
HOUSE BILL 1034

State of Washington 58th Legislature 2003 Regular Session

By Representatives Morris, Linville, Anderson, Mielke, Conway,
Kenney, Haigh, Sullivan and Upthegrove

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Committee on Technology, Telecommunications & Energy.

1 AN ACT Relating to technology product development incentives;
2 amending RCW 82.63.005, 82.04.4452, 82.63.020, and 82.63.030; adding
3 new sections to chapter 43.131 RCW; providing an effective date; and
4 declaring an emergency.

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

6 **Sec. 1.** RCW 82.63.005 and 1994 sp.s. c 5 s 1 are each amended to
7 read as follows:

8 The legislature finds that high-wage, high-skilled jobs are vital
9 to the economic health of the state's citizens, and that targeted tax
10 incentives will encourage the formation of high-wage, high-skilled
11 jobs. The legislature also finds that tax incentives should be subject
12 to the same rigorous requirements for efficiency and accountability as
13 are other expenditure programs, and that tax incentives should
14 therefore be focused to provide the greatest possible return on the
15 state's investment.

16 The legislature also finds that high-technology businesses are a
17 vital and growing source of high-wage, high-skilled jobs in this state,
18 and that the high-technology sector is a key component of the state's
19 effort to encourage economic diversification. However, the legislature

1 finds that many high-technology businesses incur significant costs
2 associated with research and development and pilot scale manufacturing
3 many years before a marketable product can be produced, and that
4 current state tax policy discourages the growth of these companies by
5 taxing them long before they become profitable.

6 The legislature further finds that stimulating growth of high-
7 technology businesses early in their development cycle, when they are
8 turning ideas into marketable products, will build upon the state's
9 established high-technology base, creating additional research and
10 development jobs and subsequent manufacturing facilities.

11 The legislature further finds that the development of the products
12 of research and development in the manufacturing phase are vital to
13 economic growth and well-being of the state.

14 For these reasons, the legislature hereby establishes a technology
15 product development program of business and occupation tax credits for
16 qualified (~~research and~~) product development expenditures. The
17 legislature also hereby establishes a technology product development
18 tax deferral program for high-technology (~~research and~~) product
19 development (~~and pilot scale manufacturing facilities~~). The
20 legislature declares that these limited programs serve the vital public
21 purpose of creating employment opportunities in this state. The
22 legislature further declares its intent to create a contract within the
23 meaning of Article I, section 23 of the state Constitution as to those
24 businesses that make capital investments in consideration of the tax
25 deferral program established in this chapter.

26 **Sec. 2.** RCW 82.04.4452 and 2000 c 103 s 7 are each amended to read
27 as follows:

28 (1) In computing the tax imposed under this chapter, a credit is
29 allowed for (~~each person whose~~) certain technological product
30 development. To receive the credit, the following criteria apply:

31 (a) For the person claiming the credit, the research and
32 development spending during the year in which the credit is claimed
33 (~~exceeds~~) must exceed 0.92 percent of the person's taxable amount
34 during the same calendar year; and

35 (b) The product development that is associated with qualified
36 research and development expenditures must occur within this state,

1 except for field testing that is mandated by the federal government.
2 A proposal for product development must be included in the application
3 process, as provided in subsection (6) of this section.

4 (2) The credit is equal to the greater of the amount of qualified
5 research and development expenditures of a person or eighty percent of
6 amounts received by a person other than a public educational or
7 research institution in compensation for the conduct of qualified
8 research and development, multiplied by the rate provided in RCW
9 82.04.260(3) in the case of a nonprofit corporation or nonprofit
10 association engaging within this state in research and development, and
11 the rate provided in RCW 82.04.290(2) for every other person.

12 (3) Any person entitled to the credit provided in subsection (2) of
13 this section as a result of qualified research and development
14 conducted under contract may assign all or any portion of the credit to
15 the person contracting for the performance of the qualified research
16 and development.

17 (4) The credit, including any credit assigned to a person under
18 subsection (3) of this section, shall be taken against taxes due for
19 the same calendar year in which the qualified research and development
20 expenditures are incurred. The credit, including any credit assigned
21 to a person under subsection (3) of this section, for each calendar
22 year shall not exceed the lesser of two million dollars or the amount
23 of tax otherwise due under this chapter for the calendar year.

24 (5) Any person taking the credit, including any credit assigned to
25 a person under subsection (3) of this section, whose research and
26 development spending during the calendar year in which the credit is
27 claimed fails to exceed 0.92 percent of the person's taxable amount
28 during the same calendar year shall be liable for payment of the
29 additional taxes represented by the amount of credit taken together
30 with interest, but not penalties. Interest shall be due at the rate
31 provided for delinquent excise taxes retroactively to the date the
32 credit was taken until the taxes are paid. Any credit assigned to a
33 person under subsection (3) of this section that is disallowed as a
34 result of this section may be taken by the person who performed the
35 qualified research and development subject to the limitations set forth
36 in subsection (4) of this section.

37 (6) Any person claiming the credit, and any person assigning a
38 credit as provided in subsection (3) of this section, shall file:

1 (a) An affidavit form prescribed by the department which shall
2 include the amount of the credit claimed, an estimate of the
3 anticipated qualified research and development expenditures during the
4 calendar year for which the credit is claimed, an estimate of the
5 taxable amount during the calendar year for which the credit is
6 claimed, and such additional information as the department may
7 prescribe; and

8 (b) A proposal that describes the technological development of the
9 product or products anticipated to be ultimately marketed. The
10 proposal shall include a description of each phase of the product
11 development.

12 (i) The phases to be described in the proposal include, but are not
13 limited to, the following activities: Research and development,
14 including specification, design, engineering, prototype development,
15 and field testing; and manufacturing, including verification,
16 production, product finishing, and packaging.

17 (ii) The proposal documentation for each phase shall include:

18 (A) A description of anticipated product or products from the
19 activity;

20 (B) The expected sales or value of the anticipated activity;

21 (C) The expected activity duration;

22 (D) The activity location;

23 (E) The average employment for the prior year, if any, associated
24 with the activity at the location of the activity and for the firm as
25 a whole;

26 (F) The estimated or actual new employment associated with the
27 activity at the location of the activity and for the firm as a whole;
28 and

29 (G) An estimate of employment associated with the activity that
30 would have occurred at the firm as a whole, but for the utilization of
31 the credit under this section.

32 (7) A person claiming the credit shall agree to supply the
33 department with information necessary to measure the results of the
34 technology product development tax credit program (~~(for qualified~~
35 ~~research and development expenditures)~~).

36 (8) The department shall use the information required under
37 subsection (7) of this section to perform three assessments on the tax
38 credit program authorized under this section. The assessments will

1 take place in 1997, 2000, ~~((and))~~ 2003, and 2008. The department shall
2 prepare reports on each assessment and deliver their reports by
3 September 1, 1997, September 1, 2000, ~~((and))~~ September 1, 2003, and
4 September 1, 2008. The assessments shall measure the effect of the
5 program on job creation, the number of jobs created for Washington
6 residents, company growth, the introduction of new products, the
7 diversification of the state's economy, growth in research and
8 development investment, the movement of firms or the consolidation of
9 firms' operations into the state, and such other factors as the
10 department selects.

11 (9) For the purpose of this section:

12 (a) "Qualified research and development expenditures" means
13 operating expenses, including wages, compensation of a proprietor or a
14 partner in a partnership as determined under rules adopted by the
15 department, benefits, supplies, and computer expenses, directly
16 incurred in qualified research and development by a person claiming the
17 credit provided in this section. The term does not include amounts
18 paid to a person other than a public educational or research
19 institution to conduct qualified research and development. Nor does
20 the term include capital costs and overhead, such as expenses for land,
21 structures, or depreciable property.

22 (b) "Qualified research and development" shall have the same
23 meaning as in RCW 82.63.010.

24 (c) "Research and development spending" means qualified research
25 and development expenditures plus eighty percent of amounts paid to a
26 person other than a public educational or research institution to
27 conduct qualified research and development.

28 (d) "Taxable amount" means the taxable amount subject to the tax
29 imposed in this chapter required to be reported on the person's
30 combined excise tax returns during the year in which the credit is
31 claimed, less any taxable amount for which a credit is allowed under
32 RCW 82.04.440.

33 ~~((10) This section expires December 31, 2004.))~~

34 **Sec. 3.** RCW 82.63.020 and 1994 sp.s. c 5 s 4 are each amended to
35 read as follows:

36 (1) Application for deferral of taxes under this chapter must be
37 made before initiation of construction of, or acquisition of equipment

1 or machinery for the investment project. The application shall be made
2 to the department in a form and manner prescribed by the department,
3 which shall rule on the application within sixty days. The application
4 shall contain the following:

5 (a) Information regarding the location of the investment project,
6 the applicant's average employment in the state for the prior year,
7 estimated or actual new employment related to the project, estimated or
8 actual wages of employees related to the project, estimated or actual
9 costs, time schedules for completion and operation, and other
10 information required by the department~~((The department shall rule on~~
11 ~~the application within sixty days))~~; and

12 (b) A proposal that describes the technological development of the
13 product or products anticipated to be ultimately marketed. The
14 proposal shall include a description of each phase of the product
15 development.

16 (i) The phases to be described in the proposal include, but are not
17 limited to, the following activities: Research and development,
18 including specification, design, engineering, prototype development,
19 and field testing; and manufacturing, including verification,
20 production, product finishing, and packaging.

21 (ii) The proposal documentation for each phase shall include:

22 (A) A description of anticipated product or products from the
23 activity;

24 (B) The expected sales or value of the anticipated activity;

25 (C) The expected activity duration;

26 (D) The activity location;

27 (E) The average employment for the prior year, if any, associated
28 with the activity at the location of the activity and for the firm as
29 a whole;

30 (F) The estimated or actual new employment associated with the
31 activity at the location of the activity and for the firm as a whole;
32 and

33 (G) An estimate of employment associated with the activity that
34 would have occurred at the firm as a whole, but for the utilization of
35 the credit under this section.

36 (2) Applicants for deferral of taxes under this chapter shall agree
37 to supply the department with nonproprietary information necessary to
38 measure the results of the tax deferral program for ~~((high-technology~~

1 ~~research and~~) technology product development (~~and pilot-scale~~
2 ~~manufacturing~~) facilities. The department shall use the information
3 to perform three assessments on the tax deferral program authorized
4 under this chapter. The assessments will take place in 1997, 2000,
5 (~~and~~) 2003, and 2008. The department shall prepare reports on each
6 assessment and deliver their reports by September 1, 1997, September 1,
7 2000, (~~and~~) September 1, 2003, and September 1, 2008. The
8 assessments shall measure the effect of the program on job creation,
9 the number of jobs created for Washington residents, company growth,
10 the introduction of new products, the diversification of the state's
11 economy, growth in research and development investment, the movement of
12 firms or the consolidation of firms' operations into the state, and
13 such other factors as the department selects.

14 **Sec. 4.** RCW 82.63.030 and 1994 sp.s. c 5 s 5 are each amended to
15 read as follows:

16 (1) Except as provided in subsection (2) of this section, the
17 department shall issue a sales and use tax deferral certificate for
18 state and local sales and use taxes due under chapters 82.08, 82.12,
19 and 82.14 RCW on each eligible investment project that has a complete
20 proposal for product development under RCW 82.63.020.

21 (2) No certificate may be issued for an investment project that has
22 already received a deferral under chapter 82.60 or 82.61 RCW or this
23 chapter, except that an investment project for qualified research and
24 development that has already received a deferral may also receive an
25 additional deferral certificate for adapting the investment project for
26 use in pilot scale manufacturing.

27 (~~(3) This section shall expire July 1, 2004.~~)

28 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.131 RCW
29 to read as follows:

30 The technology product development credit and deferral created by
31 this act shall be reviewed under this chapter before July 1, 2013. The
32 department of revenue shall provide the information necessary for the
33 joint legislative audit and review committee to provide the required
34 review.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.131 RCW
2 to read as follows:

3 The following acts or parts of acts are each repealed, effective
4 July 1, 2014:

5 (1) RCW 82.04.4452 (Credit--Research and development spending--
6 Assessment report) and 2003 c . . . s 2 (section 2 of this act), 2000
7 c 103 s 7, 1997 c 7 s 4, & 1994 sp.s. c 5 s 2;

8 (2) RCW 82.63.005 (Findings--Intent to create a contract) and 2003
9 c . . . s 1 (section 1 of this act) & 1994 sp.s. c 5 s 1;

10 (3) RCW 82.63.010 (Definitions) and 1995 1st sp.s. c 3 s 12 & 1994
11 sp.s. c 5 s 3;

12 (4) RCW 82.63.020 (Application--Assessment reports) and 2003 c
13 . . . s 3 (section 3 of this act) & 1994 sp.s. c 5 s 4;

14 (5) RCW 82.63.030 (Sales and use tax deferral certificate--Eligible
15 investment projects and pilot scale manufacturing) and 2003 c . . . s
16 4 (section 4 of this act) & 1994 sp.s. c 5 s 5;

17 (6) RCW 82.63.045 (Repayment not required--Repayment schedule for
18 unqualified investment project--Exceptions) and 2000 c 106 s 10 & 1995
19 1st sp.s. c 3 s 13;

20 (7) RCW 82.63.060 (Administration) and 1994 sp.s. c 5 s 8;

21 (8) RCW 82.63.070 (Public disclosure) and 1994 sp.s. c 5 s 9; and

22 (9) RCW 82.63.900 (Effective date--1994 sp.s. c 5) and 1994 sp.s.
23 c 5 s 12.

24 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
25 preservation of the public peace, health, or safety, or support of the
26 state government and its existing public institutions, and takes effect
27 July 1, 2003.

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