
HOUSE BILL 2772

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Sells and Hope

Read first time 02/03/12. Referred to Committee on Ways & Means.

1 AN ACT Relating to creating a property tax exemption for the value
2 of new construction of industrial/manufacturing facilities in target
3 urban areas; and adding a new chapter to Title 84 RCW.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) Many cities have planned under the growth management act,
7 chapter 36.70A RCW, and designated and zoned lands for industrial and
8 manufacturing use;

9 (2) Industrial and manufacturing use provide family living wage
10 jobs;

11 (3) In the current economic climate the creation of additional
12 family living wage jobs is essential;

13 (4) It is critical that Washington state promote its continued
14 strength in the fields of aerospace, technology, biomedical, and other
15 industries that will provide family living wage job growth; and

16 (5) Planning for industrial and manufacturing use is inadequate to
17 attract new industry and manufacturing and an incentive should be
18 created to stimulate the development of new industrial and

1 manufacturing uses in the existing inventory of lands zoned for
2 industrial and manufacturing use in targeted urban areas through a tax
3 incentive as provided by this chapter.

4 NEW SECTION. **Sec. 2.** It is the purpose of this chapter to
5 encourage new manufacturing and industrial uses on undeveloped or
6 underutilized lands zoned for industrial and manufacturing uses in
7 targeted urban areas, thereby increasing employment opportunities for
8 family living wage jobs. Cities that plan under the growth management
9 act meeting the criteria of this chapter where the governing authority
10 of the affected city has found there is insufficient family living wage
11 jobs for its wage-earning population may designate a portion of the
12 city's industrial and manufacturing zoned and undeveloped land to
13 receive ad valorem tax exemption for the value of new construction of
14 industrial/manufacturing facilities within the designated area.

15 NEW SECTION. **Sec. 3.** The definitions in this section apply
16 throughout this chapter unless the context clearly requires otherwise.

17 (1) "City" means a city located in a county planning under the
18 growth management act with a population of either (a) at least fifty
19 thousand or (b) the largest city or town, if there is no city or town
20 with a population of at least fifty thousand.

21 (2) "Family living wage job" means a wage that is sufficient to
22 raise a family on. This is defined in this chapter as an average wage
23 of eighteen dollars per hour or greater working two thousand eight
24 hours per year on the subject site, as adjusted annually for consumer
25 price index (CPI). This number may be increased by the local authority
26 based on regional factors and wage conditions.

27 (3) "Industrial/manufacturing facilities" means building
28 improvements ten thousand square feet or larger, representing a minimum
29 of eight hundred thousand dollars of improvement valuation for use by
30 division D: Manufacturing uses as defined by the United States
31 department of labor occupation safety and health administration
32 standard industrial classification manual.

33 (4) "Lands zoned for industrial and manufacturing uses" means lands
34 in a city zoned as of January 1, 2012, for an industrial or
35 manufacturing use consistent with the city's comprehensive plan where
36 such lands are designated for industry.

1 (5) "Undeveloped or underutilized" means that there are no existing
2 building improvements on the property or portions of the property
3 targeted for new or expanded industrial or manufacturing uses.

4 (6) "Governing authority" means the local legislative authority of
5 a city having jurisdiction over the property for which an exemption may
6 be applied for under this chapter.

7 (7) "Growth management act" means chapter 36.70A RCW.

8 (8) "Owner" means the property owner of record.

9 (9) "Targeted area" means an area of undeveloped lands zoned for
10 industrial and manufacturing uses in the city and designated for
11 possible exemption under the provisions of this chapter.

12 NEW SECTION. **Sec. 4.** (1) The value of new construction of
13 industrial/manufacturing facilities qualifying under this chapter is
14 exempt from ad valorem property taxation, as follows:

15 (a) For properties for which applications for certificates of tax
16 exemption eligibility are submitted under this chapter before December
17 31, 2020, the value is exempt for ten successive years beginning
18 January 1st of the year immediately following the calendar year of
19 issuance of the certificate; and

20 (b) The exemptions provided in (a) of this subsection do not
21 include the value of land or nonindustrial/manufacturing-related
22 improvements not qualifying under this chapter.

23 (2) The incentive provided by this chapter is in addition to any
24 other incentives, tax credits, grants, or other incentives provided by
25 law.

26 (3) This chapter does not apply to increases in assessed valuation
27 made by the assessor on nonqualifying portions of buildings and value
28 of land nor to increases made by lawful order of a county board of
29 equalization, the department of revenue, or a county, to a class of
30 property throughout the county or specific area of the county to
31 achieve the uniformity of assessment or appraisal required by law.

32 (4) At the conclusion of the exemption period, the new
33 industrial/manufacturing facilities cost is considered as new
34 construction for the purposes of chapter 84.55 RCW.

35 NEW SECTION. **Sec. 5.** An owner of property making application
36 under this chapter must meet the following requirements:

1 (1) The new construction of industrial/manufacturing facilities
2 must be located on land zoned for industrial and manufacturing uses,
3 undeveloped or underutilized, and targeted by the city.

4 (2) The new construction of industrial/manufacturing facilities
5 must meet all construction and development regulations of the city.

6 (3) The new construction of industrial/manufacturing facilities
7 must be completed within three years from the date of approval of the
8 application.

9 (4) The applicant must enter into a contract with the city approved
10 by the governing authority, or an administrative official or commission
11 authorized by the governing authority, under which the applicant has
12 agreed to the implementation of the development on terms and conditions
13 satisfactory to the governing authority.

14 NEW SECTION. **Sec. 6.** (1) The following criteria must be met
15 before an area may be designated as a targeted area:

16 (a) The area must be lands zoned for industrial and manufacturing
17 uses; and

18 (b) The targeting of the area, as determined by the governing
19 authority, will assist in the new construction of
20 industrial/manufacturing facilities that will provide employment for
21 family living wage jobs.

22 (2) For the purpose of designating a targeted area or areas, the
23 governing authority may adopt a resolution of intention to so designate
24 an area as generally described in the resolution. The resolution must
25 state the time and place of a hearing to be held by the governing
26 authority to consider the designation of the area and may include such
27 other information pertaining to the designation of the area as the
28 governing authority determines to be appropriate to apprise the public
29 of the action intended.

30 (3) The governing authority must give notice of a hearing held
31 under this chapter by publication of the notice once each week for two
32 consecutive weeks, not less than seven days, nor more than thirty days
33 before the date of the hearing in a paper having a general circulation
34 in the city where the proposed targeted area is located. The notice
35 must state the time, date, place, and purpose of the hearing and
36 generally identify the area proposed to be designated as a targeted
37 area.

1 (4) Following the hearing, or a continuance of the hearing, and
2 subject to the limit on the targeted area, the governing authority may
3 designate all or a portion of the area described in the resolution of
4 intent as a targeted area if it finds, in its sole discretion, that the
5 criteria in subsection (1) of this section have been met.

6 NEW SECTION. **Sec. 7.** An owner of property seeking tax incentives
7 under this chapter must complete the following procedures:

8 (1) The owner must apply to the city on forms adopted by the
9 governing authority. The application must contain the following:

10 (a) Information setting forth the grounds supporting the requested
11 exemption including information indicated on the application form or in
12 the guidelines;

13 (b) A description of the project and site plan, and other
14 information requested;

15 (c) A statement of the expected number of new family living wage
16 jobs to be created; and

17 (d) A statement that the applicant is aware of the potential tax
18 liability involved when the property ceases to be eligible for the
19 incentive provided under this chapter;

20 (2) The applicant must verify the application by oath or
21 affirmation; and

22 (3) The application must be accompanied by the application fee, if
23 any, required under this chapter. The governing authority may permit
24 the applicant to revise an application before final action by the
25 governing authority.

26 NEW SECTION. **Sec. 8.** The duly authorized administrative official
27 or committee of the city may approve the application if it finds that:

28 (1) A minimum of twenty-five new family living wage jobs will be
29 created on the subject site as a result of new construction of
30 industrial/manufacturing facilities within one year of building
31 occupancy;

32 (2) The proposed project is or will be, at the time of completion,
33 in conformance with all local plans and regulations that apply at the
34 time the application is approved;

35 (3) The criteria of this chapter have been satisfied.

1 NEW SECTION. **Sec. 9.** (1) The governing authority or an
2 administrative official or commission authorized by the governing
3 authority must approve or deny an application filed under this chapter
4 within ninety days after receipt of the application.

5 (2) If the application is approved, the city must issue the owner
6 of the property a conditional certificate of acceptance of tax
7 exemption. The certificate must contain a statement by a duly
8 authorized administrative official of the governing authority that the
9 property has complied with the required criteria of this chapter.

10 (3) If the application is denied by the authorized administrative
11 official or commission authorized by the governing authority, the
12 deciding administrative official or commission must state in writing
13 the reasons for denial and send the notice to the applicant at the
14 applicant's last known address within ten days of the denial.

15 (4) Upon denial by a duly authorized administrative official or
16 commission, an applicant may appeal the denial to the governing
17 authority within thirty days after receipt of the denial. The appeal
18 before the governing authority will be based upon the record made
19 before the administrative official with the burden of proof on the
20 applicant to show that there was no substantial evidence to support the
21 administrative official's decision. The decision of the governing body
22 in denying or approving the application is final.

23 NEW SECTION. **Sec. 10.** The governing authority may establish an
24 application fee. This fee may not exceed an amount determined to be
25 required to cover the cost to be incurred by the governing authority
26 and the assessor in administering this chapter. The application fee
27 must be paid at the time the application for limited exemption is
28 filed. If the application is approved, the governing authority must
29 pay the application fee to the county assessor for deposit in the
30 county current expense fund, after first deducting that portion of the
31 fee attributable to its own administrative costs in processing the
32 application. If the application is denied, the governing authority may
33 retain that portion of the application fee attributable to its own
34 administrative costs and refund the balance to the applicant.

35 NEW SECTION. **Sec. 11.** (1) Upon completion of the new construction
36 of industrial/manufacturing facilities for which an application for a

1 limited tax exemption under this chapter has been approved and after
2 issuance of the certificate of occupancy, the owner must file with the
3 city the following:

4 (a) A description of the work that has been completed and a
5 statement that the new construction on the owner's property qualifies
6 the property for limited exemption under this chapter;

7 (b) A statement of the new family living wage jobs to be offered as
8 a result of the new construction of industrial/manufacturing
9 facilities; and

10 (c) A statement that the work has been completed within three years
11 of the issuance of the conditional certificate of tax exemption.

12 (2) Within thirty days after receipt of the statements required
13 under subsection (1) of this section, the authorized representative of
14 the city must determine whether the work completed and the jobs to be
15 offered are consistent with the application and the contract approved
16 by the city and is qualified for a limited tax exemption under this
17 chapter.

18 (3) If the criteria of this chapter have been satisfied and the
19 owner's property is qualified for a limited tax exemption under this
20 chapter, the city must file the certificate of tax exemption with the
21 county assessor within ten days of the expiration of the thirty-day
22 period provided under subsection (2) of this section.

23 (4) The authorized representative of the city must notify the
24 applicant that a certificate of tax exemption is not going to be filed
25 if the authorized representative determines that:

26 (a) The work was not completed within three years of the
27 application date;

28 (b) The work was not constructed consistent with the application or
29 other applicable requirements;

30 (c) The jobs offered are not consistent with the application and
31 criteria of this chapter;

32 (d) The owner's property is otherwise not qualified for limited
33 exemption under this chapter.

34 (5) If the authorized representative of the city finds that the
35 work was not completed within the required time period due to
36 circumstances beyond the control of the owner and that the owner has
37 been acting and could reasonably be expected to act in good faith and
38 with due diligence, the governing authority or the city official

1 authorized by the governing authority may extend the deadline for
2 completion of the work for a period not to exceed twenty-four
3 consecutive months.

4 (6) The governing authority may provide by ordinance for an appeal
5 of a decision by the deciding officer or authority that an owner is not
6 entitled to a certificate of tax exemption to the governing authority,
7 a hearing examiner, or other city officer authorized by the governing
8 authority to hear the appeal in accordance with such reasonable
9 procedures and time periods as provided by ordinance of the governing
10 authority. The owner may appeal a decision by the deciding officer or
11 authority that is not subject to local appeal or a decision by the
12 local appeal authority that the owner is not entitled to a certificate
13 of tax exemption in superior court under RCW 34.05.510 through
14 34.05.598, if the appeal is filed within thirty days of notification by
15 the city to the owner of the decision being challenged.

16 NEW SECTION. **Sec. 12.** (1) Thirty days after the anniversary of
17 the date of the certificate of tax exemption and each year for the tax
18 exemption period, the owner of the new industrial/manufacturing
19 facilities must file with a designated authorized representative of the
20 city an annual report indicating the following:

- 21 (a) A statement of the family living wage jobs at the facility as
22 of the anniversary date;
- 23 (b) A certification by the owner that the property has not changed
24 use;
- 25 (c) A description of changes or improvements constructed after
26 issuance of the certificate of tax exemption; and
- 27 (d) Any additional information requested by the city.

28 (2) All cities, which issue certificates of tax exemption under the
29 requirements of this chapter, must report annually by December 31st of
30 each year, beginning in 2013 to the department of commerce. The report
31 must include the following information:

- 32 (a) The number of tax exemption certificates granted;
- 33 (b) The total number and type of new industrial/manufacturing
34 facilities constructed;
- 35 (c) The number of family living wage jobs resulting from the new
36 industrial/manufacturing facilities; and

1 (d) The value of the tax exemption for each project receiving a tax
2 exemption and the total value of tax exemptions granted.

3 NEW SECTION. **Sec. 13.** (1) If improvements have been exempted
4 under this chapter, the improvements continue to be exempted for the
5 applicable period under this chapter so long as they are not converted
6 to another use and continue to satisfy all applicable conditions
7 including but not limited to zoning, land use, building, and family
8 living wage job creation. If the owner intends to discontinue
9 compliance with the requirements of this chapter, the owner must notify
10 the assessor within sixty days of the change in use or intended
11 discontinuance. If, after a certificate of tax exemption has been
12 filed with the county assessor, the authorized representative of the
13 governing authority discovers that a portion of the property is changed
14 or will be changed to disqualify the owner for exemption under this
15 chapter, the tax exemption must be canceled and the following must
16 occur:

17 (a) Additional real property tax must be imposed upon the value of
18 the nonqualifying improvements in the amount that would normally be
19 imposed, plus a penalty must be imposed amounting to twenty percent.
20 This additional tax is calculated based upon the difference between the
21 property tax paid and the property tax that would have been paid if it
22 had included the value of the nonqualifying improvements dated back to
23 the date that the improvements were converted to a nonqualifying use;

24 (b) The tax must include interest upon the amounts of the
25 additional tax at the same statutory rate charged on delinquent
26 property taxes from the dates on which the additional tax could have
27 been paid without penalty if the improvements had been assessed at a
28 value without regard to this chapter; and

29 (c) The additional tax owed together with interest and penalty must
30 become a lien on the land and attach at the time the property or
31 portion of the property is removed from the qualifying use or the
32 amenities no longer meet applicable requirements, and has priority to
33 and must be fully paid and satisfied before a recognizance, mortgage,
34 judgment, debt, obligation, or responsibility to or with which the land
35 may become charged or liable. The lien may be foreclosed upon
36 expiration of the same period after delinquency and in the same manner
37 provided by law for foreclosure of liens for delinquent real property

1 taxes. An additional tax unpaid on its due date is delinquent. From
2 the date of delinquency until paid, interest must be charged at the
3 same rate applied by law to delinquent ad valorem property taxes.

4 (2) Upon a determination that a tax exemption is to be canceled for
5 a reason stated in this section, the governing authority or authorized
6 representative must notify the record owner of the property as shown by
7 the tax rolls by mail, return receipt requested, of the determination
8 to cancel the exemption. The owner may appeal the determination to the
9 governing authority or authorized representative, within thirty days by
10 filing a notice of appeal with the clerk of the governing authority,
11 which notice must specify the factual and legal basis on which the
12 determination of cancellation is alleged to be erroneous. The
13 governing authority or a hearing examiner or other official authorized
14 by the governing authority may hear the appeal. At the hearing, all
15 affected parties may be heard and all competent evidence received.
16 After the hearing, the deciding body or officer must either affirm,
17 modify, or repeal the decision of cancellation of exemption based on
18 the evidence received. An aggrieved party may appeal the decision of
19 the deciding body or officer to the superior court under RCW 34.05.510
20 through 34.05.598.

21 (3) Upon determination by the governing authority or authorized
22 representative to terminate an exemption, the county officials having
23 possession of the assessment and tax rolls must correct the rolls in
24 the manner provided for omitted property under RCW 84.40.080. The
25 county assessor must make such a valuation of the property and
26 improvements as is necessary to permit the correction of the rolls.
27 The value of the new industrial/manufacturing facilities added to the
28 rolls are considered as new construction for the purposes of chapter
29 84.55 RCW. The owner may appeal the valuation to the county board of
30 equalization under chapter 84.48 RCW and according to the provisions of
31 RCW 84.40.038. If there has been a failure to comply with this
32 chapter, the property must be listed as an omitted assessment for
33 assessment years beginning January 1st of the calendar year in which
34 the noncompliance first occurred, but the listing as an omitted
35 assessment may not be for a period more than three calendar years
36 preceding the year in which the failure to comply was discovered.

1 NEW SECTION. **Sec. 14.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 15.** Sections 1 through 14 of this act
6 constitute a new chapter in Title 84 RCW.

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