

HOUSE BILL REPORT

HB 3099

As Reported by House Committee On:
Community & Economic Development & Trade
Finance

Title: An act relating to creating a sales and use tax deferral program for eligible investment projects in community empowerment zones.

Brief Description: Creating a sales and use tax deferral program for eligible investment projects in community empowerment zones.

Sponsors: Representatives Kelley, Darneille, Flannigan, Kirby, Morrell, Campbell, Lantz, Conway, Green, McDonald, Seaquist and Sullivan.

Brief History:

Committee Activity:

Community & Economic Development & Trade: 1/31/08, 2/5/08 [DP];
Finance: 2/12/08 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Revenue (Department) to issue state and local sales and use tax deferral certificates for construction of new corporate headquarters in designated community empowerment zones when investment, employment, and other criteria are met.
- Limits the number of tax deferral certificates issued biennially by the Department to two, including no more than one from any single community empowerment zone.
- Terminates tax deferral applications after December 31, 2020.

HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT & TRADE

Majority Report: Do pass. Signed by 8 members: Representatives Kenney, Chair; Pettigrew, Vice Chair; Bailey, Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Chase, Darneille, Haler and Sullivan.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Meg Van Schoorl (786-7105).

Background:

State and Local Sales and Use Taxes

The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The use tax is imposed on taxable items and services used in the state that were not subject to the retail sales tax. The sales and use tax is levied at a 6.5 percent rate by the state. Cities, counties, and other local districts may levy a local tax. The total rate ranges from 7 percent to 8.9 percent. All items or services sold or acquired at retail are subject to the retail sales and use taxes unless specifically exempted otherwise.

Sales Tax Deferrals

Washington law contains tax preferences that confer reduced tax liability upon a certain class of taxpayer. Tax preferences include deductions, exclusions, preferential tax rates, deferrals and credits. The Legislature has enacted several sales and use tax preferences in the form of tax deferrals. Examples include deferrals for investment projects in rural counties and for high technology businesses.

Community Empowerment Zones

The Community Empowerment Zone (CEZ) Program was created in 1993 to encourage public and private investment in low-income areas with high rates of unemployment. The director of the Department of Community, Trade and Economic Development was authorized by statute to designate up to six Community Empowerment Zones. To apply for CEZ designation, local jurisdictions identified target neighborhoods, undertook planning and public involvement processes and adopted five-year plans to guide resource investments. No additional CEZs are allowed to be designated after January 1, 2004. The designated CEZs are located in Bremerton, Seattle, Tacoma, King County (White Center neighborhood), Yakima, and Spokane.

Summary of Bill:

Sales and Use Tax Deferral Authorized

The Department of Revenue (Department) must issue a state and local sales and use tax deferral certificate for each investment project meeting the following eligibility criteria:

- The project is a capital investment of at least \$50 million in a new structure or structures.
- The structure(s) will be located in a designated CEZ and used for corporate headquarters.
- The corporate headquarters is a facility where the majority of the company's management services are handled on a regional or national basis and where at least 500 permanent full- time staff are physically employed.

- Each of those employees must earn for the year at least the average annual wage for the state in that year as determined by the Employment Security Department.

Capital investment includes tangible personal property and fixtures that are components of the buildings during the course of construction, as well as labor and services involved in the project planning, installation, and construction. If a building is used partially for corporate headquarters and partially for other purposes, the tax deferral will be determined by an apportionment of construction costs under rules adopted by the Department.

The lessor or owner of the qualified building(s) is not eligible for the deferral unless the underlying ownership of the building vests exclusively in the same person, or the lessor agrees in a written contract to pass the economic benefit of the deferral to the lessee. There must be written documentation that the economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor.

An investment project that has already received a state and local sales and use tax deferral as an investment project in a rural county or as a high technology business may not receive a deferral certificate under this chapter. The exception is that an investment project for qualified research and development that has received a deferral may receive an additional deferral certificate for adapting the investment project for use in pilot scale manufacturing.

Deferral Application Process

The tax deferral application can be made at any time prior to completion of construction, but tax liability incurred prior to the Department's receipt of an application may not be deferred. The tax deferral application must contain prescribed information such as location, employment, wages, project costs, and time schedules. The Department must rule on the application within 60 days. The Department must approve deferral certificates for completed applications on a first in-time basis. The benefits of this tax deferral will only be allowed for two eligible investment projects per biennium, and only one deferral certificate may be issued per CEZ. Applications for tax deferrals may not be made after December 31, 2020.

The taxes deferred under this chapter do not require repayment unless the Department finds that an investment project is no longer an eligible investment project, in which case a portion of the deferred tax is immediately due according to a schedule provided in this act. A portion of the deferred tax is also due if a recipient fails to complete the required annual survey. The qualified employment positions must be filled by the end of the calendar year following the year in which the project is certified as operationally complete. If the requirements for qualified employment positions are not met by the end of the second calendar year, all deferred taxes will immediately be due. A transfer of ownership does not end the deferral. The deferral will be transferred if the successor meets the eligibility requirements for the remaining deferral period.

Tax Incentive Survey

The Legislature needs information on how tax incentives are used in order to make policy choices on the best uses of limited state resources. Applicants for tax deferrals must agree to

complete an annual survey. Surveys are due by March 31 of the year following the calendar year in which the Department certifies the project as being operationally complete, and for the next seven calendar years. The survey must include the amount of tax deferred and prescribed information on employment positions in the state. All information collected in the survey is considered taxpayer information and is not disclosable, except for the amount of tax deferral taken which may be disclosed to the public upon request.

The Department must use the survey information to study this tax deferral program and report to the Legislature by December 1, 2014, and December 1, 2018. The reports must include the effect of the program on job creation, numbers of jobs created for Washington residents, the introduction of new products, and other information as required by statute or by the Department.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on July 1, 2009.

Staff Summary of Public Testimony:

(In support) There are currently sales and use tax incentives in place to assist in siting manufacturing centers and warehouses in Community Empowerment Zones. Certainly having a large corporate headquarters located in such an area would be preferable to a warehouse as a stimulus for economic revitalization. Corporate headquarter employees would take a natural interest in the area in which they work. As an example, Columbia Bank in Tacoma provides over \$500,000 a year in grants to 100 area organizations. We realize that the thresholds in this bill are ambitious: a minimum of 500 employees and \$50 million in investment. But we believe they are needed at this point. Perhaps in the future, as the incentive becomes more popular, the thresholds can be revisited.

(Opposed) None.

Persons Testifying: Representative Kelley, prime sponsor; Tom Luce, Tacoma Executive Council; Randall Lewis, City of Tacoma; and Bob Mitchell, Washington Commercial Realtors and Commercial Brokers Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Conway, Ericks, McIntire, Roach and Santos.

Staff: Jeff Mitchell (786-7139).

Summary of Recommendation of Committee On Finance Compared to Recommendation of Committee On Community & Economic Development & Trade:

The substitute bill adds a definition for "operationally complete."

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect on July 1, 2009.

Staff Summary of Public Testimony:

(In support) The purpose of this bill is to kick-start economic development in community empowerment zones. This bill puts us on a competitive basis with Idaho, which has adopted similar legislation. An amendment should be looked at that would lower the thresholds to \$30 million in investment and 300 employees, which would make this tax incentive more accessible to Eastern Washington communities.

(Opposed) None.

Persons Testifying: Representative Kelley, prime sponsor; James McMahan, City of Tacoma; and Jim Hendrick, Greater Spokane Incorporated.

Persons Signed In To Testify But Not Testifying: None.