
HOUSE BILL 3188

State of Washington

61st Legislature

2010 Regular Session

By Representative Hunter

Read first time 02/16/10. Referred to Committee on Finance.

1 AN ACT Relating to modifying the definitions of "manufacturing" and
2 "research and development" for tax incentive programs for businesses in
3 rural counties; amending RCW 82.60.020 and 82.62.010; creating a new
4 section; and providing an effective date.

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

6 **Sec. 1.** RCW 82.60.020 and 2006 c 142 s 1 are each amended to read
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Applicant" means a person applying for a tax deferral under
11 this chapter.

12 (2) "Department" means the department of revenue.

13 (3) "Eligible area" means a rural county as defined in RCW
14 82.14.370.

15 (4)(a) "Eligible investment project" means an investment project in
16 an eligible area as defined in subsection (3) of this section.

17 (b) The lessor or owner of a qualified building is not eligible for
18 a deferral unless:

1 (i) The underlying ownership of the buildings, machinery, and
2 equipment vests exclusively in the same person; or

3 (ii)(A) The lessor by written contract agrees to pass the economic
4 benefit of the deferral to the lessee;

5 (B) The lessee that receives the economic benefit of the deferral
6 agrees in writing with the department to complete the annual survey
7 required under RCW 82.60.070; and

8 (C) The economic benefit of the deferral passed to the lessee is no
9 less than the amount of tax deferred by the lessor and is evidenced by
10 written documentation of any type of payment, credit, or other
11 financial arrangement between the lessor or owner of the qualified
12 building and the lessee.

13 (c) "Eligible investment project" does not include any portion of
14 an investment project undertaken by a light and power business as
15 defined in RCW 82.16.010(~~(+5)~~) (4), other than that portion of a
16 cogeneration project that is used to generate power for consumption
17 within the manufacturing site of which the cogeneration project is an
18 integral part, or investment projects which have already received
19 deferrals under this chapter.

20 (5) "Investment project" means an investment in qualified buildings
21 or qualified machinery and equipment, including labor and services
22 rendered in the planning, installation, and construction of the
23 project.

24 (6) "Manufacturing" means the same as defined in RCW 82.04.120.
25 "Manufacturing" also includes:

26 (a) Before July 1, 2010: (i) Computer programming, the production
27 of computer software, and other computer-related services, but only
28 when the computer programming, production of computer software, or
29 other computer-related services are performed by a manufacturer as
30 defined in RCW 82.04.110 and contribute to the production of a new,
31 different, or useful substance or article of tangible personal property
32 for sale; (ii) the activities performed by research and development
33 laboratories and commercial testing laboratories(~~(7)~~); and (iii) the
34 conditioning of vegetable seeds; and

35 (b) Beginning July 1, 2010: (i) The activities performed by
36 research and development laboratories and commercial testing
37 laboratories; and (ii) the conditioning of vegetable seeds.

38 (7) "Person" has the meaning given in RCW 82.04.030.

1 (8) "Qualified buildings" means construction of new structures, and
2 expansion or renovation of existing structures for the purpose of
3 increasing floor space or production capacity used for manufacturing
4 ((and)) or research and development activities, including plant offices
5 and warehouses or other facilities for the storage of raw material or
6 finished goods if such facilities are an essential or an integral part
7 of a factory, mill, plant, or laboratory used for manufacturing or
8 research and development. If a building is used partly for
9 manufacturing or research and development and partly for other
10 purposes, the applicable tax deferral shall be determined by
11 apportionment of the costs of construction under rules adopted by the
12 department.

13 (9) "Qualified employment position" means a permanent full-time
14 employee employed in the eligible investment project during the entire
15 tax year. The term "entire tax year" means a full-time position that
16 is filled for a period of twelve consecutive months. The term "full-
17 time" means at least thirty-five hours a week, four hundred fifty-five
18 hours a quarter, or one thousand eight hundred twenty hours a year.

19 (10) "Qualified machinery and equipment" means all new industrial
20 and research fixtures, equipment, and support facilities that are an
21 integral and necessary part of a manufacturing or research and
22 development operation. "Qualified machinery and equipment" includes:
23 Computers; software; data processing equipment; laboratory equipment;
24 manufacturing components such as belts, pulleys, shafts, and moving
25 parts; molds, tools, and dies; operating structures; and all equipment
26 used to control or operate the machinery.

27 (11) "Recipient" means a person receiving a tax deferral under this
28 chapter.

29 (12) "Research and development" means the development, refinement,
30 testing, marketing, and commercialization of a product, service, or
31 process before commercial sales have begun, but only when such
32 activities are intended to ultimately result in the production of a
33 new, different, or useful substance or article of tangible personal
34 property for sale. As used in this subsection, "commercial sales"
35 excludes sales of prototypes or sales for market testing if the total
36 gross receipts from such sales of the product, service, or process do
37 not exceed one million dollars.

1 **Sec. 2.** RCW 82.62.010 and 2007 c 485 s 1 are each amended to read
2 as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Applicant" means a person applying for a tax credit under this
6 chapter.

7 (2) "Department" means the department of revenue.

8 (3) "Eligible area" means an area as defined in RCW 82.60.020.

9 (4)(a) "Eligible business project" means manufacturing or research
10 and development activities which are conducted by an applicant in an
11 eligible area at a specific facility, provided the applicant's average
12 qualified employment positions at the specific facility will be at
13 least fifteen percent greater in the four consecutive full calendar
14 quarters after the calendar quarter during which the first qualified
15 employment position is filled than the applicant's average qualified
16 employment positions at the same facility in the four consecutive full
17 calendar quarters immediately preceding the calendar quarter during
18 which the first qualified employment position is filled.

19 (b) "Eligible business project" does not include any portion of a
20 business project undertaken by a light and power business as defined in
21 RCW 82.16.010(~~((+5))~~) (4) or that portion of a business project creating
22 qualified full-time employment positions outside an eligible area.

23 (5) "First qualified employment position" means the first qualified
24 employment position filled for which a credit under this chapter is
25 sought.

26 (6) "Manufacturing" means the same as defined in RCW 82.04.120.
27 "Manufacturing" also includes:

28 (a) Before July 1, 2010: (i) Computer programming, the production
29 of computer software, and other computer-related services, but only
30 when the computer programming, production of computer software, or
31 other computer-related services are performed by a manufacturer as
32 defined in RCW 82.04.110 and contribute to the production of a new,
33 different, or useful substance or article of tangible personal property
34 for sale; and (ii) the activities performed by research and development
35 laboratories and commercial testing laboratories; and

36 (b) Beginning July 1, 2010, the activities performed by research
37 and development laboratories and commercial testing laboratories.

38 (7) "Person" has the meaning given in RCW 82.04.030.

1 (8)(a)(i) "Qualified employment position" means a permanent full-
2 time employee employed in the eligible business project during four
3 consecutive full calendar quarters.

4 (ii) For seasonal employers, "qualified employment position" also
5 includes the equivalent of a full-time employee in work hours for four
6 consecutive full calendar quarters.

7 (b) For purposes of this subsection, "full time" means a normal
8 work week of at least thirty-five hours.

9 (c) Once a permanent, full-time employee has been employed, a
10 position does not cease to be a qualified employment position solely
11 due to periods in which the position goes vacant, as long as:

12 (i) The cumulative period of any vacancies in that position is not
13 more than one hundred twenty days in the four-quarter period; and

14 (ii) During a vacancy, the employer is training or actively
15 recruiting a replacement permanent, full-time employee for the
16 position.

17 (9) "Recipient" means a person receiving tax credits under this
18 chapter.

19 (10) "Research and development" means the development, refinement,
20 testing, marketing, and commercialization of a product, service, or
21 process before commercial sales have begun, but only when such
22 activities are intended to ultimately result in the production of a
23 new, different, or useful substance or article of tangible personal
24 property for sale. As used in this subsection, "commercial sales"
25 excludes sales of prototypes or sales for market testing if the total
26 gross receipts from such sales of the product, service, or process do
27 not exceed one million dollars.

28 (11) "Seasonal employee" means an employee of a seasonal employer
29 who works on a seasonal basis. For the purposes of this subsection and
30 subsection (12) of this section, "seasonal basis" means a continuous
31 employment period of less than twelve consecutive months.

32 (12) "Seasonal employer" means a person who regularly hires more
33 than fifty percent of its employees to work on a seasonal basis.

34 NEW SECTION. **Sec. 3.** This act applies retroactively as well as
35 prospectively.

1 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2010.

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