

HOUSE BILL REPORT

HB 3014

As Reported by House Committee On: Finance

Title: An act relating to modifying the sales and use tax deferral program for investment projects in rural counties.

Brief Description: Modifying the sales and use tax deferral program for investment projects in rural counties.

Sponsors: Representatives Kessler, Morrell and Van De Wege; by request of Governor Gregoire.

Brief History:

Committee Activity:

Finance: 2/2/10, 2/9/10 [DPS].

Brief Summary of Substitute Bill

- Extends the Rural County Sales and Use Tax Deferral Program (program) from July 1, 2010 to July 1, 2020. Only distressed counties with an unemployment rate that is at least 20 percent above the state average for three years are eligible under the program.
- Clarifies retroactively the definition of "manufacturing" related to computer programming and other computer-related services.
- Eliminates computer programming and other computer-related services from the definition of "manufacturing" beginning July 1, 2010.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Hunter, Chair; Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Condotta, Conway, Ericks, Santos and Springer.

Minority Report: Without recommendation. Signed by 1 member: Representative Hasegawa, Vice Chair.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Susan Howson (786-7142).

Background:

The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. Sales tax is paid by the purchaser and collected by the seller. The use tax is imposed on items used in the state that were not subject to the retail sales tax and includes purchases made in other states and from sellers who do not collect Washington sales tax.

The Rural County Sales and Use Tax Deferral Program (program) grants a deferral of sales and use tax for manufacturing, including computer-related businesses, research and development laboratories, commercial testing facilities, and vegetable seed conditioning facilities located in rural counties, Community Empowerment Zones (CEZ), or a county containing a CEZ.

The sales and use taxes on qualified construction and equipment costs for such businesses located in these specific geographic areas are waived when all program requirements have been met and verified. These waiver requirements include: (1) an annual report covering each calendar year that must be filed by March 31 of the following year; (2) a verification by the Department of Revenue (DOR) that all purchases are eligible; (3) use of the facility for qualified activities during the year in which the investment project is certified as operationally complete by the DOR and for each of the following seven years; and (4) that employment requirements have been met for a business located in a CEZ or county containing a CEZ.

This program is scheduled to expire on July 1, 2010.

Summary of Substitute Bill:

Beginning July 1, 2010, the program is changed to include only distressed counties. A distressed county means a county that has an unemployment rate which is at least 20 percent above the state average for three years as determined by the Employment Security Department (ESD). After June 30, 2010, CEZ are no longer eligible under the program.

The Department of Revenue (DOR) is required to establish a list of distressed counties by July 1, 2010, which is effective for 24 months. The list will be updated every two years based on ESD data.

The definition of "manufacturing" is clarified retroactively to include computer programming and other related services only if the service provides a new, different, or useful substance or article of tangible personal property for sale. Computer programming and other computer related services are eliminated from the definition of "manufacturing" beginning July 1, 2010.

Persons receiving a sales and use tax deferral under this program are required to electronically file any surveys, reports, returns, and other forms or information with the DOR. Deferral recipients must complete annual surveys which the DOR will use to complete annual statistical reports to the Legislature and a final outcomes report is due December 1, 2019.

Tax deferrals remain in place for up to two years during periods of temporary shutdowns in counties with a population of less than 20,000 people. To qualify for relief from paying deferred taxes during a temporary shutdown, the remaining labor force must be greater than 10 percent of the recipients labor force at the time the deferral was approved by the DOR. If the number of employment positions falls below the 10 percent threshold during the two year period, the amount of deferred taxes outstanding is due immediately. Recipients seeking relief from paying deferred taxes must apply to and be approved by the DOR. A recipient is entitled to this relief only once.

The rural county sales and use tax deferral program expires July 1, 2020.

Substitute Bill Compared to Original Bill:

The definition of "manufacturing" related to computer programming and other computer-related services is clarified retroactively. Computer programming and other computer related services are eliminated from the definition of "manufacturing" beginning July 1, 2010. In addition, a provision is added that provides relief from paying deferred taxes during a temporary shutdown under certain conditions.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: This bill takes effect on July 1, 2010, except for sections 9, 10, and 11, relating to tax deferrals during temporary shutdowns, and section 3, relating to the Department of Revenue compiling a list of distressed counties, which take effect 90 days after adjournment of the session in which the bill is passed. If the Legislature does not enact Substitute House Bill 1597, relating to the administration of state and local tax programs, then Sections 9 and 10, relating to annual surveys for tax incentives, take effect as of July 1, 2010.

Staff Summary of Public Testimony:

(In support) The rural county sales and use tax deferral program is going to sunset this year and this bill would provide a much needed extension. In 1996 the Legislature changed the definition of a "distressed" county. As a result, there were only three counties that did not qualify. This bill will reduce it to 19 counties and make it based on unemployment numbers. It will provide economic stimulus to the counties that need it most. Narrowing the eligibility will reduce the cost of the program to the state. The program is working. Currently there are 317 firms representing about 33,300 jobs using this program. This bill is an important part of

the jobs package the Governor is proposing. It is needed to bring private investment to rural areas.

(In support with concerns) We support this bill on the grounds that it is expiring the current program and creating a smaller, more defined program. However, the bill could be improved. Currently, this bill uses the March 30 date for the annual survey, versus the April date that is in Substitute House Bill 1597. This bill says it is supposed to attract research and development (R&D) companies, but the R&D tax incentive expires in 2015, while this new incentive expires in 2020, creating a five year disconnect. These dates need to be aligned. Also, there is no provision in the bill or the current program that allows for a temporary suspension of the deferral when a company is temporarily shut down.

(Opposed) None.

Persons Testifying: (In support) Representative Kessler, prime sponsor; Heidi Hughes, Office of the Governor; Nick Demerice, Department of Commerce; and Alyson Fouts, Department of Revenue.

(In support with concerns) Amber Carter, Association of Washington Business; and Lori Evans and Mark Brown, Teck Washington.

Persons Signed In To Testify But Not Testifying: None.