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ENGROSSED SENATE BILL 5761

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State of Washington

64th Legislature

2015 Regular Session

By Senators Pearson, Hobbs, McCoy, Bailey, and Benton

Read first time 02/02/15. Referred to Committee on Trade & Economic Development.

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 cities 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. Cities that plan under the growth management  
6 act meeting the criteria of this chapter where the governing  
7 authority of the affected city has found there is insufficient family  
8 living wage jobs for its wage earning population may designate a  
9 portion of the city's industrial and manufacturing zoned and  
10 undeveloped land to receive an ad valorem tax exemption for the value  
11 of new construction of industrial/manufacturing facilities within the  
12 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) "City" means any city that: (a) Has a population of at least  
17 eighteen thousand; and (b) is north or east of the largest city in  
18 the county in which the city is located and such county has a  
19 population of at least seven hundred thousand, but less than eight  
20 hundred thousand.

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

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

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

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

38        (6) "Lands zoned for industrial and manufacturing uses" means  
39 lands in a city zoned as of December 31, 2014, for an industrial or

1 manufacturing use consistent with the city's comprehensive plan where  
2 the lands are designated for industry.

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (4) The applicant must enter into a contract with the city  
16 approved by the governing authority, or an administrative official or  
17 commission authorized by the governing authority, under which the  
18 applicant has agreed to the implementation of the development on  
19 terms and conditions satisfactory to the governing authority.

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

22 (a) The area must be lands zoned for industrial and manufacturing  
23 uses; and

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

28 (2) For the purpose of designating a targeted area, the governing  
29 authority may adopt a resolution of intention to so designate an area  
30 as generally described in the resolution. The resolution must state  
31 the time and place of a hearing to be held by the governing authority  
32 to consider the designation of the area and may include such other  
33 information pertaining to the designation of the area as the  
34 governing authority determines to be appropriate to apprise the  
35 public of the action intended.

36 (3) The governing authority must give notice of a hearing held  
37 under this chapter by publication of the notice once each week for  
38 two consecutive weeks, not less than seven days, nor more than thirty

1 days before the date of the hearing in a paper having a general  
2 circulation in the city where the proposed targeted area is located.  
3 The notice must state the time, date, place, and purpose of the  
4 hearing and generally identify the area proposed to be designated as  
5 a targeted area.

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

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

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

15 (a) Information setting forth the grounds supporting the  
16 requested exemption including information indicated on the  
17 application form or in the guidelines;

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

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

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

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

28 (2) The applicant must verify the application by oath or  
29 affirmation; and

30 (3) The application must be accompanied by the application fee,  
31 if any, required under this chapter. The governing authority may  
32 permit the applicant to revise an application before final action by  
33 the governing authority.

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

37 (1) A minimum of twenty-five new family living wage jobs will be  
38 created on the subject site as a result of new construction of

1 manufacturing/industrial facilities within one year of building  
2 occupancy;

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

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

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

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

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

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

27 NEW SECTION. **Sec. 10.** The governing authority may establish an  
28 application fee. This fee may not exceed an amount determined to be  
29 required to cover the cost to be incurred by the governing authority  
30 and the assessor in administering this chapter. The application fee  
31 must be paid at the time the application for limited exemption is  
32 filed. If the application is approved, the governing authority of the  
33 city must pay the application fee to the county assessor for deposit  
34 in the county current expense fund, after first deducting that  
35 portion of the fee attributable to its own administrative costs in  
36 processing the application. If the application is denied, the city's  
37 governing authority may retain that portion of the application fee

1 attributable to its own administrative costs and refund the balance  
2 to the applicant.

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

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

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

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

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

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

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

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

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

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

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

37 (5) If the city finds that the work was not completed within the  
38 required time period due to circumstances beyond the control of the  
39 owner and that the owner has been acting and could reasonably be

1 expected to act in good faith and with due diligence, the governing  
2 authority or the city official authorized by the governing authority  
3 may extend the deadline for completion of the work for a period not  
4 to exceed twenty-four consecutive months.

5 (6) The city's governing authority may enact an ordinance to  
6 provide a process for an owner to appeal a decision by the city that  
7 the owner is not entitled to a certificate of tax exemption to the  
8 city. The owner may appeal a decision by the city to deny a  
9 certificate of tax exemption in superior court under RCW 34.05.510  
10 through 34.05.598, if the appeal is filed within thirty days of  
11 notification by the city to the owner of the exemption denial.

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

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

19 (b) A certification by the owner that the property has not  
20 changed use;

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

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

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

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

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

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

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

35 NEW SECTION. **Sec. 13.** (1) If the value of improvements have  
36 been exempted under this chapter, the improvements continue to be  
37 exempted for the applicable period under this chapter so long as they  
38 are not converted to another use and continue to satisfy all



1 applicable conditions including, but not limited to, zoning, land  
2 use, building, and family wage job creation.

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

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

11 (a) Additional real property tax must be imposed on the value of  
12 the nonqualifying improvements in the amount that would be imposed if  
13 an exemption had not been available under this chapter, plus a  
14 penalty equal to twenty percent of the additional value. This  
15 additional tax is calculated based upon the difference between the  
16 property tax paid and the property tax that would have been paid if  
17 it had included the value of the nonqualifying improvements dated  
18 back to the date that the improvements were converted to a  
19 nonqualifying use;

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

25 (c) The additional tax owed together with interest and penalty  
26 becomes a lien on the property and attaches at the time the property  
27 or portion of the property is removed from the qualifying use under  
28 this chapter or the amenities no longer meet the applicable  
29 requirements for exemption under this chapter. A lien under this  
30 section has priority to, and must be fully paid and satisfied before,  
31 a recognizance, mortgage, judgment, debt, obligation, or  
32 responsibility to or with which the property may become charged or  
33 liable. The lien may be foreclosed upon expiration of the same period  
34 after delinquency and in the same manner provided by law for  
35 foreclosure of liens for delinquent real property taxes. An  
36 additional tax unpaid on its due date is delinquent. From the date of  
37 delinquency until paid, interest must be charged at the same rate  
38 applied by law to delinquent property taxes.

39 (4) Upon a determination that a tax exemption is to be terminated  
40 for a reason stated in this section, the city's governing authority

1 must notify the record owner of the property as shown by the tax  
2 rolls by mail, return receipt requested, of the determination to  
3 terminate the exemption. The owner may appeal the determination to  
4 the city, within thirty days by filing a notice of appeal with the  
5 city, which notice must specify the factual and legal basis on which  
6 the determination of termination is alleged to be erroneous. At an  
7 appeal hearing, all affected parties may be heard and all competent  
8 evidence received. After the hearing, the deciding body or officer  
9 must either affirm, modify, or repeal the decision of termination of  
10 exemption based on the evidence received. An aggrieved party may  
11 appeal the decision of the deciding body or officer to the superior  
12 court as provided in RCW 34.05.510 through 34.05.598.

13 (5) Upon determination by the city to terminate an exemption, the  
14 county officials having possession of the assessment and tax rolls  
15 must correct the rolls in the manner provided for omitted property  
16 under RCW 84.40.080. The county assessor must make such a valuation  
17 of the property and improvements as is necessary to permit the  
18 correction of the rolls. The value of the new industrial/  
19 manufacturing facilities added to the rolls is considered new  
20 construction for the purposes of chapter 84.40 RCW. The owner may  
21 appeal the valuation to the county board of equalization as provided  
22 in chapter 84.40 RCW. If there has been a failure to comply with this  
23 chapter, the property must be listed as an omitted assessment for  
24 assessment years beginning January 1st of the calendar year in which  
25 the noncompliance first occurred, but the listing as an omitted  
26 assessment may not be for a period more than three calendar years  
27 preceding the year in which the failure to comply was discovered.

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

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

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

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