

# SENATE BILL REPORT

## SB 5909

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As Passed Senate, March 4, 2009

**Title:** An act relating to clarifying the application of the high technology retail sales and use tax deferral provided by chapter 82.63 RCW.

**Brief Description:** Clarifying that multiple qualified buildings are eligible for the high technology retail sales and use tax deferral.

**Sponsors:** Senators Murray, Kohl-Welles and Zarelli.

**Brief History:**

**Committee Activity:** Ways & Means: 2/17/09, 2/24/09 [DP].

Passed Senate: 3/04/09, 47-0.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Fairley, Hewitt, Hobbs, Honeyford, Keiser, Kline, Kohl-Welles, McDermott, Murray, Oemig, Parlette, Pflug, Pridemore, Regala, Rockefeller and Schoesler.

**Staff:** Dean Carlson (786-7305)

**Background:** The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The tax is levied at a 6.5 percent rate by the state. Currently, local rates levied range from 0.5 percent to 2.4 percent. Sales tax is paid by the purchaser and collected by the seller.

The high technology research and development (R&D) sales and use tax deferral is allowed for the construction of buildings and acquisition of machinery and equipment for projects involving research and development or pilot scale manufacturing. To qualify the firm must be engaged in one of five areas related to high technology: advanced computing, advanced materials, biotechnology, electronic device technology, or environmental technology. In addition, an applicant is required to submit an application to the Department of Revenue (DOR) before beginning construction or equipment purchases. The application must include the location of the project, current employment, new employment estimates, estimated wages related to the project, estimated or actual cost data, time schedules for completion and

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operation, and other information required by the DOR. The deferral may apply to a building that is leased to a qualified high technology business if the owner/lessor agrees to pass on the economic benefit of the deferral to the lessee.

Currently, if a building is used partly for pilot scale manufacturing or R&D and partly for other purposes, the deferral may be apportioned by the costs of construction related to the pilot scale manufacturing or R&D.

Originally, the sales/use tax liability was deferred for three years followed by a five year graduated repayment. Since 1995 the repayment requirement has been waived provided program requirements are maintained for seven years after the facility becomes operational. The statute is currently scheduled to expire on July 1, 2015.

**Summary of Bill:** The bill establishes that "multiple qualified buildings" leased to the same person are eligible for the deferral when the structures are located within a five mile radius and the initiation of construction of each building begins within a 60-month period.

Applications must be submitted prior to the construction of each building for an investment project involving multiple qualified buildings.

Shifting of qualified activities is allowed within a building or from one building to another and DOR is allowed to develop rules to calculate apportionment of construction costs across these multiple buildings. The lessee is responsible for payment of any deferred tax that may become due and payable.

The bill is retroactive and applies to applications received after June 30, 2007.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Amazon has grown from 20 employees in Seattle to over 4,000. Last year we leased a new headquarters at south Lake Union. Amazon is engaging in new activities that qualify for this tax break, for example, the Kindle. We also develop applications to help small developers in something called cloud computing. We have 1,500 software engineers in Seattle, but they are grouped in small teams that tend to move around. Our new campus has 11 small buildings with seven landlords. If we used one big building we wouldn't need the bill. The bill has no fiscal impact. This allows us to be flexible and innovative and to continue to grow our business.

**Persons Testifying:** PRO: Rich Prem, Amazon.com.