
ENGROSSED SENATE BILL 5529

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By Senators Esser, Reardon, Finkbeiner, Schmidt, Sheahan, T. Sheldon, Doumit, Rasmussen, Roach, Rossi, Stevens, West and Eide

Read first time 01/28/2003. Referred to Committee on Technology & Communications.

1 AN ACT Relating to removing the expiration date on the research and
2 development business and occupation tax credit; amending RCW
3 82.04.4452; adding a new section to chapter 50.38 RCW; adding a new
4 section to chapter 82.32 RCW; adding a new section to chapter 44.28
5 RCW; and providing an expiration date.

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

7 **Sec. 1.** RCW 82.04.4452 and 2000 c 103 s 7 are each amended to read
8 as follows:

9 (1) In computing the tax imposed under this chapter, a credit is
10 allowed for each person whose research and development spending during
11 the year in which the credit is claimed exceeds 0.92 percent of the
12 person's taxable amount during the same calendar year.

13 (2) The credit is equal to the greater of the amount of qualified
14 research and development expenditures of a person or eighty percent of
15 amounts received by a person other than a public educational or
16 research institution in compensation for the conduct of qualified
17 research and development, multiplied by the rate provided in RCW
18 82.04.260(3) in the case of a nonprofit corporation or nonprofit

1 association engaging within this state in research and development, and
2 the rate provided in RCW 82.04.290(2) for every other person.

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

8 (4) The credit, including any credit assigned to a person under
9 subsection (3) of this section, shall be taken against taxes due for
10 the same calendar year in which the qualified research and development
11 expenditures are incurred. The credit, including any credit assigned
12 to a person under subsection (3) of this section, for each calendar
13 year shall not exceed the lesser of two million dollars or the amount
14 of tax otherwise due under this chapter for the calendar year.

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

28 (6) Any person claiming the credit, and any person assigning a
29 credit as provided in subsection (3) of this section, shall file an
30 affidavit form prescribed by the department which shall include the
31 amount of the credit claimed, an estimate of the anticipated qualified
32 research and development expenditures during the calendar year for
33 which the credit is claimed, an estimate of the taxable amount during
34 the calendar year for which the credit is claimed, and such additional
35 information as the department may prescribe.

36 (7) A person claiming the credit shall agree to supply the
37 department with information necessary to measure the results of the tax
38 credit program for qualified research and development expenditures.

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

13 (9) For the purpose of this section:

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

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

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

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

35 (10) This section expires (~~December 31, 2004~~) January 1, 2015.

36 NEW SECTION. **Sec. 2.** A new section is added to chapter 50.38 RCW
37 to read as follows:

1 (1) Based upon information provided to the department by the
2 department of revenue and data obtained by the department from
3 employers for other lawful purposes, the department shall identify for
4 the year before and every five years after the renewal of the tax
5 credit in RCW 82.04.4452 the following information:

6 (a) North American industry classification for businesses utilizing
7 the tax credit;

8 (b) The number of employees, reported in aggregate by North
9 American industry classification, employed by businesses utilizing the
10 tax credit;

11 (c) The average wages received by persons, reported by North
12 American industry classification, employed by businesses utilizing the
13 tax credit.

14 (2) The department shall provide to the joint legislative audit and
15 review committee, for the year before and every five years after the
16 renewal of the tax credit in RCW 82.04.4452, a report containing the
17 following information:

18 (a) The number of businesses, reported in aggregate by North
19 American industry classification, utilizing the tax credit;

20 (b) The number of employees, reported in aggregate by North
21 American industry classification, employed by businesses utilizing the
22 tax credit;

23 (c) The average wages of employees employed by businesses utilizing
24 the tax credit reported in aggregate, and grouped by North American
25 industry classification.

26 (3) All information shall be based on calendar year data and shall
27 be provided to the joint legislative audit and review committee by the
28 fifteenth day of March of the year before and every five years after
29 the renewal of the tax credit in RCW 82.04.4452.

30 (4) Nothing in this section shall be construed to affect in any way
31 the right of privacy and confidentiality as to individual and employer
32 records maintained by the department, as provided under RCW 50.13.020.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.32 RCW
34 to read as follows:

35 (1) Based upon information provided by taxpayers, on Form 26-0003e-
36 1, or its successor form, or Form Rev 81-1013-1, or its successor form,
37 or Form 81-1012, or its successor form, to the department, the

1 department shall identify for the year before and every five years
2 after the renewal of the tax credit in RCW 82.04.4452 the following
3 information:

- 4 (a) The businesses utilizing the tax credit;
- 5 (b) The total value of the tax credit taken by each business for
6 that year;
- 7 (c) The qualifying investment made by the business utilizing the
8 tax credit.

9 (2) The department shall provide to the employment security
10 department a list of all businesses utilizing the tax credit and the
11 North American industry classification of each business. This
12 information shall be based on calendar year data and shall be provided
13 to the employment security department by the fifteenth day of February
14 of the year before and every five years after the renewal of the tax
15 credit in RCW 82.04.4452.

16 (3) The department shall provide to the joint legislative audit and
17 review committee the number of businesses utilizing the tax credit, the
18 value of the credit received, and the value of qualifying investments
19 made by businesses utilizing the tax credit, reported in aggregate by
20 North American industry classification. This information shall be
21 based on calendar year data and shall be provided to the joint
22 legislative audit and review committee by the fifteenth day of February
23 of the year before and every five years after the renewal of the tax
24 credit in RCW 82.04.4452.

25 (4) Nothing in this section shall be construed to affect in any way
26 the right of privacy and confidentiality as to individual and employer
27 records maintained by the department as provided under RCW 82.32.330.

28 NEW SECTION. **Sec. 4.** A new section is added to chapter 44.28 RCW
29 to read as follows:

30 (1) The joint legislative audit and review committee shall provide
31 a report to the legislature the year before and every five years after
32 the renewal of the tax credit in RCW 82.04.4452. The report shall be
33 based upon information provided by the employment security department
34 and the department of revenue. Proprietary information shall remain
35 confidential as otherwise provided by law. The report shall include,
36 but is not limited to:

1 (a) Total value of tax revenue forgone as a result of the tax
2 credit;
3 (b) Total value of qualifying investments made under the tax
4 credit;
5 (c) Direct employment created or retained that is associated with
6 the tax credit and average wages, reported in aggregate by North
7 American industry classification;
8 (d) Total indirect employment created or retained associated with
9 the tax deferral;
10 (e) Additional sales, property, and business and occupation tax
11 revenues associated with the tax credit.
12 (2) In conducting this evaluation, the joint legislative audit and
13 review committee shall use a generally accepted economic model and may
14 contract with outside economic experts.

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