

---

HOUSE BILL 2170

---

State of Washington

58th Legislature

2003 Regular Session

By Representatives DeBolt, Alexander and Benson

Read first time 02/28/2003. Referred to Committee on Trade & Economic Development.

1 AN ACT Relating to tax deferrals for community revitalization in  
2 distressed communities that stimulate business activity and help retain  
3 and create jobs; adding a new chapter to Title 82 RCW; and declaring an  
4 emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature recognizes that the state as  
7 a whole benefits from investment in distressed communities because it  
8 promotes emergency community and economic development. Private  
9 investment stimulates business activity and helps retain and create  
10 jobs; stimulates the redevelopment of brownfields and blighted areas in  
11 the inner city; and promotes efficient redevelopment of industrial,  
12 manufacturing, and new land uses. The legislature finds that these  
13 activities generate revenue for the state and that it is in the public  
14 interest to invest in these projects through tax deferrals against the  
15 state sales and use tax to those local governments that can demonstrate  
16 the expected returns to the state.

17 NEW SECTION. **Sec. 2.** Unless the context clearly requires

1 otherwise, the definitions in this section apply throughout this  
2 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)(a) "Investment project" means construction of site preparation,  
7 structures, infrastructure, and the acquisition of related machinery  
8 and equipment when the structures, machinery, and equipment  
9 installations are used in the operation of a community increment area  
10 revitalization project, or any identifiable part related to promote  
11 community and economic development, due to redevelopment of brownfields  
12 and blighted areas in the inner city; promotes private investments that  
13 generate revenue for the local and state governments; and is in the  
14 public interest to invest in these projects through a state sales and  
15 use tax deferral to those local governments that can demonstrate the  
16 expected returns to the state.

17 (b) The lessor/owner of a structure is not eligible for a deferral  
18 unless the underlying ownership of the structures, machinery, and  
19 equipment vests exclusively in the same person, or unless the lessor by  
20 written contract agrees to pass the economic benefit of the deferral to  
21 the lessee in the form of reduced rent payments.

22 (c) "Investment project" includes any portion of an increment area  
23 investment project undertaken by a light and power business as defined  
24 in RCW 82.16.010(5), and that portion of a cogeneration project that is  
25 used to generate power for consumption within the increment area of  
26 which the cogeneration project is an integral part.

27 (d) "Investment project" includes expenditures for historic  
28 preservation activities authorized under RCW 35.21.395.

29 (e) "Investment project" includes structures or installation of  
30 machinery and equipment, including labor and services rendered in the  
31 planning, installation, and construction of the project within the  
32 increment area.

33 (4) "Person" has the meaning given in RCW 82.04.030.

34 (5) "Structures" means existing and new edifices such as offices,  
35 entertainment facilities, maintenance facilities, cold storage  
36 facilities, parking facilities, transportation facilities,  
37 infrastructure, and other structures that are an essential or integral  
38 part of the increment area investment project. The term also includes

1 corporate offices located within the increment area investment project  
2 and includes hotels or motels if such facilities are located within the  
3 increment area investment project.

4 (6) "Machinery and equipment" means all fixtures, equipment, and  
5 support facilities that are an integral and necessary part of the  
6 investment project, including buses or other means of vehicular  
7 transportation, rolling stock and rail improvements, sky rail, and any  
8 fixtures and equipment integral to qualifying structures.

9 (7) "Recipient" means a person exempt from tax under section 501(c)  
10 of the internal revenue code, receiving a tax deferral under this  
11 chapter.

12 (8) "Increment area" means the geographic area from which a local  
13 government defines an inner city area that qualifies for a distressed  
14 community revitalization project under this chapter and:

15 (a) Is a site of at least one hundred fifty acres;

16 (b) Has at least twenty acres of publicly owned open space used for  
17 public park and outdoor community recreational activities adjacent to  
18 the increment area;

19 (c) Has at least one hundred acres of public land used for  
20 recreational golf adjacent to the increment area;

21 (d) Has existing standard gauge freight or passenger rail  
22 infrastructure developed and servicing it;

23 (e) Has existing egress and ingress and is no greater distance than  
24 one mile from a state and federal highway system; and

25 (f) Is on a site with water rights allowing a wide variety of  
26 facilities to be designed around a particular recreational subject or  
27 idea.

28 (9) "Amusement park" means an entertainment facility within a  
29 designated increment area, and is described under subsections (5) and  
30 (6) of this section.

31 (10) "Cogeneration project" means any investment project related to  
32 generating power for consumption within the increment area or any  
33 integral part of producing power to distribute into an existing power  
34 grid and subject to sale to a light and power business.

35 (11) "Improvement costs" means the costs of: (a) Design, planning,  
36 acquisition, including land acquisition, site preparation including  
37 land clearing, construction, reconstruction, rehabilitation,  
38 improvement, and installation of private improvements; (b) demolishing,

1 relocating, maintaining, and operating property pending construction of  
2 private improvements; (c) relocating utilities as a result of private  
3 improvements; (d) financing private improvements, including interest  
4 during construction, legal and other professional services, taxes,  
5 insurance, principal and interest costs on general indebtedness issued  
6 to finance private improvements, and any necessary reserves for general  
7 indebtedness; and (e) administrative expenses and feasibility studies  
8 reasonably necessary and related to these costs, including related  
9 costs that may have been incurred before authorizing the private  
10 improvements and the use of community revitalization financing to fund  
11 the costs of the private improvements.

12 NEW SECTION. **Sec. 3.** Application for deferral of taxes under this  
13 chapter must be made before initiation of the construction of the  
14 increment area investment project or acquisition of equipment or  
15 machinery. Application shall be made to the department in a form and  
16 manner prescribed by the department. The application shall contain  
17 information regarding the location of the increment area investment  
18 project, estimated or actual costs, time schedules for completion and  
19 operation, and other information required by the department. The  
20 department shall rule on the application within sixty days. An  
21 applicant may apply for a separate deferral for each identifiable part  
22 of a project, such as the amusement park, the infrastructure,  
23 structures, machinery and equipment, the retail stores, the  
24 restaurants, the parking facilities, and the hotels. Each separate  
25 deferral need not overcome the initiation of construction threshold as  
26 long as the initial construction of the project was begun before  
27 January 1, 2006.

28 NEW SECTION. **Sec. 4.** (1) Except as provided in subsection (2) of  
29 this section, taxes deferred under this chapter must be repaid.

30 (2) If, on the basis of a report under section 5 of this act or  
31 other information, the department finds that an investment project is  
32 used for purposes other than an approved private investment project at  
33 any time during the calendar year in which the investment project is  
34 certified by the department as being operationally complete, or at any  
35 time during any of the four succeeding calendar years, a portion of  
36 deferred taxes is immediately due according to the following schedule:

	Year in which use occurs	% of distributed taxes due
1		
2	1	100.0%
3	2	87.5%
4	3	75.0%
5	4	62.5%
6	5	50.0%
7	6	37.5%
8	7	25.0%
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 will 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 NEW SECTION. **Sec. 5.** Each recipient of a deferral granted under  
18 this chapter shall submit a report to the department on December 31st  
19 of the year in which the investment project is certified by the  
20 department as being operationally complete, and on December 31st of  
21 each of the seven succeeding calendar years. The report shall contain  
22 information, as required by the department, from which the department  
23 may determine whether the recipient is meeting the requirements of this  
24 chapter.

25 NEW SECTION. **Sec. 6.** Each recipient of a deferral granted under  
26 this chapter shall distribute taxes to a local government located  
27 within the county where the investment project is developed according  
28 to the schedule in this section.

	Year in which use occurs	Private applicant payments	Private applicant deferral
29			
30	1	0	100
31	2	0	90
32	3	0	80

1	4	0	70
2	5	70	0
3	6	80	0
4	7	90	0
5	8	160	0

6        NEW SECTION.    **Sec. 7.** (1) The tax levied by RCW 82.08.020 shall  
7 not apply to sales to an increment area amusement park development, or  
8 to increment area sales of or charges made for labor and services  
9 rendered in respect to installing, repairing, cleaning, altering, or  
10 improving the machinery and equipment, but only when the purchaser  
11 provides the seller with an exemption certificate in a form and manner  
12 prescribed by the department by rule. The seller shall retain a copy  
13 of the certificate for the seller's files.

14        (2) For purposes of this section:

15        (a) "Machinery and equipment" with regard to the increment area  
16 does not include:

17        (i) Hand-powered tools;

18        (ii) Property with a useful life of less than one year;

19        (iii) Buildings, other than machinery and equipment that is  
20 permanently affixed to or becomes a physical part of a building; and

21        (iv) Building fixtures that are not integral to the investment  
22 project operation and amusement park.

23        (b) "Manufacturing" means the portion of a cogeneration project  
24 that is used to generate power for consumption within the increment  
25 area site of which the cogeneration project is an integral part. The  
26 term includes the production of electricity by a light and power  
27 business as defined in RCW 82.16.010. The term includes the  
28 preparation of food products on the premises of a person selling food  
29 products at retail within the increment area.

30        (c) "Cogeneration" means the simultaneous generation of electrical  
31 energy and low-grade heat from the same fuel or other energy fuels.

32        NEW SECTION.    **Sec. 8.** If any provision of this act or its  
33 application to any person or circumstance is held invalid, the  
34 remainder of the act or the application of the provision to other  
35 persons or circumstances is not affected.

1        NEW SECTION.   **Sec. 9.**   This act is necessary for the immediate  
2   preservation of the public peace, health, or safety, or support of the  
3   state government and its existing public institutions, and takes effect  
4   immediately.

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

--- END ---