
SUBSTITUTE SENATE BILL 5761

State of Washington

64th Legislature

2015 Regular Session

By Senate Trade & Economic Development (originally sponsored by Senators Pearson, Hobbs, McCoy, Bailey, and Benton)

READ FIRST TIME 02/19/15.

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; and adding a new chapter to Title 84 RCW.

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

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

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

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

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

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

16 (5) Planning for industrial and manufacturing use is inadequate
17 to attract new industry and manufacturing and an incentive should be
18 created to stimulate the development of new industrial and
19 manufacturing uses in the existing inventory of lands zoned for
20 industrial and manufacturing use in targeted urban areas through a
21 tax incentive as provided by this chapter.

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

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

16 (1) "Family living wage job" means a job with a wage that is
17 sufficient for raising a family. A family living wage job must have
18 an average wage of eighteen dollars an hour or more, working two
19 thousand eighty hours per year on the subject site, as adjusted
20 annually for inflation by the consumer price index. The family living
21 wage may be increased by the local authority based on regional
22 factors and wage conditions.

23 (2) "Governing authority" means the local legislative authority
24 of a city or county having jurisdiction over the property for which
25 an exemption may be applied for under this chapter.

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

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

33 (5) "Lands zoned for industrial and manufacturing uses" means
34 lands within a city or county urban growth area zoned as of December
35 31, 2014, for an industrial or manufacturing use consistent with the
36 city's or county's comprehensive plan where the lands are designated
37 for industry.

38 (6) "Owner" means the property owner of record.

1 (7) "Targeted area" means an area of undeveloped lands zoned for
2 industrial and manufacturing uses in the city or county that is
3 located within or contiguous to an innovation partnership zone,
4 foreign trade zone, or EB-5 regional center, and designated for
5 possible exemption under the provisions of this chapter.

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

10 (9) "Urban growth area" means those areas designated by a county
11 pursuant to RCW 36.70A.110.

12 NEW SECTION. **Sec. 4.** (1)(a) The value of new construction of
13 industrial/manufacturing facilities qualifying under this chapter is
14 exempt from property taxation under this title, as provided in this
15 section. The value of new construction of industrial/manufacturing
16 facilities is exempt from taxation for properties for which an
17 application for a certificate of tax exemption is submitted under
18 this chapter before December 31, 2022. The value is exempt under this
19 section for up to ten successive years beginning January 1st of the
20 year immediately following the calendar year of issuance of the
21 certificate. The governing authority granting an exemption under this
22 section may issue a certificate for an exemption period of less than
23 ten years.

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

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

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

37 (4) This exemption does not apply to any county property taxes
38 unless the governing body of the county adopts a resolution and
39 notifies the governing authority of its intent to allow the property

1 to be exempted from county property taxes. If the exemption is being
2 applied to unincorporated areas, the governing authority of the
3 county where the property is located must adopt a resolution allowing
4 the exemption.

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

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

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

14 (2) The new construction of industrial/manufacturing facilities
15 must meet all construction and development regulations of the
16 governing authority;

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

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

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

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

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

34 (2) For the purpose of designating a targeted area, the governing
35 authority may adopt a resolution of intention to so designate an area
36 as generally described in the resolution. The resolution must state
37 the time and place of a hearing to be held by the governing authority
38 to consider the designation of the area and may include such other

1 information pertaining to the designation of the area as the
2 governing authority determines to be appropriate to apprise the
3 public of the action intended.

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

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

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

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

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

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

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

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

33 (e) A statement that the applicant would not have built in this
34 location but for the availability of the tax exemption under this
35 chapter;

36 (2) The applicant must verify the application by oath or
37 affirmation; and

38 (3) The application must be accompanied by the application fee,
39 if any, required under this chapter. The governing authority may

1 permit the applicant to revise an application before final action by
2 the governing authority.

3 NEW SECTION. **Sec. 8.** The duly authorized administrative
4 official or committee of the governing authority may approve the
5 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
11 completion, in conformance with all local plans and regulations that
12 apply at the time the application is approved; and

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

14 NEW SECTION. **Sec. 9.** (1) The 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
17 application.

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

24 (3) If the application is denied, the governing authority must
25 state in writing the reasons for denial and send the notice to the
26 applicant at the applicant's last known address within ten days of
27 the denial.

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

36 NEW SECTION. **Sec. 10.** The governing authority may establish an
37 application fee. This fee may not exceed an amount determined to be

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

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

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

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

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

26 (2) Within thirty days after receipt of the statements required
27 under subsection (1) of this section, the governing authority must
28 determine whether the work completed and the jobs to be offered are
29 consistent with the application and the contract approved by the
30 governing authority and whether the application is qualified for a
31 tax exemption under this chapter.

32 (3) If the criteria of this chapter have been satisfied and the
33 owner's property is qualified for a tax exemption under this chapter,
34 the governing authority must file the certificate of tax exemption
35 with the county assessor within ten days of the expiration of the
36 thirty-day period provided under subsection (2) of this section.

37 (4) The governing authority must notify the applicant that a
38 certificate of tax exemption is denied if the governing authority
39 determines that:

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

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

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

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

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

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

24 NEW SECTION. **Sec. 12.** (1) Thirty days after the anniversary of
25 the date of the certificate of tax exemption and each year for the
26 tax exemption period, the owner of the new industrial/manufacturing
27 facilities must file with a designated authorized representative of
28 the governing authority an annual report indicating the following:

29 (a) A statement of the family living wage jobs at the facility as
30 of the anniversary date;

31 (b) A certification by the owner that the property has not
32 changed use;

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

35 (d) Any additional information requested by the governing
36 authority.

37 (2) A governing authority that issues a certificate of tax
38 exemption under this chapter must report annually by December 31st of

1 each year, beginning in 2013, to the department of commerce. The
2 report must include the following information:

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

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

6 (c) The number of family living wage jobs resulting from the new
7 manufacturing/industrial facilities; and

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

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

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

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

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

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

38 (c) The additional tax owed together with interest and penalty
39 becomes a lien on the property and attaches at the time the property

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

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

27 (5) Upon determination by the governing authority to terminate an
28 exemption, the county officials having possession of the assessment
29 and tax rolls must correct the rolls in the manner provided for
30 omitted property under RCW 84.40.080. The county assessor must make
31 such a valuation of the property and improvements as is necessary to
32 permit the correction of the rolls. The value of the new industrial/
33 manufacturing facilities added to the rolls is considered new
34 construction for the purposes of chapter 84.40 RCW. The owner may
35 appeal the valuation to the county board of equalization as provided
36 in chapter 84.40 RCW. If there has been a failure to comply with this
37 chapter, the property must be listed as an omitted assessment for
38 assessment years beginning January 1st of the calendar year in which
39 the noncompliance first occurred, but the listing as an omitted

1 assessment may not be for a period more than three calendar years
2 preceding the year in which the failure to comply was discovered.

3 NEW SECTION. **Sec. 14.** This act applies to taxes levied for
4 collection in 2016 and thereafter.

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

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

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