12 electricity. The term does not include transmission lines or towers or  
13 other distribution equipment located away from the industrial facility.

14 (3) "Eligible area" means a county with fewer than one hundred  
15 persons per square mile as determined annually by the office of  
16 financial management and published by the department of revenue  
17 effective for the period July 1st through June 30th.

18 (4) "High price or unavailability of electricity" means electricity  
19 was not available to the facility at any price or the price of

1 electricity was too high to operate economically. The price of  
2 electricity is "too high to operate economically" if the person  
3 certifies to the department of revenue that its decision to not operate  
4 the plant in question is based on the high price of electricity.

5 (5) "Industrial facility" means a manufacturing plant located in an  
6 eligible area that has the capacity to consume twenty-five megawatt  
7 hours of electricity or more per calendar year and at least twenty-five  
8 percent of the facility was idle due to the high price, as certified by  
9 the person, or unavailability of electricity for a minimum of thirty  
10 consecutive days after October 1, 2000.

11 (6) "Manufacturing" means the same as defined in RCW 82.04.120.

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

13 NEW SECTION. **Sec. 2.** (1) A person who owns and operates an  
14 industrial facility is allowed to defer taxes due under chapters 82.08,  
15 82.12, and 82.14 RCW on sales or charges made for tangible personal  
16 property consumed and/or for labor and services rendered in respect to  
17 the construction or installation of electrical generating equipment or  
18 facilities necessary to increase production at the industrial facility  
19 to levels prior to October 1, 2000, subject to the requirements of this  
20 chapter.

21 (2) A person who owns and operates an industrial facility may defer  
22 taxes due under chapter 82.04 RCW on sales of electricity to the  
23 Bonneville power administration or to a light and power business  
24 taxable under chapter 82.16 RCW if the sale occurred after October 1,  
25 2000, and before the earlier of October 1, 2003, or the date the  
26 production at the industrial facility reaches levels of production  
27 prior to October 1, 2000.

28 NEW SECTION. **Sec. 3.** Electrical generating equipment or  
29 facilities eligible for deferral under this chapter shall be located at  
30 the industrial facility. However, electrical generating equipment or  
31 facilities located off the site of the industrial facility are  
32 eligible:

33 (1) To the extent that the industrial facility is contractually  
34 required to purchase the equipment and services without reimbursement  
35 and must purchase at least ten percent of the electricity generated  
36 from that equipment; or

1 (2) If the eligible industrial facility has at least a twenty-five  
2 percent ownership interest in the electrical generating equipment or  
3 facilities.

4 NEW SECTION. **Sec. 4.** Application for deferral of taxes under  
5 section 2(1) of this act shall be made before purchase, or use in the  
6 case of a use tax, of tangible personal property, labor, or services in  
7 respect to the construction or installation of the electrical  
8 generating equipment or facilities. Application for deferral of taxes  
9 under section 2(2) of this act shall be made before payment of the  
10 taxes. The application shall be made to the department in a form and  
11 manner prescribed by the department. The application shall contain any  
12 information required by the department to determine eligibility under  
13 this chapter. The department shall rule on the application within  
14 sixty days.

15 NEW SECTION. **Sec. 5.** If the department approves an application  
16 under section 4 of this act for a deferral under section 2(1) of this  
17 act, the department shall issue a sales and use tax deferral  
18 certificate for state and local sales and use taxes due under chapters  
19 82.08, 82.12, and 82.14 RCW for the electrical generating equipment and  
20 facilities.

21 NEW SECTION. **Sec. 6.** (1) Except as provided in subsection (2) of  
22 this section, taxes deferred under this chapter need not be repaid.

23 (2) If the department finds that an industrial facility has not  
24 increased production to October 1, 2000, levels by October 1, 2003, or  
25 that the industrial facility does not remain in operation for eight  
26 years after it has reached the October 1, 2000, levels, a portion of  
27 deferred taxes shall be immediately due. To determine the portion of  
28 deferred taxes that shall be due, subtract the production level on  
29 October 1, 2003, from the production level on October 1, 2000. Divide  
30 the result by the production level on October 1, 2000, less the  
31 production level on the date of application under section 4 of this  
32 act. That portion shall be paid according to the following schedule:

	Year in which use occurs	% of deferred taxes due
1		
2	1	100%
3	2	87.5%
4	3	75%
5	4	62.5%
6	5	50%
7	6	37.5%
8	7	25%
9	8	12.5%

10 The department shall assess interest at the rate provided for  
11 delinquent taxes, but not penalties, retroactively to the date of  
12 deferral. The debt for deferred taxes shall not be extinguished by  
13 insolvency or other failure of the recipient. Transfer of ownership  
14 does not terminate the deferral. The deferral is transferred, subject  
15 to the successor meeting the eligibility requirements of this chapter,  
16 for the remaining periods of the deferral.

17 (3) Notwithstanding subsection (2) of this section, deferred taxes  
18 on the following need not be repaid:

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

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

24 NEW SECTION. **Sec. 7.** No application may be approved under this  
25 chapter after October 1, 2003.

26 NEW SECTION. **Sec. 8.** Chapter 82.32 RCW applies to the  
27 administration of this chapter.

28 NEW SECTION. **Sec. 9.** Applications and supporting documents  
29 received by the department under this chapter are not confidential and  
30 are subject to disclosure.

31 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act constitute  
32 a new chapter in Title 82 RCW.

33 NEW SECTION. **Sec. 11.** This act is necessary for the immediate  
34 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect  
2 immediately.

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