
SUBSTITUTE SENATE BILL 5230

State of Washington

64th Legislature

2015 Regular Session

By Senate Trade & Economic Development (originally sponsored by Senators Brown, Chase, Angel, Benton, Rivers, Schoesler, Bailey, Parlette, Becker, Warnick, and Dammeier)

READ FIRST TIME 01/29/15.

1 AN ACT Relating to a pilot program that provides incentives for
2 investments in Washington state job creation and economic
3 development; adding a new section to chapter 82.04 RCW; creating new
4 sections; providing an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) Businesses that invest capital create
7 jobs and generate economic activity that supports a healthy
8 Washington economy. The legislature finds that these investments
9 result in future revenues that support schools and our communities.
10 Therefore, the legislature finds that a pilot program must be
11 conducted to evaluate the effectiveness of a program that provides
12 businesses with the latitude to invest their business and occupation
13 tax back into their business or to locate a business in the state of
14 Washington thereby creating jobs and capital investments in the state
15 for the benefit of its citizens.

16 (2)(a) This subsection is the tax preference performance
17 statement for the business and occupation tax credit provided in
18 section 2 of this act for a portion of the construction costs of
19 qualified industrial facilities. This performance statement is only
20 intended to be used for subsequent evaluation of the tax preference.

1 It is not intended to create a private right of action by any party
2 or be used to determine eligibility for preferential tax treatment.

3 (b) The legislature categorizes the tax preference as one
4 intended to create or retain jobs and to provide funding to support
5 job readiness training, professional development, or apprenticeship
6 programs in manufacturing or production occupations, as indicated in
7 RCW 82.32.808(2) (c) and (f).

8 (c) It is the legislature's specific public policy objective to
9 provide a pilot program that would provide a business and occupation
10 tax credit for a portion of the construction costs of up to five new
11 manufacturing facilities, two of which must be located in eastern
12 Washington. In lieu of claiming the credit, a taxpayer may donate all
13 or a portion of the credit to support job readiness training,
14 professional development, or apprenticeship programs in manufacturing
15 or production occupations.

16 (d) To measure the effectiveness of the credit provided in this
17 act in achieving the specific public policy objective described in
18 (c) of this subsection, the joint legislative audit and review
19 committee should refer to information available from the employment
20 security department and department of revenue. If a review finds that
21 each qualified industrial facility generated at least twenty full-
22 time jobs, then the legislature intends for the legislative auditor
23 to recommend extending the expiration date of the tax preference. For
24 purposes of this subsection (2)(d), full-time jobs include both
25 temporary construction jobs and permanent full-time employment
26 positions at the qualified industrial facility within one year of the
27 date that the facility became operationally complete as determined by
28 the department of revenue.

29 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04
30 RCW to read as follows:

31 (1) A person is allowed a credit against the tax imposed under
32 this chapter for a portion of the costs incurred by the person for
33 the construction of a qualified industrial facility. The credit
34 equals the state and local retail sales taxes paid by a person on up
35 to ten million dollars in construction costs for the qualified
36 industrial facility.

37 (2) The amount of credit taken in each calendar year may not
38 exceed the amount of tax otherwise due under this chapter for the
39 calendar year.

1 (3) Credits earned may be carried over to be credited against
2 taxes incurred in a subsequent calendar year or may be donated to the
3 state board for community and technical colleges invest in Washington
4 account established under subsection (9) of this section.

5 (4) Refunds may not be granted in the place of a credit or
6 donation.

7 (5) Credits donated to the state board for community and
8 technical colleges invest in Washington account under subsection (9)
9 of this act are irrevocable.

10 (6) The credit under this section is limited to five qualified
11 industrial facilities, at least two of which must be located east of
12 the crest of the Cascade mountains.

13 (7) The department may not approve a person to receive credit
14 under this section for the construction of more than one qualified
15 industrial facility.

16 (8) Credits are available on a first-in-time basis. Before using
17 a credit under this section, a person must submit an application to
18 the department in a form and manner required by the department. The
19 application must contain information regarding the location of the
20 proposed qualified industrial facility, time schedules for completion
21 and operation of the proposed qualified industrial facility, the
22 anticipated manufacturing to be conducted at the proposed qualified
23 industrial facility, and any other information required by the
24 department. The department must rule on the application within sixty
25 days.

26 (9)(a) A person may contribute all or any portion of the person's
27 approved credit to the state board for community and technical
28 colleges invest in Washington account hereby created in the state
29 treasury to be used exclusively by the state board for supporting
30 customized training programs, job skills programs, job readiness
31 training, workforce professional development, and to assist employers
32 with state-approved apprenticeship programs for manufacturing and
33 production occupations.

34 (b) Revenues to the invest in Washington account consist of
35 amounts transferred by the state treasurer as provided in (c) of this
36 subsection (9).

37 (c) By June 1, 2016, and by June 1st of every subsequent year,
38 the department must notify the state treasurer of the amount of
39 credit under this section contributed to the invest in Washington
40 account since the effective date of this section through May 15,

1 2016, in the case of the first notification under this subsection
2 (9)(c), and since the previous May 15th for subsequent notifications
3 under this subsection (9)(c). The department may make adjustments to
4 the annual notification under this subsection (9)(c) as may be
5 necessary to correct errors in the previous notification or offset
6 previous contributions of amounts that did not qualify for credit
7 under this section.

8 (d) By July 1, 2016, and by July 1st of every subsequent year,
9 the state treasurer must transfer the amount included in the
10 department's most recent notification under (c) of this subsection
11 (9) from the general fund to the invest in Washington account. Money
12 in the account may only be appropriated for the purposes specified in
13 (a) of this subsection (9).

14 (e) Persons contributing the credit under this section may
15 disregard the contribution of the credit for purposes of calculating
16 the small business credit provided in RCW 82.04.4451.

17 (f) Nothing in this subsection may be construed to modify or
18 expand the scope of chapter 49.04 RCW.

19 (g) The department must allow a person to make a contribution
20 under this subsection when filing its excise tax return, whether on
21 the original return or an amended return. The department may not
22 consider a contribution to have been made under this subsection
23 unless the amount of taxes due under this chapter as reported on the
24 return on which the contribution is made have also been paid to the
25 department. Once a contribution is made on a return and the taxes due
26 under this chapter as reported on that return have been paid, the
27 contribution may not be revoked.

28 (10) Credit under this section is earned, and may be claimed or
29 contributed, for state and local retail sales taxes paid on the
30 construction of a qualified industrial facility, subject to the
31 limitation in subsection (1) of this section.

32 (11) Approved credit under this section may only be claimed on an
33 excise tax return filed electronically in a manner provided or
34 approved by the department for taxes originally due on or after the
35 date that the credit was earned.

36 (12) Credit may be carried over until claimed or contributed,
37 except that no credit under this section may be claimed or
38 contributed after the date that is ten years after the effective date
39 of this section. This subsection must be construed to provide an
40 expiration date for the credit for purposes of RCW 82.32.805(2).

1 (13)(a) A person approved for the credit under this section must
2 notify the department that the qualified industrial facility is
3 operationally complete and must also provide the department with a
4 signed statement from the general contractor indicating, to the best
5 of the general contractor's knowledge, how many persons worked full-
6 time on the construction of the qualified industrial facility,
7 whether employed by the general contractor or any subcontractor. The
8 notifications required under this subsection (13)(a) must be received
9 by the department by the end of the calendar year in which the
10 qualified industrial facility is operationally complete.

11 (b) A person must repay all or a portion of the credit claimed or
12 contributed under this section under the following circumstances:

13 (i) If a qualified industrial facility is not operationally
14 complete within thirty-six months of the date the department received
15 the application for credit under this section or the person does not
16 comply with (a) of this subsection (13), all credit claimed and
17 contributed under this section must be repaid.

18 (ii) If a facility ceases to meet the definition of a qualified
19 industrial facility at any time after the facility became
20 operationally complete, as determined by the department, through the
21 end of the calendar year that is seven years after the calendar year
22 that the facility became operationally complete, all or a portion of
23 the credit claimed and contributed must be repaid as determined
24 according to the repayment schedule in RCW 82.63.045(2).

25 (c) The department must assess interest as provided in chapter
26 82.32 RCW, but not penalties, on taxes due under this subsection.

27 (14) The definitions in this subsection apply throughout this
28 section unless the context clearly requires otherwise.

29 (a) "Manufacturing" means (i) those activities that come within
30 the definition of "to manufacture" in RCW 82.04.120 and are taxed as
31 manufacturing or processing for hire under this chapter or would be
32 taxed as such if not for an exemption or deduction, or (ii) printing
33 newspapers or other materials. An activity is not taxed as
34 manufacturing or processing for hire under this chapter if the
35 activity is within the purview of chapter 82.16 RCW.

36 (b) "Operationally complete" means constructed to the point of
37 being functionally useable for its intended purposes as described in
38 the application required in subsection (8) of this section.

1 (c) "Qualified industrial facility" means a new building or
2 multiple new buildings located at a single site, that are used
3 primarily for manufacturing. For purposes of this subsection (14)(c):

4 (i) A building is used primarily for manufacturing if more than
5 fifty percent of the building's useable floor space is used for
6 manufacturing; and

7 (ii) Floor space used for offices or the storage of raw materials
8 or finished product is deemed to be used for manufacturing if such
9 offices and storage areas are integral to manufacturing occurring
10 elsewhere in the building or in another building at the qualified
11 industrial facility.

12 NEW SECTION. **Sec. 3.** This act may be known and cited as the
13 invest in Washington act.

14 NEW SECTION. **Sec. 4.** Section 2 of this act is necessary for the
15 immediate preservation of the public peace, health, or safety, or
16 support of the state government and its existing public institutions,
17 and takes effect July 1, 2015.

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