
SUBSTITUTE HOUSE BILL 1038

State of Washington

64th Legislature

2015 Regular Session

By House Labor (originally sponsored by Representatives Moeller, Appleton, Stanford, Hudgins, Santos, and Ormsby)

READ FIRST TIME 02/12/15.

1 AN ACT Relating to extending apprenticeship utilization
2 requirements; amending RCW 39.04.310, 39.04.320, 82.60.025,
3 82.75.010, 82.82.010, 82.08.820, 82.08.900, 82.08.955, and 82.12.955;
4 reenacting and amending RCW 82.63.010; adding a new section to
5 chapter 49.04 RCW; adding a new section to chapter 82.60 RCW; adding
6 a new section to chapter 82.63 RCW; adding a new section to chapter
7 82.75 RCW; adding a new section to chapter 82.82 RCW; creating a new
8 section; and providing contingent effective dates.

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

10 NEW SECTION. **Sec. 1.** The legislature has recognized that
11 apprenticeship training programs are particularly effective in
12 providing training and experience to individuals seeking to enter or
13 advance in the construction trades workforce. In addition,
14 contractors who use apprentices from approved apprenticeship programs
15 benefit financially by being allowed to pay apprentices at lower wage
16 rates than journey level workers. While there may be some concern
17 about administrative impacts caused by apprentice utilization
18 requirements, the minimal administrative burden is far outweighed by
19 the financial benefits to the employer and the overall benefit to the
20 state by building a strong and qualified workforce.

1 **Sec. 2.** RCW 39.04.310 and 2007 c 437 s 1 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this section and
4 RCW 39.04.300 and 39.04.320 unless the context clearly requires
5 otherwise.

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

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

11 (3) "Labor hours" means the total hours of workers receiving an
12 hourly wage who are directly employed on the site of the public works
13 project. "Labor hours" includes hours performed by workers employed
14 by the contractor and all subcontractors working on the project.
15 "Labor hours" does not include hours worked by foremen,
16 superintendents, owners, and workers who are not subject to
17 prevailing wage requirements.

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

19 (5) "State-approved apprenticeship training program" means an
20 apprenticeship training program approved by the Washington state
21 apprenticeship council.

22 (6)(a) "Subsidized public work" means all work, construction,
23 alterations, repairs, or improvements other than ordinary maintenance
24 where:

25 (i) One or more parties to the contract for the project received
26 or will receive a tax preference for the construction, expansion, or
27 renovation of qualified buildings under chapter 82.60, 82.63, 82.75,
28 or 82.82 RCW, or RCW 82.08.820, 82.08.900, 82.08.955, 82.12.820,
29 82.12.900, or 82.12.955; or

30 (ii) One or more parties to the contract for the project received
31 or will receive a loan or grant for the project from the state or any
32 county, municipality, or political subdivision.

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

34 (i) Work financed by a loan or grant provided by a housing
35 authority created under chapter 35.82 RCW; or

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

1 **Sec. 3.** RCW 39.04.320 and 2009 c 197 s 1 are each amended to
2 read as follows:

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

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

11 (ii) For contracts advertised for bid on or after July 1, 2007,
12 and before July 1, 2008, for all public works by the department of
13 transportation estimated to cost five million dollars or more, all
14 specifications shall require that no less than ten percent of the
15 labor hours be performed by apprentices.

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

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

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

30 (ii) For contracts advertised for bid on or after January 1,
31 2008, for all public works by a school district estimated to cost
32 three million dollars or more, all specifications shall require that
33 no less than ten percent of the labor hours be performed by
34 apprentices.

35 (iii) For contracts advertised for bid on or after January 1,
36 2009, for all public works by a school district estimated to cost two
37 million dollars or more, all specifications shall require that no
38 less than twelve percent of the labor hours be performed by
39 apprentices.

1 (iv) For contracts advertised for bid on or after January 1,
2 2010, for all public works by a school district estimated to cost one
3 million dollars or more, all specifications shall require that no
4 less than fifteen percent of the labor hours be performed by
5 apprentices.

6 (d)(i) For contracts advertised for bid on or after January 1,
7 2010, for all public works by a four-year institution of higher
8 education estimated to cost three million dollars or more, all
9 specifications must require that no less than ten percent of the
10 labor hours be performed by apprentices.

11 (ii) For contracts advertised for bid on or after January 1,
12 2011, for all public works by a four-year institution of higher
13 education estimated to cost two million dollars or more, all
14 specifications must require that no less than twelve percent of the
15 labor hours be performed by apprentices.

16 (iii) For contracts advertised for bid on or after January 1,
17 2012, for all public works by a four-year institution of higher
18 education estimated to cost one million dollars or more, all
19 specifications must require that no less than fifteen percent of the
20 labor hours be performed by apprentices.

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

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

27 (a) The demonstrated lack of availability of apprentices in
28 specific geographic areas;

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

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

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

37 ((+3)) (4) The secretary of the department of transportation
38 shall adjust the requirements of this section for a specific project
39 for the following reasons:

1 (a) The demonstrated lack of availability of apprentices in
2 specific geographic areas; or

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

6 ((+4)) (5) This section applies to public works contracts
7 awarded by the state, to public works contracts awarded by school
8 districts, and to public works contracts awarded by state four-year
9 institutions of higher education. However, this section does not
10 apply to contracts awarded by state agencies headed by a separately
11 elected public official.

12 ((+5)) (6)(a) The department of ((general—administration))
13 enterprise services must provide information and technical assistance
14 to affected agencies and collect the following data from affected
15 agencies for each project covered by this section:

16 (i) The name of each apprentice and apprentice registration
17 number;

18 (ii) The name of each project;

19 (iii) The dollar value of each project;

20 (iv) The date of the contractor's notice to proceed;

21 (v) The number of apprentices and labor hours worked by them,
22 categorized by trade or craft;

23 (vi) The number of journey level workers and labor hours worked
24 by them, categorized by trade or craft; and

25 (vii) The number, type, and rationale for the exceptions granted
26 under subsection ((+2)) (3) of this section.

27 (b) The department of labor and industries shall assist the
28 department of ((general—administration)) enterprise services in
29 providing information and technical assistance.

30 ((+6)) (7) The secretary of transportation shall establish an
31 apprenticeship utilization advisory committee, which shall include
32 statewide geographic representation and consist of equal numbers of
33 representatives of contractors and labor. The committee must include
34 at least one member representing contractor businesses with less than
35 thirty-five employees. The advisory committee shall meet regularly
36 with the secretary of transportation to discuss implementation of
37 this section by the department of transportation, including
38 development of the process to be used to adjust the requirements of
39 this section for a specific project. The committee shall provide a
40 report to the legislature by January 1, 2008, on the effects of the

1 apprentice labor requirement on transportation projects and on the
2 availability of apprentice labor and programs statewide.

3 ~~((+7))~~ (8) At the request of the senate labor, commerce,
4 research and development committee, the house of representatives
5 commerce and labor committee, or their successor committees, and the
6 governor, the department of ~~((general—administration))~~ enterprise
7 services and the department of labor and industries shall compile and
8 summarize the agency data and provide a joint report to both
9 committees. The report shall include recommendations on modifications
10 or improvements to the apprentice utilization program and information
11 on skill shortages in each trade or craft.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.04
13 RCW to read as follows:

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

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

20 The lessor or owner of a qualified building is not eligible for a
21 deferral unless:

22 (1) The lessor or owner complies with the requirements of RCW
23 39.04.320; and

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

26 ~~((+2))~~ (3)(a) The lessor by written contract agrees to pass the
27 economic benefit of the deferral to the lessee;

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

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

36 **Sec. 6.** RCW 82.63.010 and 2009 c 268 s 2 are each reenacted and
37 amended to read as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

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

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

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

13 (4) "Biotechnology" means the application of technologies, such
14 as recombinant DNA techniques, biochemistry, molecular and cellular
15 biology, genetics and genetic engineering, cell fusion techniques,
16 and new bioprocesses, using living organisms, or parts of organisms,
17 to produce or modify products, to improve plants or animals, to
18 develop microorganisms for specific uses, to identify targets for
19 small molecule pharmaceutical development, or to transform biological
20 systems into useful processes and products or to develop
21 microorganisms for specific uses.

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

23 (6) "Electronic device technology" means technologies involving
24 microelectronics; semiconductors; electronic equipment and
25 instrumentation; radio frequency, microwave, and millimeter
26 electronics; optical and optic-electrical devices; and data and
27 digital communications and imaging devices.

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

33 (a) The lessor or owner complies with the requirements of RCW
34 39.04.320; and

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

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

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

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

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

12 (9)(a) "Initiation of construction" means the date that a
13 building permit is issued under the building code adopted under RCW
14 19.27.031 for:

15 (i) Construction of the qualified building, if the underlying
16 ownership of the building vests exclusively with the person receiving
17 the economic benefit of the deferral;

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

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

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

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

30 (10) "Investment project" means an investment in qualified
31 buildings or qualified machinery and equipment, including labor and
32 services rendered in the planning, installation, and construction or
33 improvement of the project.

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

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

1 (13) "Pilot scale manufacturing" means design, construction, and
2 testing of preproduction prototypes and models in the fields of
3 biotechnology, advanced computing, electronic device technology,
4 advanced materials, and environmental technology other than for
5 commercial sale. As used in this subsection, "commercial sale"
6 excludes sales of prototypes or sales for market testing if the total
7 gross receipts from such sales of the product, service, or process do
8 not exceed one million dollars.

9 (14) "Qualified buildings" means construction of new structures,
10 and expansion or renovation of existing structures for the purpose of
11 increasing floor space or production capacity used for pilot scale
12 manufacturing or qualified research and development, including plant
13 offices and other facilities that are an essential or an integral
14 part of a structure used for pilot scale manufacturing or qualified
15 research and development. If a building or buildings are used partly
16 for pilot scale manufacturing or qualified research and development,
17 and partly for other purposes, the applicable tax deferral shall be
18 determined by apportionment of the costs of construction under rules
19 adopted by the department. Such rules may include provisions for
20 determining the amount of the deferral based on apportionment of
21 costs of construction of an investment project consisting of a
22 building or multiple buildings, where qualified research and
23 development or pilot scale manufacturing activities are shifted
24 within a building or from one building to another building.

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

1 equipment into Washington or makes a retail purchase of the machinery
2 and equipment in Washington or elsewhere.

3 (16) "Qualified research and development" means research and
4 development performed within this state in the fields of advanced
5 computing, advanced materials, biotechnology, electronic device
6 technology, and environmental technology.

7 (17) "Recipient" means a person receiving a tax deferral under
8 this chapter.

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

24 **Sec. 7.** RCW 82.75.010 and 2010 c 114 s 145 are each amended to
25 read as follows:

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

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

30 (2) "Biotechnology" means a technology based on the science of
31 biology, microbiology, molecular biology, cellular biology,
32 biochemistry, or biophysics, or any combination of these, and
33 includes, but is not limited to, recombinant DNA techniques, genetics
34 and genetic engineering, cell fusion techniques, and new
35 bioprocesses, using living organisms, or parts of organisms.

36 (3) "Biotechnology product" means any virus, therapeutic serum,
37 antibody, protein, toxin, antitoxin, vaccine, blood, blood component
38 or derivative, allergenic product, or analogous product produced

1 through the application of biotechnology that is used in the
2 prevention, treatment, or cure of diseases or injuries to humans.

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

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

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

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

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

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

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

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

24 (6)(a) "Initiation of construction" means the date that a
25 building permit is issued under the building code adopted under RCW
26 19.27.031 for:

27 (i) Construction of the qualified building, if the underlying
28 ownership of the building vests exclusively with the person receiving
29 the economic benefit of the deferral;

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

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

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

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

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

4 (8) "Medical device" means an instrument, apparatus, implement,
5 machine, contrivance, implant, in vitro reagent, or other similar or
6 related article, including any component, part, or accessory, that is
7 designed or developed and:

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

10 (b) Intended for use in the diagnosis of disease, or in the cure,
11 mitigation, treatment, or prevention of disease or other conditions
12 in human beings or other animals; or

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

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

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

34 (11) "Qualified machinery and equipment" means all new industrial
35 and research fixtures, equipment, and support facilities that are an
36 integral and necessary part of a biotechnology product manufacturing
37 or medical device manufacturing operation. "Qualified machinery and
38 equipment" includes: Computers; software; data processing equipment;
39 laboratory equipment; manufacturing components such as belts,
40 pulleys, shafts, and moving parts; molds, tools, and dies; operating

1 structures; and all equipment used to control or operate the
2 machinery.

3 (12) "Recipient" means a person receiving a tax deferral under
4 this chapter.

5 **Sec. 8.** RCW 82.82.010 and 2008 c 15 s 1 are each amended to read
6 as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

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

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

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

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

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

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

35 (i) The lessor or owner complies with the requirements of RCW
36 39.04.320; and

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

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

3 (B) The lessee that receives the economic benefit of the deferral
4 agrees in writing with the department to complete the annual survey
5 required under RCW 82.82.020; and

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

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

17 (7) "Manufacture" has the same meaning as provided in RCW
18 82.04.120.

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

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

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

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

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

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

1 (14) "Wholesale sale" has the same meaning as provided in RCW
2 82.04.060.

3 **Sec. 9.** RCW 82.08.820 and 2014 c 140 s 23 are each amended to
4 read as follows:

5 (1) Wholesalers or third-party warehouse owners who own or operate
6 warehouses or grain elevators and retailers who own or operate
7 distribution centers, and who have paid the tax levied by RCW
8 82.08.020 on:

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

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

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

18 (a) "Agricultural products" has the meaning given in RCW
19 82.04.213;

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

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

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

32 (e) "Finished goods" means tangible personal property intended
33 for sale by a retailer or wholesaler. "Finished goods" does not
34 include:

35 (i) Agricultural products stored by wholesalers, third-party
36 warehouses, or retailers if the storage takes place on the land of
37 the person who produced the agricultural product;

38 (ii) Logs, minerals, petroleum, gas, or other extracted products
39 stored as raw materials or in bulk; or

1 (iii) Marijuana, useable marijuana, or marijuana-infused
2 products;

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

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

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

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

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

37 (k) "Third-party warehouser" means a person taxable under RCW
38 82.04.280(1)(d);

39 (l) "Warehouse" means an enclosed building or structure in which
40 finished goods are stored. A warehouse building or structure may have

1 more than one storage room and more than one floor. Office space,
2 lunchrooms, restrooms, and other space within the warehouse and
3 necessary for the operation of the warehouse are considered part of
4 the warehouse as are loading docks and other such space attached to
5 the building and used for handling of finished goods. Landscaping and
6 parking lots are not considered part of the warehouse. A storage yard
7 is not a warehouse, nor is a building in which manufacturing takes
8 place; and

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

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

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

1 (c) The department must on a quarterly basis remit exempted
2 amounts to qualifying persons who submitted applications during the
3 previous quarter.

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

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

13 (a) The lessor or owner complies with the requirements of RCW
14 39.04.320; and

15 (b) The underlying ownership of the warehouse or grain elevator
16 and the material-handling equipment and racking equipment vests
17 exclusively in the same person((τ)); or ((unless))

18 (c) The lessor by written contract agrees to pass the economic
19 benefit of the remittance to the lessee in the form of reduced rent
20 payments.

21 **Sec. 10.** RCW 82.08.900 and 2006 c 151 s 4 are each amended to
22 read as follows:

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

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

35 (b) A person claiming an exemption under this section must keep
36 records necessary for the department to verify eligibility under this
37 section. The exemption is available only when the buyer provides the
38 seller with an exemption certificate in a form and manner prescribed

1 by the department. The seller must retain a copy of the certificate
2 for the seller's files.

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

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

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

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

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

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

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

33 (3) A person taking the exemption under this section must keep
34 records necessary for the department to verify eligibility under this
35 section and comply with the requirements of RCW 39.04.320. The
36 exemption is available only when the buyer provides the seller with
37 an exemption certificate in a form and manner prescribed by the
38 department. The seller shall retain a copy of the certificate for the
39 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
13 replacement parts that are integral and necessary for the delivery of
14 biodiesel blends or E85 motor fuel into the fuel tank of a motor
15 vehicle.

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

17 **Sec. 12.** RCW 82.12.955 and 2007 c 309 s 5 are each amended to
18 read as follows:

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

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

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

33 (4) For the purposes of this section, the definitions in RCW
34 82.04.4334 and 82.08.955 apply.

35 (~~(4)~~) (5) This section expires July 1, 2015.

36 NEW SECTION. **Sec. 13.** A new section is added to chapter 82.60
37 RCW to read as follows:

1 (1) If the department finds that a project does not meet the
2 requirements of RCW 39.04.320, the deferred taxes are immediately
3 due.

4 (2) If the economic benefits of the deferral are passed to a
5 lessee, the lessee is responsible for payment to the extent the
6 lessee has received the economic benefit.

7 (3) The department must assess interest at the rate provided for
8 delinquent taxes under chapter 82.32 RCW, but not penalties,
9 retroactively to the date of the deferral. The debt for deferred
10 taxes may not be extinguished by insolvency or other failure of the
11 recipient.

12 NEW SECTION. **Sec. 14.** A new section is added to chapter 82.63
13 RCW to read as follows:

14 (1) If the department finds that a project does not meet the
15 requirements of RCW 39.04.320, the deferred taxes are immediately
16 due.

17 (2) If the economic benefits of the deferral are passed to a
18 lessee, the lessee is responsible for payment to the extent the
19 lessee has received the economic benefit.

20 (3) The department must assess interest at the rate provided for
21 delinquent taxes under chapter 82.32 RCW, but not penalties,
22 retroactively to the date of the deferral. The debt for deferred
23 taxes may not be extinguished by insolvency or other failure of the
24 recipient.

25 NEW SECTION. **Sec. 15.** A new section is added to chapter 82.75
26 RCW to read as follows:

27 (1) If the department finds that a project does not meet the
28 requirements of RCW 39.04.320, the deferred taxes are immediately
29 due.

30 (2) If the economic benefits of the deferral are passed to a
31 lessee, the lessee is responsible for payment to the extent the
32 lessee has received the economic benefit.

33 (3) The department must assess interest at the rate provided for
34 delinquent taxes under chapter 82.32 RCW, but not penalties,
35 retroactively to the date of the deferral. The debt for deferred
36 taxes may not be extinguished by insolvency or other failure of the
37 recipient.

1 NEW SECTION. **Sec. 16.** A new section is added to chapter 82.82
2 RCW to read as follows:

3 (1) If the department finds that a project does not meet the
4 requirements of RCW 39.04.320, the deferred taxes are immediately
5 due.

6 (2) If the economic benefits of the deferral are passed to a
7 lessee, the lessee is responsible for payment to the extent the
8 lessee has received the economic benefit.

9 (3) The department must assess interest at the rate provided for
10 delinquent taxes under chapter 82.32 RCW, but not penalties,
11 retroactively to the date of the deferral. The debt for deferred
12 taxes may not be extinguished by insolvency or other failure of the
13 recipient.

14 NEW SECTION. **Sec. 17.** Section 11 of this act takes effect only
15 if RCW 82.08.955 has not expired before the effective date of this
16 section.

17 NEW SECTION. **Sec. 18.** Section 12 of this act takes effect only
18 if RCW 82.12.955 has not expired before the effective date of this
19 section.

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