
SUBSTITUTE HOUSE BILL 1443

State of Washington

63rd Legislature

2013 Regular Session

By House Technology & Economic Development (originally sponsored by Representatives Sells and Hope)

READ FIRST TIME 02/19/13.

1 AN ACT Relating to providing for property tax exemption for the
2 value of new construction of industrial/manufacturing facilities in
3 targeted urban areas; adding a new section to chapter 44.28 RCW; and
4 adding a new chapter to Title 84 RCW.

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

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

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

10 (2) The industrial and manufacturing industries provide family
11 living wage jobs;

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

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

17 (5) Planning for industrial and manufacturing use is inadequate to
18 attract new industry and manufacturing and an incentive should be
19 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 an ad valorem tax exemption for the value of new construction
14 of industrial/manufacturing facilities within the designated area. The
15 goal of the exemption is to create a minimum of one family living wage
16 job for each thirty-two thousand dollars of improvement valuation
17 exempted under this chapter.

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

20 (1) "City" means: (a) A city with a population of at least fifty
21 thousand; or (b) the largest city or town, if there is no city or town
22 with a population of at least fifty thousand, located in a county
23 planning under the growth management act.

24 (2) "Family living wage job" means a job with a wage that is
25 sufficient for raising a family. A family living wage job must have an
26 average wage of eighteen dollars an hour or more, working two thousand
27 eighty hours per year on the subject site, as adjusted annually for
28 inflation by the consumer price index. The family living wage may be
29 increased by the local authority based on regional factors and wage
30 conditions.

31 (3) "Governing authority" means the local legislative authority of
32 a city having jurisdiction over the property for which an exemption may
33 be applied for under this chapter.

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

35 (5) "Industrial/manufacturing facilities" means building
36 improvements that are ten thousand square feet or larger, representing

1 a minimum improvement valuation of eight hundred thousand dollars for
2 uses categorized as "division D: manufacturing" by the United States
3 department of labor in the occupation safety and health
4 administration's standard industrial classification manual.

5 (6) "Lands zoned for industrial and manufacturing uses" means lands
6 in a city zoned as of January 1, 2012, for an industrial or
7 manufacturing use consistent with the city's comprehensive plan where
8 the lands are designated for industry.

9 (7) "Owner" means the property owner of record.

10 (8) "Targeted area" means an area of undeveloped lands zoned for
11 industrial and manufacturing uses in the city that is located within or
12 contiguous to an innovation partnership zone, foreign trade zone, or
13 EB-5 regional center, and designated for possible exemption under the
14 provisions of this chapter.

15 (9) "Undeveloped or underutilized" means that there are no existing
16 building improvements on the property or portions of the property
17 targeted for new or expanded industrial or manufacturing uses.

18 NEW SECTION. **Sec. 4.** (1)(a) The value of new construction of
19 industrial/manufacturing facilities qualifying under this chapter is
20 exempt from property taxation under this title, as provided in this
21 section. The value of new construction of industrial/manufacturing
22 facilities is exempt from taxation for properties for which an
23 application for a certificate of tax exemption is submitted under this
24 chapter before December 31, 2018. The value is exempt under this
25 section for ten successive years beginning January 1st of the year
26 immediately following the calendar year of issuance of the certificate.

27 (b) The exemption provided in this section does not include the
28 value of land or nonindustrial/manufacturing-related improvements not
29 qualifying under this chapter.

30 (2) The exemption provided in this section is in addition to any
31 other exemptions, deferrals, credits, grants, or other tax incentives
32 provided by law.

33 (3) This chapter does not apply to state levies or increases in
34 assessed valuation made by the assessor on nonqualifying portions of
35 buildings and value of land nor to increases made by lawful order of a
36 county board of equalization, the department of revenue, or a county,

1 to a class of property throughout the county or specific area of the
2 county to achieve the uniformity of assessment or appraisal required by
3 law.

4 (4) This exemption does not apply to any county property tax unless
5 the governing body of the county adopts a resolution and notifies the
6 governing authority of its intent to allow the property to be exempted
7 from county property taxes.

8 (5) At the conclusion of the exemption period, the new
9 industrial/manufacturing facilities cost must be considered as new
10 construction for the purposes of chapter 84.55 RCW.

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

13 (1) The new construction of industrial/manufacturing facilities
14 must be located on land zoned for industrial and manufacturing uses,
15 undeveloped or underutilized, and as provided in section 6 of this act,
16 designated by the city as a targeted area;

17 (2) The new construction of industrial/manufacturing facilities
18 must meet all construction and development regulations of the city;

19 (3) The new construction of industrial/manufacturing facilities
20 must be completed within three years from the date of approval of the
21 application; and

22 (4) The applicant must enter into a contract with the city approved
23 by the governing authority, or an administrative official or commission
24 authorized by the governing authority, under which the applicant has
25 agreed to the implementation of the development on terms and conditions
26 satisfactory to the governing authority.

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

29 (a) The area must be lands zoned for industrial and manufacturing
30 uses; and

31 (b) The city must have determined that the targeting of the area,
32 as evaluated by the governing authority, will assist in the new
33 construction of industrial/manufacturing facilities that will provide
34 employment for family living wage jobs.

35 (2) For the purpose of designating a targeted area, the governing
36 authority may adopt a resolution of intention to so designate an area

1 as generally described in the resolution. The resolution must state
2 the time and place of a hearing to be held by the governing authority
3 to consider the designation of the area and may include such other
4 information pertaining to the designation of the area as the governing
5 authority determines to be appropriate to apprise the public of the
6 action intended.

7 (3) The governing authority must give notice of a hearing held
8 under this chapter by publication of the notice once each week for two
9 consecutive weeks, not less than seven days, nor more than thirty days
10 before the date of the hearing in a paper having a general circulation
11 in the city where the proposed targeted area is located. The notice
12 must state the time, date, place, and purpose of the hearing and
13 generally identify the area proposed to be designated as a targeted
14 area.

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

20 NEW SECTION. **Sec. 7.** An owner of property seeking an exemption
21 under this chapter must complete the following procedures:

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

24 (a) Information setting forth the grounds supporting the requested
25 exemption including information indicated on the application form or in
26 the guidelines;

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

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

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

34 (2) The applicant must verify the application by oath or
35 affirmation; and

36 (3) The application must be accompanied by the application fee, if

1 any, required under this chapter. The governing authority may permit
2 the applicant to revise an application before final action by the
3 governing authority.

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

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

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

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

14 NEW SECTION. **Sec. 9.** (1) The city governing authority or its
15 authorized representative must approve or deny an application filed
16 under this chapter within ninety days after receipt of the application.

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

22 (3) If the application is denied by the city, the city must state
23 in writing the reasons for denial and send the notice to the applicant
24 at the applicant's last known address within ten days of the denial.

25 (4) Upon denial by the city, an applicant may appeal the denial to
26 the city's governing authority within thirty days after receipt of the
27 denial. The appeal before the city's governing authority must be based
28 upon the record made before the city with the burden of proof on the
29 applicant to show that there was no substantial evidence to support the
30 city's decision. The decision of the city in denying or approving the
31 application is final.

32 NEW SECTION. **Sec. 10.** The governing authority may establish an
33 application fee. This fee may not exceed an amount determined to be
34 required to cover the cost to be incurred by the governing authority
35 and the assessor in administering this chapter. The application fee

1 must be paid at the time the application for limited exemption is
2 filed. If the application is approved, the governing authority of the
3 city must pay the application fee to the county assessor for deposit in
4 the county current expense fund, after first deducting that portion of
5 the fee attributable to its own administrative costs in processing the
6 application. If the application is denied, the city's governing
7 authority may retain that portion of the application fee attributable
8 to its own administrative costs and refund the balance to the
9 applicant.

10 NEW SECTION. **Sec. 11.** (1) Upon completion of the new construction
11 of a manufacturing/industrial facility for which an application for an
12 exemption under this chapter has been approved and issued a certificate
13 of occupancy, the owner must file with the city the following:

14 (a) A description of the work that has been completed and a
15 statement that the new construction on the owner's property qualify the
16 property for a partial exemption under this chapter;

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

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

22 (2) Within thirty days after receipt of the statements required
23 under subsection (1) of this section, the city must determine whether
24 the work completed and the jobs to be offered are consistent with the
25 application and the contract approved by the city and whether the
26 application is qualified for a tax exemption under this chapter.

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

32 (4) The city must notify the applicant that a certificate of tax
33 exemption is denied if the city determines that:

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

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

1 (c) The jobs to be offered are not consistent with the application
2 and criteria of this chapter; or

3 (d) The owner's property is otherwise not qualified for an
4 exemption under this chapter.

5 (5) If the city finds that the work was not completed within the
6 required time period due to circumstances beyond the control of the
7 owner and that the owner has been acting and could reasonably be
8 expected to act in good faith and with due diligence, the governing
9 authority or the city official authorized by the governing authority
10 may extend the deadline for completion of the work for a period not to
11 exceed twenty-four consecutive months.

12 (6) The city's governing authority may enact an ordinance to
13 provide a process for an owner to appeal a decision by the city that
14 the owner is not entitled to a certificate of tax exemption to the
15 city. The owner may appeal a decision by the city to deny a
16 certificate of tax exemption in superior court under RCW 34.05.510
17 through 34.05.598, if the appeal is filed within thirty days of
18 notification by the city to the owner of the exemption denial.

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

24 (a) A statement of the family living wage jobs at the facility as
25 of the anniversary date including the number of family living wage jobs
26 and corresponding annual wages for each position;

27 (b) A certification by the owner that the property has not changed
28 use;

29 (c) A description of changes or improvements constructed after
30 issuance of the certificate of tax exemption; and

31 (d) Any additional information requested by the city.

32 (2) A city that issues a certificate of tax exemption under this
33 chapter must report annually by December 31st of each year, beginning
34 in 2013, to the department of commerce. The report must include the
35 following information:

36 (a) The number of tax exemption certificates granted;

1 (b) The total number and type of new manufacturing/industrial
2 facilities constructed;

3 (c) The number of family living wage jobs resulting from the new
4 manufacturing/industrial facilities and corresponding annual wages for
5 each position; and

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

8 NEW SECTION. **Sec. 13.** (1) If the value of improvements have been
9 exempted under this chapter, the improvements continue to be exempted
10 for the applicable period under this chapter so long as they are not
11 converted to another use and continue to satisfy all applicable
12 conditions including, but not limited to, zoning, land use, building,
13 and family wage job creation.

14 (2) If an owner voluntarily opts to discontinue compliance with the
15 requirements of this chapter, the owner must notify the assessor within
16 sixty days of the change in use or intended discontinuance.

17 (3) If, after a certificate of tax exemption has been filed with
18 the county assessor, the city discovers that a portion of the property
19 is changed or will be changed to disqualify the owner for exemption
20 eligibility under this chapter, the tax exemption must be canceled and
21 the following occurs:

22 (a) Additional real property tax must be imposed on the value of
23 the nonqualifying improvements in the amount that would be imposed if
24 an exemption had not been available under this chapter, plus a penalty
25 equal to twenty percent of the additional value. This additional tax
26 is calculated based upon the difference between the property tax paid
27 and the property tax that would have been paid if it had included the
28 value of the nonqualifying improvements dated back to the date that the
29 improvements were converted to a nonqualifying use;

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

35 (c) The additional tax owed together with interest and penalty
36 becomes a lien on the property and attaches at the time the property or
37 portion of the property is removed from the qualifying use under this

1 chapter or the amenities no longer meet the applicable requirements for
2 exemption under this chapter. A lien under this section has priority
3 to, and must be fully paid and satisfied before, a recognizance,
4 mortgage, judgment, debt, obligation, or responsibility to or with
5 which the property may become charged or liable. The lien may be
6 foreclosed upon expiration of the same period after delinquency and in
7 the same manner provided by law for foreclosure of liens for delinquent
8 real property taxes. An additional tax unpaid on its due date is
9 delinquent. From the date of delinquency until paid, interest must be
10 charged at the same rate applied by law to delinquent property taxes.

11 (4) Upon a determination that a tax exemption is to be terminated
12 for a reason stated in this section, the city's governing authority
13 must notify the record owner of the property as shown by the tax rolls
14 by mail, return receipt requested, of the determination to terminate
15 the exemption. The owner may appeal the determination to the city,
16 within thirty days by filing a notice of appeal with the city, which
17 notice must specify the factual and legal basis on which the
18 determination of termination is alleged to be erroneous. At an appeal
19 hearing, all affected parties may be heard and all competent evidence
20 received. After the hearing, the deciding body or officer must either
21 affirm, modify, or repeal the decision of termination of exemption
22 based on the evidence received. An aggrieved party may appeal the
23 decision of the deciding body or officer to the superior court as
24 provided in RCW 34.05.510 through 34.05.598.

25 (5) Upon determination by the city to terminate an exemption, the
26 county officials having possession of the assessment and tax rolls must
27 correct the rolls in the manner provided for omitted property under RCW
28 84.40.080. The county assessor must make such a valuation of the
29 property and improvements as is necessary to permit the correction of
30 the rolls. The value of the new industrial/manufacturing facilities
31 added to the rolls is considered new construction for the purposes of
32 chapter 84.40 RCW. The owner may appeal the valuation to the county
33 board of equalization as provided in chapter 84.40 RCW. If there has
34 been a failure to comply with this chapter, the property must be listed
35 as an omitted assessment for assessment years beginning January 1st of
36 the calendar year in which the noncompliance first occurred, but the
37 listing as an omitted assessment may not be for a period more than

1 three calendar years preceding the year in which the failure to comply
2 was discovered.

3 NEW SECTION. **Sec. 14.** Sections 1 through 13 of this act
4 constitute a new chapter in Title 84 RCW.

5 NEW SECTION. **Sec. 15.** A new section is added to chapter 44.28 RCW
6 to read as follows:

7 The joint legislative audit and review committee must report to the
8 legislature and the governor on the use, value, economic impact, and
9 employment impact of the property tax exemption for the value of new
10 construction of industrial/manufacturing facilities created under this
11 chapter. The joint legislative audit and review committee must also
12 include in its report the degree to which the exemption met its stated
13 goal. The report must be submitted to the legislature by December 31,
14 2018, and must include information for all values granted an exemption
15 between July 1, 2013, and December 31, 2017.

16 NEW SECTION. **Sec. 16.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

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