
SUBSTITUTE HOUSE BILL 1023

State of Washington 63rd Legislature 2013 Regular Session

By House Labor & Workforce Development (originally sponsored by Representatives Moeller, Appleton, Stanford, Hudgins, Ormsby, Pollet, and Reykdal)

READ FIRST TIME 02/15/13.

1 AN ACT Relating to extending apprenticeship utilization
2 requirements; amending RCW 39.04.310, 39.04.320, 82.60.025, 82.75.010,
3 82.82.010, 82.08.820, 82.08.900, 82.08.955, and 82.12.955; reenacting
4 and amending RCW 82.63.010; and adding a new section to chapter 49.04
5 RCW.

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

7 **Sec. 1.** RCW 39.04.310 and 2007 c 437 s 1 are each amended to read
8 as follows:

9 The definitions in this section apply throughout this section and
10 RCW 39.04.300 and 39.04.320 unless the context clearly requires
11 otherwise.

12 (1) "Apprentice" means an apprentice enrolled in a state-approved
13 apprenticeship training program.

14 (2) "Apprentice utilization requirement" means the requirement that
15 the appropriate percentage of labor hours be performed by apprentices.

16 (3) "Labor hours" means the total hours of workers receiving an
17 hourly wage who are directly employed on the site of the public works
18 project. "Labor hours" includes hours performed by workers employed by
19 the contractor and all subcontractors working on the project. "Labor

1 hours" does not include hours worked by foremen, superintendents,
2 owners, and workers who are not subject to prevailing wage
3 requirements.

4 (4) "School district" has the same meaning as in RCW 28A.315.025.

5 (5) "State-approved apprenticeship training program" means an
6 apprenticeship training program approved by the Washington state
7 apprenticeship council.

8 (6)(a) "Subsidized public work" means all work, construction,
9 alterations, repairs, or improvements other than ordinary maintenance
10 where:

11 (i) One or more parties to the contract for the project received or
12 will receive a tax preference for the project under chapter 82.60,
13 82.63, 82.75, or 82.82 RCW, or RCW 82.08.820, 82.08.900, 82.08.955,
14 82.12.900, or 82.12.955; or

15 (ii) One or more parties to the contract for the project received
16 or will receive a loan for the project from the state or any county,
17 municipality, or political subdivision.

18 (b) "Subsidized public work" does not include:

19 (i) Work financed by a loan provided by a housing authority created
20 under chapter 35.82 RCW; or

21 (ii) Affordable housing projects that receive financing from the
22 Washington state housing finance commission and are not subject to
23 federal prevailing wage requirements.

24 **Sec. 2.** RCW 39.04.320 and 2009 c 197 s 1 are each amended to read
25 as follows:

26 (1)(a) Except as provided in (b) through (d) of this subsection,
27 from January 1, 2005, and thereafter, for all public works estimated to
28 cost one million dollars or more, all specifications shall require that
29 no less than fifteen percent of the labor hours be performed by
30 apprentices.

31 (b)(i) This section does not apply to contracts advertised for bid
32 before July 1, 2007, for any public works by the department of
33 transportation.

34 (ii) For contracts advertised for bid on or after July 1, 2007, and
35 before July 1, 2008, for all public works by the department of
36 transportation estimated to cost five million dollars or more, all

1 specifications shall require that no less than ten percent of the labor
2 hours be performed by apprentices.

3 (iii) For contracts advertised for bid on or after July 1, 2008,
4 and before July 1, 2009, for all public works by the department of
5 transportation estimated to cost three million dollars or more, all
6 specifications shall require that no less than twelve percent of the
7 labor hours be performed by apprentices.

8 (iv) For contracts advertised for bid on or after July 1, 2009, for
9 all public works by the department of transportation estimated to cost
10 two million dollars or more, all specifications shall require that no
11 less than fifteen percent of the labor hours be performed by
12 apprentices.

13 (c)(i) This section does not apply to contracts advertised for bid
14 before January 1, 2008, for any public works by a school district, or
15 to any project funded in whole or in part by bond issues approved
16 before July 1, 2007.

17 (ii) For contracts advertised for bid on or after January 1, 2008,
18 for all public works by a school district estimated to cost three
19 million dollars or more, all specifications shall require that no less
20 than ten percent of the labor hours be performed by apprentices.

21 (iii) For contracts advertised for bid on or after January 1, 2009,
22 for all public works by a school district estimated to cost two million
23 dollars or more, all specifications shall require that no less than
24 twelve percent of the labor hours be performed by apprentices.

25 (iv) For contracts advertised for bid on or after January 1, 2010,
26 for all public works by a school district estimated to cost one million
27 dollars or more, all specifications shall require that no less than
28 fifteen percent of the labor hours be performed by apprentices.

29 (d)(i) For contracts advertised for bid on or after January 1,
30 2010, for all public works by a four-year institution of higher
31 education estimated to cost three million dollars or more, all
32 specifications must require that no less than ten percent of the labor
33 hours be performed by apprentices.

34 (ii) For contracts advertised for bid on or after January 1, 2011,
35 for all public works by a four-year institution of higher education
36 estimated to cost two million dollars or more, all specifications must
37 require that no less than twelve percent of the labor hours be
38 performed by apprentices.

1 (iii) For contracts advertised for bid on or after January 1, 2012,
2 for all public works by a four-year institution of higher education
3 estimated to cost one million dollars or more, all specifications must
4 require that no less than fifteen percent of the labor hours be
5 performed by apprentices.

6 (2) For all subsidized public works projects estimated to cost five
7 million dollars or more, all specifications must require that no less
8 than fifteen percent of the labor hours be performed by apprentices.

9 (3) Awarding entities may adjust the requirements of this section
10 for a specific project for the following reasons:

11 (a) The demonstrated lack of availability of apprentices in
12 specific geographic areas;

13 (b) A disproportionately high ratio of material costs to labor
14 hours, which does not make feasible the required minimum levels of
15 apprentice participation;

16 (c) Participating contractors have demonstrated a good faith effort
17 to comply with the requirements of RCW 39.04.300 and 39.04.310 and this
18 section; or

19 (d) Other criteria the awarding entity deems appropriate, which are
20 subject to review by the office of the governor.

21 ((+3)) (4) The secretary of the department of transportation shall
22 adjust the requirements of this section for a specific project for the
23 following reasons:

24 (a) The demonstrated lack of availability of apprentices in
25 specific geographic areas; or

26 (b) A disproportionately high ratio of material costs to labor
27 hours, which does not make feasible the required minimum levels of
28 apprentice participation.

29 ((+4)) (5) This section applies to public works contracts awarded
30 by the state, to public works contracts awarded by school districts,
31 and to public works contracts awarded by state four-year institutions
32 of higher education. However, this section does not apply to contracts
33 awarded by state agencies headed by a separately elected public
34 official.

35 ((+5)) (6)(a) The department of ((general—administration))
36 enterprise services must provide information and technical assistance
37 to affected agencies and collect the following data from affected
38 agencies for each project covered by this section:

- 1 (i) The name of each apprentice and apprentice registration number;
2 (ii) The name of each project;
3 (iii) The dollar value of each project;
4 (iv) The date of the contractor's notice to proceed;
5 (v) The number of apprentices and labor hours worked by them,
6 categorized by trade or craft;
7 (vi) The number of journey level workers and labor hours worked by
8 them, categorized by trade or craft; and
9 (vii) The number, type, and rationale for the exceptions granted
10 under subsection ~~((+2))~~ (3) of this section.

11 (b) The department of labor and industries shall assist the
12 department of ~~((general administration))~~ enterprise services in
13 providing information and technical assistance.

14 ~~((+6))~~ (7) The secretary of transportation shall establish an
15 apprenticeship utilization advisory committee, which shall include
16 statewide geographic representation and consist of equal numbers of
17 representatives of contractors and labor. The committee must include
18 at least one member representing contractor businesses with less than
19 thirty-five employees. The advisory committee shall meet regularly
20 with the secretary of transportation to discuss implementation of this
21 section by the department of transportation, including development of
22 the process to be used to adjust the requirements of this section for
23 a specific project. The committee shall provide a report to the
24 legislature by January 1, 2008, on the effects of the apprentice labor
25 requirement on transportation projects and on the availability of
26 apprentice labor and programs statewide.

27 ~~((+7))~~ (8) At the request of the senate labor, commerce, research
28 and development committee, the house of representatives commerce and
29 labor committee, or their successor committees, and the governor, the
30 department of ~~((general administration))~~ enterprise services and the
31 department of labor and industries shall compile and summarize the
32 agency data and provide a joint report to both committees. The report
33 shall include recommendations on modifications or improvements to the
34 apprentice utilization program and information on skill shortages in
35 each trade or craft.

36 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.04 RCW
37 to read as follows:

1 Upon request from a party to a contract for subsidized public work,
2 as defined in RCW 39.04.310(6)(a)(i), the apprenticeship council must
3 provide written certification of the party's compliance with RCW
4 39.04.320.

5 **Sec. 4.** RCW 82.60.025 and 2010 1st sp.s. c 16 s 4 are each amended
6 to read as follows:

7 The lessor or owner of a qualified building is not eligible for a
8 deferral unless:

9 (1) The lessor or owner complies with the requirements of RCW
10 39.04.320; and

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

13 (~~(+2)~~) (3)(a) The lessor by written contract agrees to pass the
14 economic benefit of the deferral to the lessee;

15 (b) The lessee that receives the economic benefit of the deferral
16 agrees in writing with the department to complete the annual survey
17 required under RCW 82.60.070; and

18 (c) The economic benefit of the deferral passed to the lessee is no
19 less than the amount of tax deferred by the lessor and is evidenced by
20 written documentation of any type of payment, credit, or other
21 financial arrangement between the lessor or owner of the qualified
22 building and the lessee.

23 **Sec. 5.** RCW 82.63.010 and 2009 c 268 s 2 are each reenacted and
24 amended to read as follows:

25 Unless the context clearly requires otherwise, the definitions in
26 this section apply throughout this chapter.

27 (1) "Advanced computing" means technologies used in the designing
28 and developing of computing hardware and software, including
29 innovations in designing the full spectrum of hardware from hand-held
30 calculators to super computers, and peripheral equipment.

31 (2) "Advanced materials" means materials with engineered properties
32 created through the development of specialized processing and synthesis
33 technology, including ceramics, high value-added metals, electronic
34 materials, composites, polymers, and biomaterials.

35 (3) "Applicant" means a person applying for a tax deferral under
36 this chapter.

1 (4) "Biotechnology" means the application of technologies, such as
2 recombinant DNA techniques, biochemistry, molecular and cellular
3 biology, genetics and genetic engineering, cell fusion techniques, and
4 new bioprocesses, using living organisms, or parts of organisms, to
5 produce or modify products, to improve plants or animals, to develop
6 microorganisms for specific uses, to identify targets for small
7 molecule pharmaceutical development, or to transform biological systems
8 into useful processes and products or to develop microorganisms for
9 specific uses.

10 (5) "Department" means the department of revenue.

11 (6) "Electronic device technology" means technologies involving
12 microelectronics; semiconductors; electronic equipment and
13 instrumentation; radio frequency, microwave, and millimeter
14 electronics; optical and optic-electrical devices; and data and digital
15 communications and imaging devices.

16 (7) "Eligible investment project" means an investment project which
17 either initiates a new operation, or expands or diversifies a current
18 operation by expanding, renovating, or equipping an existing facility.
19 The lessor or owner of the qualified building is not eligible for a
20 deferral unless:

21 (a) The lessor or owner complies with the requirements of RCW
22 39.04.320; and

23 (b) The underlying ownership of the buildings, machinery, and
24 equipment vests exclusively in the same person; or

25 ((+b+)) (c)(i) The lessor by written contract agrees to pass the
26 economic benefit of the deferral to the lessee;

27 (ii) The lessee that receives the economic benefit of the deferral
28 agrees in writing with the department to complete the annual survey
29 required under RCW 82.63.020(2); and

30 (iii) The economic benefit of the deferral passed to the lessee is
31 no less than the amount of tax deferred by the lessor and is evidenced
32 by written documentation of any type of payment, credit, or other
33 financial arrangement between the lessor or owner of the qualified
34 building and the lessee.

35 (8) "Environmental technology" means assessment and prevention of
36 threats or damage to human health or the environment, environmental
37 cleanup, and the development of alternative energy sources.

1 (9)(a) "Initiation of construction" means the date that a building
2 permit is issued under the building code adopted under RCW 19.27.031
3 for:

4 (i) Construction of the qualified building, if the underlying
5 ownership of the building vests exclusively with the person receiving
6 the economic benefit of the deferral;

7 (ii) Construction of the qualified building, if the economic
8 benefits of the deferral are passed to a lessee as provided in
9 subsection (7) of this section; or

10 (iii) Tenant improvements for a qualified building, if the economic
11 benefits of the deferral are passed to a lessee as provided in
12 subsection (7) of this section.

13 (b) "Initiation of construction" does not include soil testing,
14 site clearing and grading, site preparation, or any other related
15 activities that are initiated before the issuance of a building permit
16 for the construction of the foundation of the building.

17 (c) If the investment project is a phased project, "initiation of
18 construction" shall apply separately to each phase.

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

23 (11) "Multiple qualified buildings" means qualified buildings
24 leased to the same person when such structures: (a) Are located within
25 a five-mile radius; and (b) the initiation of construction of each
26 building begins within a sixty-month period.

27 (12) "Person" has the meaning given in RCW 82.04.030 and includes
28 state universities as defined in RCW 28B.10.016.

29 (13) "Pilot scale manufacturing" means design, construction, and
30 testing of preproduction prototypes and models in the fields of
31 biotechnology, advanced computing, electronic device technology,
32 advanced materials, and environmental technology other than for
33 commercial sale. As used in this subsection, "commercial sale"
34 excludes sales of prototypes or sales for market testing if the total
35 gross receipts from such sales of the product, service, or process do
36 not exceed one million dollars.

37 (14) "Qualified buildings" means construction of new structures,
38 and expansion or renovation of existing structures for the purpose of

1 increasing floor space or production capacity used for pilot scale
2 manufacturing or qualified research and development, including plant
3 offices and other facilities that are an essential or an integral part
4 of a structure used for pilot scale manufacturing or qualified research
5 and development. If a building or buildings are used partly for pilot
6 scale manufacturing or qualified research and development, and partly
7 for other purposes, the applicable tax deferral shall be determined by
8 apportionment of the costs of construction under rules adopted by the
9 department. Such rules may include provisions for determining the
10 amount of the deferral based on apportionment of costs of construction
11 of an investment project consisting of a building or multiple
12 buildings, where qualified research and development or pilot scale
13 manufacturing activities are shifted within a building or from one
14 building to another building.

15 (15) "Qualified machinery and equipment" means fixtures, equipment,
16 and support facilities that are an integral and necessary part of a
17 pilot scale manufacturing or qualified research and development
18 operation. "Qualified machinery and equipment" includes: Computers;
19 software; data processing equipment; laboratory equipment,
20 instrumentation, and other devices used in a process of experimentation
21 to develop a new or improved pilot model, plant process, product,
22 formula, invention, or similar property; manufacturing components such
23 as belts, pulleys, shafts, and moving parts; molds, tools, and dies;
24 vats, tanks, and fermenters; operating structures; and all other
25 equipment used to control, monitor, or operate the machinery. For
26 purposes of this chapter, qualified machinery and equipment must be
27 either new to the taxing jurisdiction of the state or new to the
28 certificate holder, except that used machinery and equipment may be
29 treated as qualified machinery and equipment if the certificate holder
30 either brings the machinery and equipment into Washington or makes a
31 retail purchase of the machinery and equipment in Washington or
32 elsewhere.

33 (16) "Qualified research and development" means research and
34 development performed within this state in the fields of advanced
35 computing, advanced materials, biotechnology, electronic device
36 technology, and environmental technology.

37 (17) "Recipient" means a person receiving a tax deferral under this
38 chapter.

1 (18) "Research and development" means activities performed to
2 discover technological information, and technical and nonroutine
3 activities concerned with translating technological information into
4 new or improved products, processes, techniques, formulas, inventions,
5 or software. The term includes exploration of a new use for an
6 existing drug, device, or biological product if the new use requires
7 separate licensing by the federal food and drug administration under
8 chapter 21, C.F.R., as amended. The term does not include adaptation
9 or duplication of existing products where the products are not
10 substantially improved by application of the technology, nor does the
11 term include surveys and studies, social science and humanities
12 research, market research or testing, quality control, sale promotion
13 and service, computer software developed for internal use, and research
14 in areas such as improved style, taste, and seasonal design.

15 **Sec. 6.** RCW 82.75.010 and 2010 c 114 s 145 are each amended to
16 read as follows:

17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this chapter.

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

21 (2) "Biotechnology" means a technology based on the science of
22 biology, microbiology, molecular biology, cellular biology,
23 biochemistry, or biophysics, or any combination of these, and includes,
24 but is not limited to, recombinant DNA techniques, genetics and genetic
25 engineering, cell fusion techniques, and new bioprocesses, using living
26 organisms, or parts of organisms.

27 (3) "Biotechnology product" means any virus, therapeutic serum,
28 antibody, protein, toxin, antitoxin, vaccine, blood, blood component or
29 derivative, allergenic product, or analogous product produced through
30 the application of biotechnology that is used in the prevention,
31 treatment, or cure of diseases or injuries to humans.

32 (4) "Department" means the department of revenue.

33 (5)(a) "Eligible investment project" means an investment in
34 qualified buildings or qualified machinery and equipment, including
35 labor and services rendered in the planning, installation, and
36 construction of the project.

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

3 (i) The lessor or owner complies with the requirements of RCW
4 39.04.320; and

5 (ii) The underlying ownership of the buildings, machinery, and
6 equipment vests exclusively in the same person; or

7 ~~((+ii+))~~ (iii)(A) The lessor by written contract agrees to pass the
8 economic benefit of the deferral to the lessee;

9 (B) The lessee that receives the economic benefit of the deferral
10 agrees in writing with the department to complete the annual survey
11 required under RCW 82.75.070; and

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

17 (6)(a) "Initiation of construction" means the date that a building
18 permit is issued under the building code adopted under RCW 19.27.031
19 for:

20 (i) Construction of the qualified building, if the underlying
21 ownership of the building vests exclusively with the person receiving
22 the economic benefit of the deferral;

23 (ii) Construction of the qualified building, if the economic
24 benefits of the deferral are passed to a lessee as provided in
25 subsection (5)(b)~~((+ii+))~~ (iii)(A) of this section; or

26 (iii) Tenant improvements for a qualified building, if the economic
27 benefits of the deferral are passed to a lessee as provided in
28 subsection (5)(b)~~((+ii+))~~ (iii)(A) of this section.

29 (b) "Initiation of construction" does not include soil testing,
30 site clearing and grading, site preparation, or any other related
31 activities that are initiated before the issuance of a building permit
32 for the construction of the foundation of the building.

33 (c) If the investment project is a phased project, "initiation of
34 construction" applies separately to each phase.

35 (7) "Manufacturing" has the meaning provided in RCW 82.04.120.

36 (8) "Medical device" means an instrument, apparatus, implement,
37 machine, contrivance, implant, in vitro reagent, or other similar or

1 related article, including any component, part, or accessory, that is
2 designed or developed and:

3 (a) Recognized in the national formulary, or the United States
4 pharmacopeia, or any supplement to them;

5 (b) Intended for use in the diagnosis of disease, or in the cure,
6 mitigation, treatment, or prevention of disease or other conditions in
7 human beings or other animals; or

8 (c) Intended to affect the structure or any function of the body of
9 human beings or other animals, and which does not achieve any of its
10 primary intended purposes through chemical action within or on the body
11 of human beings or other animals and which is not dependent upon being
12 metabolized for the achievement of any of its principal intended
13 purposes.

14 (9) "Person" has the meaning provided in RCW 82.04.030.

15 (10) "Qualified buildings" means construction of new structures,
16 and expansion or renovation of existing structures for the purpose of
17 increasing floor space or production capacity used for biotechnology
18 product manufacturing or medical device manufacturing activities,
19 including plant offices, commercial laboratories for process
20 development, quality assurance and quality control, and warehouses or
21 other facilities for the storage of raw material or finished goods if
22 the facilities are an essential or an integral part of a factory,
23 plant, or laboratory used for biotechnology product manufacturing or
24 medical device manufacturing. If a building is used partly for
25 biotechnology product manufacturing or medical device manufacturing and
26 partly for other purposes, the applicable tax deferral must be
27 determined by apportionment of the costs of construction under rules
28 adopted by the department.

29 (11) "Qualified machinery and equipment" means all new industrial
30 and research fixtures, equipment, and support facilities that are an
31 integral and necessary part of a biotechnology product manufacturing or
32 medical device manufacturing operation. "Qualified machinery and
33 equipment" includes: Computers; software; data processing equipment;
34 laboratory equipment; manufacturing components such as belts, pulleys,
35 shafts, and moving parts; molds, tools, and dies; operating structures;
36 and all equipment used to control or operate the machinery.

37 (12) "Recipient" means a person receiving a tax deferral under this
38 chapter.

1 **Sec. 7.** RCW 82.82.010 and 2008 c 15 s 1 are each amended to read
2 as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

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

7 (2) "Corporate headquarters" means a facility or facilities where
8 corporate staff employees are physically employed, and where the
9 majority of the company's management services are handled either on a
10 regional or a national basis. Company management services may include:
11 Accounts receivable and payable, accounting, data processing,
12 distribution management, employee benefit plan, financial and
13 securities accounting, information technology, insurance, legal,
14 merchandising, payroll, personnel, purchasing procurement, planning,
15 reporting and compliance, research and development, tax, treasury, or
16 other headquarters-related services. "Corporate headquarters" does not
17 include a facility or facilities used for manufacturing, wholesaling,
18 or warehousing.

19 (3) "Department" means the department of revenue.

20 (4) "Eligible area" means a designated community empowerment zone
21 approved under RCW 43.31C.020.

22 (5)(a) "Eligible investment project" means an investment project in
23 a qualified building or buildings in an eligible area, as defined in
24 subsection (4) of this section, which will have employment at the
25 qualified building or buildings of at least three hundred employees in
26 qualified employment positions, each of whom must earn for the year
27 reported at least the average annual wage for the state for that year
28 as determined by the employment security department.

29 (b) The lessor or owner of a qualified building or buildings is not
30 eligible for a deferral unless:

31 (i) The lessor or owner complies with the requirements of RCW
32 39.04.320; and

33 (ii) The underlying ownership of the building or buildings vests
34 exclusively in the same person; or

35 ((+ii+)) (iii)(A) The lessor by written contract agrees to pass the
36 economic benefit of the deferral to the lessee;

37 (B) The lessee that receives the economic benefit of the deferral

1 agrees in writing with the department to complete the annual survey
2 required under RCW 82.82.020; and

3 (C) The economic benefit of the deferral passed to the lessee is no
4 less than the amount of tax deferred by the lessor and is evidenced by
5 written documentation of any type of payment, credit, or other
6 financial arrangement between the lessor or owner of the qualified
7 building and the lessee.

8 (6) "Investment project" means a capital investment of at least
9 thirty million dollars in a qualified building or buildings including
10 tangible personal property and fixtures that will be incorporated as an
11 ingredient or component of such buildings during the course of their
12 construction, and including labor and services rendered in the
13 planning, installation, and construction of the project.

14 (7) "Manufacture" has the same meaning as provided in RCW
15 82.04.120.

16 (8) "Operationally complete" means a date no later than one year
17 from the date the project is issued an occupancy permit by the local
18 permit issuing authority.

19 (9) "Person" has the same meaning as provided in RCW 82.04.030.

20 (10) "Qualified building or buildings" means construction of a new
21 structure or structures or expansion of an existing structure or
22 structures to be used for corporate headquarters. If a building is
23 used partly for corporate headquarters and partly for other purposes,
24 the applicable tax deferral is determined by apportionment of the costs
25 of construction under rules adopted by the department.

26 (11) "Qualified employment position" means a permanent full-time
27 employee employed in the eligible investment project during the entire
28 tax year. The term "entire tax year" means a full-time position that
29 is filled for a period of twelve consecutive months. The term "full-
30 time" means at least thirty-five hours a week, four hundred fifty-five
31 hours a quarter, or one thousand eight hundred twenty hours a year.

32 (12) "Recipient" means a person receiving a tax deferral under this
33 chapter.

34 (13) "Warehouse" means a building or structure, or any part
35 thereof, in which goods, wares, or merchandise are received for storage
36 for compensation.

37 (14) "Wholesale sale" has the same meaning as provided in RCW
38 82.04.060.

1 **Sec. 8.** RCW 82.08.820 and 2011 c 174 s 206 are each amended to
2 read as follows:

3 (1) Wholesalers or third-party warehouseurs who own or operate
4 warehouses or grain elevators and retailers who own or operate
5 distribution centers, and who have paid the tax levied by RCW 82.08.020
6 on:

7 (a) Material-handling and racking equipment, and labor and services
8 rendered in respect to installing, repairing, cleaning, altering, or
9 improving the equipment; or

10 (b) Construction of a warehouse or grain elevator, including
11 materials, and including service and labor costs,
12 are eligible for an exemption in the form of a remittance. The amount
13 of the remittance is computed under subsection (3) of this section and
14 is based on the state share of sales tax.

15 (2) For purposes of this section and RCW 82.12.820:

16 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

17 (b) "Construction" means the actual construction of a warehouse or
18 grain elevator that did not exist before the construction began.
19 "Construction" includes expansion if the expansion adds at least two
20 hundred thousand square feet of additional space to an existing
21 warehouse or additional storage capacity of at least one million
22 bushels to an existing grain elevator. "Construction" does not include
23 renovation, remodeling, or repair;

24 (c) "Department" means the department of revenue;

25 (d) "Distribution center" means a warehouse that is used
26 exclusively by a retailer solely for the storage and distribution of
27 finished goods to retail outlets of the retailer. "Distribution
28 center" does not include a warehouse at which retail sales occur;

29 (e) "Finished goods" means tangible personal property intended for
30 sale by a retailer or wholesaler. "Finished goods" does not include
31 agricultural products stored by wholesalers, third-party warehouses, or
32 retailers if the storage takes place on the land of the person who
33 produced the agricultural product. "Finished goods" does not include
34 logs, minerals, petroleum, gas, or other extracted products stored as
35 raw materials or in bulk;

36 (f) "Grain elevator" means a structure used for storage and
37 handling of grain in bulk;

1 (g) "Material-handling equipment and racking equipment" means
2 equipment in a warehouse or grain elevator that is primarily used to
3 handle, store, organize, convey, package, or repackage finished goods.
4 The term includes tangible personal property with a useful life of one
5 year or more that becomes an ingredient or component of the equipment,
6 including repair and replacement parts. The term does not include
7 equipment in offices, lunchrooms, restrooms, and other like space,
8 within a warehouse or grain elevator, or equipment used for
9 nonwarehousing purposes. "Material-handling equipment" includes but is
10 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
11 place units, cranes, hoists, mechanical arms, and robots; mechanized
12 systems, including containers that are an integral part of the system,
13 whose purpose is to lift or move tangible personal property; and
14 automated handling, storage, and retrieval systems, including computers
15 that control them, whose purpose is to lift or move tangible personal
16 property; and forklifts and other off-the-road vehicles that are used
17 to lift or move tangible personal property and that cannot be operated
18 legally on roads and streets. "Racking equipment" includes, but is not
19 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
20 pallets, and other containers and storage devices that form a necessary
21 part of the storage system;

22 (h) "Person" has the meaning given in RCW 82.04.030;

23 (i) "Retailer" means a person who makes "sales at retail" as
24 defined in chapter 82.04 RCW of tangible personal property;

25 (j) "Square footage" means the product of the two horizontal
26 dimensions of each floor of a specific warehouse. The entire footprint
27 of the warehouse shall be measured in calculating the square footage,
28 including space that juts out from the building profile such as loading
29 docks. "Square footage" does not mean the aggregate of the square
30 footage of more than one warehouse at a location or the aggregate of
31 the square footage of warehouses at more than one location;

32 (k) "Third-party warehouser" means a person taxable under RCW
33 82.04.280(1)(d);

34 (l) "Warehouse" means an enclosed building or structure in which
35 finished goods are stored. A warehouse building or structure may have
36 more than one storage room and more than one floor. Office space,
37 lunchrooms, restrooms, and other space within the warehouse and
38 necessary for the operation of the warehouse are considered part of the

1 warehouse as are loading docks and other such space attached to the
2 building and used for handling of finished goods. Landscaping and
3 parking lots are not considered part of the warehouse. A storage yard
4 is not a warehouse, nor is a building in which manufacturing takes
5 place; and

6 (m) "Wholesaler" means a person who makes "sales at wholesale" as
7 defined in chapter 82.04 RCW of tangible personal property, but
8 "wholesaler" does not include a person who makes sales exempt under RCW
9 82.04.330.

10 (3)(a) A person claiming an exemption from state tax in the form of
11 a remittance under this section must pay the tax imposed by RCW
12 82.08.020. The buyer may then apply to the department for remittance
13 of all or part of the tax paid under RCW 82.08.020. For grain
14 elevators with bushel capacity of one million but less than two
15 million, the remittance is equal to fifty percent of the amount of tax
16 paid. For warehouses with square footage of two hundred thousand or
17 more and for grain elevators with bushel capacity of two million or
18 more, the remittance is equal to one hundred percent of the amount of
19 tax paid for qualifying construction, materials, service, and labor,
20 and fifty percent of the amount of tax paid for qualifying material-
21 handling equipment and racking equipment, and labor and services
22 rendered in respect to installing, repairing, cleaning, altering, or
23 improving the equipment.

24 (b) The department shall determine eligibility under this section
25 based on information provided by the buyer and through audit and other
26 administrative records. The buyer shall on a quarterly basis submit an
27 information sheet, in a form and manner as required by the department
28 by rule, specifying the amount of exempted tax claimed and the
29 qualifying purchases or acquisitions for which the exemption is
30 claimed. The buyer shall retain, in adequate detail to enable the
31 department to determine whether the equipment or construction meets the
32 criteria under this section: Invoices; proof of tax paid; documents
33 describing the material-handling equipment and racking equipment;
34 location and size of warehouses and grain elevators; and construction
35 invoices and documents.

36 (c) The department shall on a quarterly basis remit exempted
37 amounts to qualifying persons who submitted applications during the
38 previous quarter.

1 (4) Warehouses, grain elevators, and material-handling equipment
2 and racking equipment for which an exemption, credit, or deferral has
3 been or is being received under chapter 82.60, 82.62, or 82.63 RCW or
4 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance
5 under this section. Warehouses and grain elevators upon which
6 construction was initiated before May 20, 1997, are not eligible for a
7 remittance under this section.

8 (5) The lessor or owner of a warehouse or grain elevator is not
9 eligible for a remittance under this section unless:

10 (a) The lessor or owner complies with the requirements of RCW
11 39.04.320; and

12 (b) The underlying ownership of the warehouse or grain elevator and
13 the material-handling equipment and racking equipment vests exclusively
14 in the same person((~~τ~~)); or ((~~unless~~))

15 (c) The lessor by written contract agrees to pass the economic
16 benefit of the remittance to the lessee in the form of reduced rent
17 payments.

18 **Sec. 9.** RCW 82.08.900 and 2006 c 151 s 4 are each amended to read
19 as follows:

20 (1) The tax levied by RCW 82.08.020 does not apply to sales to an
21 eligible person establishing or operating an anaerobic digester or to
22 services rendered in respect to installing, constructing, repairing,
23 cleaning, altering, or improving an anaerobic digester, or to sales of
24 tangible personal property that becomes an ingredient or component of
25 the anaerobic digester. The anaerobic digester must be used primarily
26 to treat livestock manure.

27 (2)(a) The department of revenue must provide an exemption
28 certificate to an eligible person upon application by that person. The
29 application must be in a form and manner prescribed by the department
30 and must contain information regarding the location of the facility and
31 other information as the department may require.

32 (b) A person claiming an exemption under this section must keep
33 records necessary for the department to verify eligibility under this
34 section. The exemption is available only when the buyer provides the
35 seller with an exemption certificate in a form and manner prescribed by
36 the department. The seller must retain a copy of the certificate for
37 the seller's files.

1 (3) The definitions in this subsection apply to this section and
2 RCW 82.12.900 unless the context clearly requires otherwise:

3 (a) "Anaerobic digester" means a facility that processes manure
4 from livestock into biogas and dried manure using microorganisms in a
5 decomposition process within a closed, oxygen-free container.

6 (b) "Eligible person" means any person establishing or operating an
7 anaerobic digester to treat primarily livestock manure who complies
8 with the requirements of RCW 39.04.320.

9 (c) "Primarily" means more than fifty percent measured by volume or
10 weight.

11 **Sec. 10.** RCW 82.08.955 and 2007 c 309 s 4 are each amended to read
12 as follows:

13 (1) The tax levied by RCW 82.08.020 does not apply to sales of
14 machinery and equipment, or to services rendered in respect to
15 constructing structures, installing, constructing, repairing, cleaning,
16 decorating, altering, or improving of structures or machinery and
17 equipment, or to sales of tangible personal property that becomes an
18 ingredient or component of structures or machinery and equipment, if
19 the machinery, equipment, or structure is used directly for the retail
20 sale of a biodiesel blend or E85 motor fuel. Structures and machinery
21 and equipment that are used for the retail sale of a biodiesel blend or
22 E85 motor fuel and for other purposes are exempt only on the portion
23 used directly for the retail sale of a biodiesel blend or E85 motor
24 fuel.

25 (2) The tax levied by RCW 82.08.020 does not apply to sales of fuel
26 delivery vehicles or to sales of or charges made for labor and services
27 rendered in respect to installing, repairing, cleaning, altering, or
28 improving the vehicles including repair parts and replacement parts if
29 at least seventy-five percent of the fuel distributed by the vehicles
30 is a biodiesel blend or E85 motor fuel.

31 (3) A person taking the exemption under this section must keep
32 records necessary for the department to verify eligibility under this
33 section and comply with the requirements of RCW 39.04.320. The
34 exemption is available only when the buyer provides the seller with an
35 exemption certificate in a form and manner prescribed by the
36 department. The seller shall retain a copy of the certificate for the
37 seller's files.

1 (4) For the purposes of this section, the definitions in RCW
2 82.04.4334 and this subsection apply.

3 (a) "Biodiesel blend" means fuel that contains at least twenty
4 percent biodiesel fuel by volume.

5 (b) "E85 motor fuel" means an alternative fuel that is a blend of
6 ethanol and hydrocarbon of which the ethanol portion is nominally
7 seventy-five to eighty-five percent denatured fuel ethanol by volume
8 that complies with the most recent version of American society of
9 testing and materials specification D 5798.

10 (c) "Machinery and equipment" means industrial fixtures, devices,
11 and support facilities and tangible personal property that becomes an
12 ingredient or component thereof, including repair parts and replacement
13 parts that are integral and necessary for the delivery of biodiesel
14 blends or E85 motor fuel into the fuel tank of a motor vehicle.

15 (5) This section expires July 1, 2015.

16 **Sec. 11.** RCW 82.12.955 and 2007 c 309 s 5 are each amended to read
17 as follows:

18 (1) The provisions of this chapter do not apply in respect to the
19 use of machinery and equipment, or to services rendered in respect to
20 installing, repairing, cleaning, altering, or improving of eligible
21 machinery and equipment, or tangible personal property that becomes an
22 ingredient or component of machinery and equipment used directly for
23 the retail sale of a biodiesel or E85 motor fuel.

24 (2) The provisions of this chapter do not apply in respect to the
25 use of fuel delivery vehicles including repair parts and replacement
26 parts and to services rendered in respect to installing, repairing,
27 cleaning, altering, or improving the vehicles if at least seventy-five
28 percent of the fuel distributed by the vehicles is a biodiesel or E85
29 motor fuel.

30 (3) A person taking the exemption under this section must comply
31 with the requirements of RCW 39.04.320.

32 (4) For the purposes of this section, the definitions in RCW
33 82.04.4334 and 82.08.955 apply.

34 ((+4)) (5) This section expires July 1, 2015.

--- END ---