

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 3190

59th Legislature
2006 Regular Session

Passed by the House February 11, 2006
Yeas 89 Nays 9

Speaker of the House of Representatives

Passed by the Senate February 27, 2006
Yeas 46 Nays 1

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 3190** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 3190

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Wallace, Fromhold, Curtis, Orcutt, Moeller and Dunn)

READ FIRST TIME 02/03/06.

1 AN ACT Relating to providing tax incentives to support the
2 semiconductor cluster in Washington state; amending RCW 82.04.440,
3 82.32.590, and 82.32.600; adding a new section to chapter 82.04 RCW;
4 adding a new section to chapter 82.08 RCW; adding a new section to
5 chapter 82.12 RCW; adding a new section to chapter 82.32 RCW; creating
6 new sections; providing a contingent effective date; and providing
7 expiration dates.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that the welfare of
10 the people of the state of Washington is positively impacted through
11 the encouragement and expansion of family wage employment in the
12 state's manufacturing industries. The legislature further finds that
13 targeting tax incentives to focus on key industry clusters is an
14 important business climate strategy. Washington state has recognized
15 the semiconductor industry, which includes the design and manufacture
16 of semiconductor materials, as one of the state's existing key industry
17 clusters. Businesses in this cluster in the state of Washington are
18 facing increasing pressure to expand elsewhere. The sales and use tax
19 exemptions for manufacturing machinery and equipment enacted by the

1 1995 legislature improved Washington's ability to compete with other
2 states for manufacturing investment. In 2003 the legislature enacted
3 comprehensive tax incentives for the semiconductor cluster that address
4 activities of the lead product industry and its suppliers and
5 customers. These tax incentives are contingent on the investment of at
6 least one billion dollars in a new semiconductor microchip fabrication
7 facility in this state, which has not occurred. This investment
8 criteria failed to recognize the significance of potential investment
9 in the advanced semiconductor materials sector. Therefore, the
10 legislature intends to complement existing comprehensive tax incentives
11 for the semiconductor cluster to address activities of the advanced
12 semiconductor materials product industry and its suppliers and
13 customers. Tax incentives for the semiconductor cluster are important
14 in both retention and expansion of existing businesses and attraction
15 of new businesses, all of which will strengthen this cluster. The
16 legislature also recognizes that the semiconductor industry involves
17 major investment that results in significant construction projects,
18 which will create jobs and bring many indirect benefits to the state
19 during the construction phase.

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

22 (1) Upon every person engaging within this state in the business of
23 manufacturing or processing for hire semiconductor materials, as to
24 such persons the amount of tax with respect to such business shall, in
25 the case of manufacturers, be equal to the value of the product
26 manufactured, or, in the case of processors for hire, be equal to the
27 gross income of the business, multiplied by the rate of 0.275 percent.

28 (2) For the purposes of this section "semiconductor materials"
29 means silicon crystals, silicon ingots, raw polished semiconductor
30 wafers, and compound semiconductor wafers.

31 (3) This section expires twelve years after the effective date of
32 this section.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.08 RCW
34 to read as follows:

35 (1) The tax levied by RCW 82.08.020 shall not apply to sales of
36 gases and chemicals used by a manufacturer or processor for hire in the

1 production of semiconductor materials. This exemption is limited to
2 gases and chemicals used in the production process to grow the product,
3 deposit or grow permanent or sacrificial layers on the product, to etch
4 or remove material from the product, to anneal the product, to immerse
5 the product, to clean the product, and other such uses whereby the
6 gases and chemicals come into direct contact with the product during
7 the production process, or uses of gases and chemicals to clean the
8 chambers and other like equipment in which such processing takes place.
9 For the purposes of this section, "semiconductor materials" has the
10 meaning provided in section 2 of this act.

11 (2) A person taking the exemption under this section must report
12 under section 5 of this act. No application is necessary for the tax
13 exemption. The person is subject to all of the requirements of chapter
14 82.32 RCW.

15 (3) This section expires twelve years after the effective date of
16 this section.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.12 RCW
18 to read as follows:

19 (1) The provisions of this chapter do not apply with respect to the
20 use of gases and chemicals used by a manufacturer or processor for hire
21 in the production of semiconductor materials. This exemption is
22 limited to gases and chemicals used in the production process to grow
23 the product, deposit or grow permanent or sacrificial layers on the
24 product, to etch or remove material from the product, to anneal the
25 product, to immerse the product, to clean the product, and other such
26 uses whereby the gases and chemicals come into direct contact with the
27 product during the production process, or uses of gases and chemicals
28 to clean the chambers and other like equipment in which such processing
29 takes place. For purposes of this section, "semiconductor materials"
30 has the meaning provided in section 2 of this act.

31 (2) A person taking the exemption under this section must report
32 under section 5 of this act. No application is necessary for the tax
33 exemption. The person is subject to all of the requirements of chapter
34 82.32 RCW.

35 (3) This section expires twelve years after the effective date of
36 this section.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.32 RCW
2 to read as follows:

3 (1) The legislature finds that accountability and effectiveness are
4 important aspects of setting tax policy. In order to make policy
5 choices regarding the best use of limited state resources the
6 legislature needs information on how a tax incentive is used.

7 (2)(a) A person who reports taxes under section 2 of this act or
8 who claims an exemption or credit under sections 3 and 4 of this act
9 shall make a complete annual report to the department detailing
10 employment, wages, and employer-provided health and retirement benefits
11 per job at the manufacturing site. The report shall not include names
12 of employees. The report shall also detail employment by the total
13 number of full-time, part-time, and temporary positions. The first
14 report filed under this subsection shall include employment, wage, and
15 benefit information for the twelve-month period immediately before
16 first use of a preferential tax rate under section 2 of this act, or
17 tax exemption or credit under sections 3 and 4 of this act. The report
18 is due by April 30th following any year in which a preferential tax
19 rate under section 2 of this act is used, or tax exemption or credit
20 under sections 3 and 4 of this act is taken. The department may extend
21 the due date for timely filing annual reports under this section as
22 provided in RCW 82.32.590. This information is not subject to the
23 confidentiality provisions of RCW 82.32.330 and may be disclosed to the
24 public upon request.

25 (b) If a person fails to submit a complete annual report under (a)
26 of this subsection by the due date of the report or any extension under
27 RCW 82.32.590, the department shall declare the amount of taxes
28 exempted or credited, or reduced in the case of the preferential
29 business and occupation tax rate, for that year to be immediately due
30 and payable. Excise taxes payable under this subsection are subject to
31 interest but not penalties, as provided under this chapter. This
32 information is not subject to the confidentiality provisions of RCW
33 82.32.330 and may be disclosed to the public upon request.

34 (3) By November 1st of the year occurring five years after the
35 effective date of this section, and November 1st of the year occurring
36 eleven years after the effective date of this section, the fiscal
37 committees of the house of representatives and the senate, in
38 consultation with the department, shall report to the legislature on

1 the effectiveness of this act in regard to keeping Washington
2 competitive. The report shall measure the effect of this act on job
3 retention, net jobs created for Washington residents, company growth,
4 diversification of the state's economy, cluster dynamics, and other
5 factors as the committees select. The reports shall include a
6 discussion of principles to apply in evaluating whether the legislature
7 should reenact any or all of the tax preferences in this act.

8 **Sec. 6.** RCW 82.04.440 and 2005 c 301 s 3 are each amended to read
9 as follows:

10 (1) Every person engaged in activities (~~which are within the~~
11 ~~purview of the provisions of two or more of sections~~) that are subject
12 to tax under two or more provisions of RCW 82.04.230 (~~to~~) through
13 82.04.298, inclusive, shall be taxable under each (~~paragraph~~)
14 provision applicable to (~~the~~) those activities (~~engaged in~~).

15 (2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270,
16 82.04.294(2), or 82.04.260 (1)(c), (4), or (~~(+13)~~) (11) with respect
17 to selling products in this state shall be allowed a credit against
18 those taxes for any (a) manufacturing taxes paid with respect to the
19 manufacturing of products so sold in this state, and/or (b) extracting
20 taxes paid with respect to the extracting of products so sold in this
21 state or ingredients of products so sold in this state. Extracting
22 taxes taken as credit under subsection (3) of this section may also be
23 taken under this subsection, if otherwise allowable under this
24 subsection. The amount of the credit shall not exceed the tax
25 liability arising under this chapter with respect to the sale of those
26 products.

27 (3) Persons taxable under RCW 82.04.240 or 82.04.260(1)(b) shall be
28 allowed a credit against those taxes for any extracting taxes paid with
29 respect to extracting the ingredients of the products so manufactured
30 in this state. The amount of the credit shall not exceed the tax
31 liability arising under this chapter with respect to the manufacturing
32 of those products.

33 (4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1),
34 82.04.294(1), section 2 of this act, or 82.04.260 (1), (2), (4), (~~(+6)~~
35 ~~or +13~~) or (11) with respect to extracting or manufacturing products
36 in this state shall be allowed a credit against those taxes for any (i)
37 gross receipts taxes paid to another state with respect to the sales of

1 the products so extracted or manufactured in this state, (ii)
2 manufacturing taxes paid with respect to the manufacturing of products
3 using ingredients so extracted in this state, or (iii) manufacturing
4 taxes paid with respect to manufacturing activities completed in
5 another state for products so manufactured in this state. The amount
6 of the credit shall not exceed the tax liability arising under this
7 chapter with respect to the extraction or manufacturing of those
8 products.

9 (5) For the purpose of this section:

10 (a) "Gross receipts tax" means a tax:

11 (i) Which is imposed on or measured by the gross volume of
12 business, in terms of gross receipts or in other terms, and in the
13 determination of which the deductions allowed would not constitute the
14 tax an income tax or value added tax; and

15 (ii) Which is also not, pursuant to law or custom, separately
16 stated from the sales price.

17 (b) "State" means (i) the state of Washington, (ii) a state of the
18 United States other than Washington, or any political subdivision of
19 such other state, (iii) the District of Columbia, and (iv) any foreign
20 country or political subdivision thereof.

21 (c) "Manufacturing tax" means a gross receipts tax imposed on the
22 act or privilege of engaging in business as a manufacturer, and
23 includes (i) the taxes imposed in RCW 82.04.240, section 2 of this act,
24 82.04.2909(1), 82.04.260 (1), (2), (4), and (~~(13)~~) (11), and
25 82.04.294(1); and (ii) similar gross receipts taxes paid to other
26 states.

27 (d) "Extracting tax" means a gross receipts tax imposed on the act
28 or privilege of engaging in business as an extractor, and includes the
29 tax imposed in RCW 82.04.230 and similar gross receipts taxes paid to
30 other states.

31 (e) "Business", "manufacturer", "extractor", and other terms used
32 in this section have the meanings given in RCW 82.04.020 through
33 82.04.212, notwithstanding the use of those terms in the context of
34 describing taxes imposed by other states.

35 **Sec. 7.** RCW 82.32.590 and 2005 c 514 s 1001 are each amended to
36 read as follows:

37 (1) If the department finds that the failure of a taxpayer to file

1 an annual survey or annual report under RCW 82.04.4452 or section 5 of
2 this act by the due date was the result of circumstances beyond the
3 control of the taxpayer, the department shall extend the time for
4 filing the survey or report. Such extension shall be for a period of
5 thirty days from the date the department issues its written
6 notification to the taxpayer that it qualifies for an extension under
7 this section. The department may grant additional extensions as it
8 deems proper.

9 (2) In making a determination whether the failure of a taxpayer to
10 file an annual survey or annual report by the due date was the result
11 of circumstances beyond the control of the taxpayer, the department
12 shall be guided by rules adopted by the department for the waiver or
13 cancellation of penalties when the underpayment or untimely payment of
14 any tax was due to circumstances beyond the control of the taxpayer.

15 **Sec. 8.** RCW 82.32.600 and 2005 c 514 s 1002 are each amended to
16 read as follows:

17 (1) Persons required to file annual surveys or annual reports under
18 RCW 82.04.4452 or section 5 of this act must electronically file with
19 the department all surveys, reports, returns, and any other forms or
20 information the department requires in an electronic format as provided
21 or approved by the department(~~(, unless the department grants relief~~
22 ~~under subsection (2) of this section)).~~ As used in this section,
23 "returns" has the same meaning as "return" in RCW 82.32.050.

24 (~~(2) ((Upon request, the department may relieve a person of the~~
25 ~~obligations in subsection (1) of this section if the person's taxes~~
26 ~~have been reduced a cumulative total of less than one thousand dollars~~
27 ~~from all of the credits, exemptions, or preferential business and~~
28 ~~occupation tax rates, for which a person is required to file an annual~~
29 ~~survey under RCW 82.04.4452, 82.32.535, 82.32.545, 82.32.570,~~
30 ~~82.32.560, 82.60.070, or 82.63.020.~~

31 ~~(3) Persons who no longer qualify for relief under subsection (2)~~
32 ~~of this section will be notified in writing by the department and must~~
33 ~~comply with subsection (1) of this section by the date provided in the~~
34 ~~notice.~~

35 ~~(4))~~ Any survey, report, return, or any other form or information
36 required to be filed in an electronic format under subsection (1) of

1 this section is not filed until received by the department in an
2 electronic format.

3 (3) The department may waive the electronic filing requirement in
4 subsection (1) of this section for good cause shown.

5 NEW SECTION. Sec. 9. (1)(a) Sections 2 through 8 of this act are
6 contingent upon the siting, expansion, or renovation, and commercial
7 operation of a significant semiconductor materials fabrication facility
8 or facilities in the state of Washington.

9 (b) For the purposes of this section:

10 (i) "Commercial operation" means the equipment and process
11 qualifications in the new, expanded, or renovated building are
12 completed and production for sale has begun.

13 (ii) "Semiconductor materials fabrication" means the manufacturing
14 of silicon crystals, silicon ingots that are at least three hundred
15 millimeters in diameter, raw polished semiconductor wafers that are at
16 least three hundred millimeters in diameter, and compound semiconductor
17 wafers that are at least three hundred millimeters in diameter.

18 (iii) "Significant" means that the combined investment or
19 investments by a single person, occurring at any time before the
20 effective date of this act, of new buildings, expansion or renovation
21 of existing buildings, tenant improvements to buildings, and machinery
22 and equipment in the buildings, at the commencement of commercial
23 production, is at least three hundred fifty million dollars based on
24 actual expenditures by the person.

25 (2) Except for section 1 of this act and this section, this act
26 takes effect the first day of the month immediately following the
27 department's determination that the contingency in subsection (1) of
28 this section has occurred. The department shall make its determination
29 regarding the contingency in subsection (1) of this section based on
30 information provided to the department by affected taxpayers or
31 representatives of affected taxpayers.

32 (3) The department of revenue shall provide notice of the effective
33 date of this act to affected taxpayers, the legislature, the office of
34 the code reviser, and others as deemed appropriate by the department.

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