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SENATE BILL 6460

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State of Washington

55th Legislature

1998 Regular Session

By Senators Anderson, Hale, Swecker, T. Sheldon, Snyder, Loveland, Hargrove, Franklin, Haugen, Fraser, Spanel, Jacobsen, Goings, B. Sheldon, Thibaudeau, Patterson, Schow, Rasmussen and Kohl; by request of Governor Locke

Read first time 01/19/98. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to tax incentives for the development of job  
2 opportunities in distressed counties; amending RCW 81.104.170,  
3 82.62.030, and 82.14.370; adding new sections to chapter 82.04 RCW;  
4 adding a new section to chapter 82.08 RCW; adding a new section to  
5 chapter 82.12 RCW; adding a new section to chapter 82.14 RCW; adding a  
6 new section to chapter 82.32 RCW; adding a new section to chapter 82.16  
7 RCW; adding a new section to chapter 44.28 RCW; adding a new chapter to  
8 Title 84 RCW; creating new sections; and providing an effective date.

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

10 NEW SECTION. **Sec. 1.** The legislature finds that the state's  
11 overall economic health and prosperity is bolstered through tax  
12 incentives targeted to specific industries and locations. The  
13 legislature further finds that to address economic stimulation and job  
14 opportunity, a new state policy is necessary to attract and retain  
15 private-sector businesses. The legislature hereby establishes an array  
16 of tax incentives designed to target businesses who will make  
17 investments in the state of Washington, both in terms of financial  
18 commitment and in terms of jobs.

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

3        (1) The definitions in this subsection apply to this section,  
4 sections 3 and 4 of this act, RCW 82.62.030, and sections 9 through 16  
5 of this act, unless the context clearly requires otherwise.

6        (a) "Business" means the person applying for the tax deferral,  
7 credit, or exemption.

8        (b) "Construction" means the construction of a manufacturing  
9 operation complex and includes labor and services rendered in respect  
10 to construction. "Construction" ends when a project is completed as  
11 determined under subsection (2)(c) of this section.

12        (c) "Distressed county" means a county in which the average level  
13 of unemployment for the three years before the year in which an  
14 application is filed under this chapter exceeds the average state  
15 unemployment for those years by twenty percent.

16        (d) "Employment position" means a position in which a permanent  
17 full-time employee is employed in a project during the entire tax year.  
18 "The entire tax year" means the full-time position is filled for a  
19 period of twelve consecutive months. "Full-time" means at least  
20 thirty-five hours a week.

21        (e) "Equipping and operating" means the acquisition of tangible  
22 personal property for use at the manufacturing operation complex, and  
23 includes labor and services rendered in respect to the installation of  
24 tangible personal property.

25        (f) "Finished product" means an article, substance, or commodity  
26 that is manufactured at and shipped from the manufacturing operation  
27 complex.

28        (g) "Manufacturing operation complex" means the buildings,  
29 structures, and improvements located at the site where the  
30 manufacturing activity occurs. The complex includes the buildings,  
31 structures, and improvements used to receive, store, and ship raw  
32 materials and finished products as well as buildings, structures, and  
33 improvements used for the manufacturing production line. In addition,  
34 the term includes all administrative offices, employee support  
35 facilities, and production support facilities located at the site. The  
36 manufacturing operation complex does not include buildings, structures,  
37 and improvements located off of the site.

38        (h) "Person" has the meaning given in RCW 82.04.030.

1 (i) "Project" means the site preparation, construction, and  
2 equipping and operating of a manufacturing operation complex.

3 (j) "Raw material" means the ingredients, components, substances,  
4 articles, or other tangible personal property that is received at the  
5 manufacturing operation complex for use as ingredients or components of  
6 the finished product.

7 (k) "Site" means a discrete geographical location.

8 (l) "Site preparation" means demolition of existing improvements,  
9 environmental remediation, earth moving, land clearing, site  
10 excavation, and shoring, and includes labor and services rendered in  
11 respect to site preparation.

12 (2) As a condition to receiving initial approval and as a condition  
13 of continuing eligibility, the following criteria must be met:

14 (a) The project must be located in a distressed county and must be  
15 owned and operated by a person who meets the definition of  
16 "manufacturer" as defined in RCW 82.04.110;

17 (b) The business must commit to an investment, by the time of  
18 completion of the project, in land, structures, and equipment, the  
19 value of which must be at least four percent of the total of the  
20 equalized assessed value in the county in which the project is located.  
21 The total equalized assessed value in the county is as published  
22 annually by the department in accordance with RCW 84.48.080.  
23 Continuing eligibility is conditioned on this investment having  
24 actually occurred;

25 (c)(i) The business must commit to and must create a minimum of  
26 twenty new employment positions at the project within two years of  
27 completion of the project.

28 (ii) The business must commit to and create one new employment  
29 position for each two million dollars invested in the project within  
30 two years of completion of the project. The twenty minimum positions  
31 in (c)(i) of this subsection are part of and not in addition to the  
32 positions required to meet the investment to job ratio.

33 (iii) The individuals in the new employment positions must be the  
34 employees of the business and must not have been relocated from other  
35 locations of the business within this state. Completion of the project  
36 is deemed to have occurred when the project is capable of operating and  
37 producing finished products. The department of community, trade, and  
38 economic development shall determine when the project is complete;

1 (d) The business must commit to and must pay an average wage of at  
2 least one hundred fifty percent of the average wage in the county. The  
3 employment security department shall determine the average wage in the  
4 county and shall report this amount to the department of community,  
5 trade, and economic development; and

6 (e) The business must remain operational for a fifteen-year period  
7 after the project is completed. "Operational" means that the level of  
8 employment at the manufacturing operation complex must not drop below  
9 the total employment positions required under (c) of this subsection.

10 (3)(a) The department of community, trade, and economic development  
11 shall determine the eligibility of a business and certify eligibility  
12 to the department of revenue.

13 (b) Approval of the project by a public vote of the governing body  
14 of the county or city in which the project is located is a precondition  
15 to deferral certification by the department of revenue. If the county  
16 or city approves the project, the county or city shall send a written  
17 notification of the approval to the department of revenue. If the  
18 project is in two jurisdictions, both jurisdictions must approve the  
19 project.

20 (c) When both of the notices under (a) and (b) of this subsection  
21 are received, the department of revenue shall issue a sales and use tax  
22 deferral certificate for use under sections 3 and 4 of this act.

23 (4) In addition to the initial certification under subsection (3)  
24 of this section, the project must be reviewed by the department of  
25 community, trade, and economic development each year for continuing  
26 eligibility. The business shall provide an annual report to the  
27 department of community, trade, and economic development, in a form as  
28 required by the department, of its status relative to the eligibility  
29 criteria under subsection (2) of this section. The department of  
30 community, trade, and economic development shall review the annual  
31 report and determine whether the project continues to meet the  
32 eligibility criteria. The department of community, trade, and economic  
33 development shall provide a written notice of this determination to the  
34 business and to the department of revenue. Annual reapproval by the  
35 county or city in which the project is located is not required. If the  
36 project fails to meet the eligibility criteria the amount of taxes  
37 deferred under sections 3 and 4 of this act are immediately due.

38 (5) Taxes deferred under sections 3 and 4 of this act need not be  
39 repaid if the project maintains its eligibility criteria for a fifteen-

1 year period. The fifteen-year period begins when the deferral  
2 certificate is sent under subsection (3)(c) of this section by the  
3 department of revenue to the business.

4 (6) Application for the deferral under sections 3 and 4 of this act  
5 may not be accepted before the effective date of this section or after  
6 June 30, 2003.

7 (7) The employment security department shall provide such data to  
8 the department of revenue and the department of community, trade, and  
9 economic development as is necessary to administer this section wage  
10 data shall be updated annually to reflect current state and county  
11 conditions.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.08 RCW  
13 to read as follows:

14 (1) A person that has received a certification from the department  
15 under section 2(3)(c) of this act may use that certificate for deferral  
16 of the state share of taxes due under this chapter on the site  
17 preparation, construction, and equipping and operating of the project.

18 (2) The certificate is not valid for sales that occurred before  
19 certification by the department. After the project is determined to be  
20 complete under section 2(2)(c) of this act, the certificate is limited  
21 to taxes related to equipping and operating of the project.

22 (3)(a) The certificate may be used for fifteen years after its  
23 issuance.

24 (b) The deferral under this section is conditioned on the business  
25 remaining eligible under section 2 of this act. If the project fails  
26 to meet the eligibility criteria, the amount of taxes deferred under  
27 this section are immediately due. The department shall assess interest  
28 at the rate provided for delinquent excise taxes, but not penalties,  
29 retroactively to the date of deferral.

30 (4) The buyer must keep such records as the department requires for  
31 audit and verification purposes.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.12 RCW  
33 to read as follows:

34 (1) A person that has received a certification from the department  
35 under section 2(3)(c) of this act may use that certificate for deferral  
36 of the state share of taxes due under this chapter on the site  
37 preparation, construction, and equipping and operating of the project.

1 (2) The certificate is not valid for tax due on use that occurred  
2 before certification by the department. After the project is  
3 determined to be complete under section 2(2)(c) of this act, the  
4 certificate is limited to tax due on use of tangible personal property  
5 related to equipping and operating of the project.

6 (3)(a) The certificate may be used for fifteen years after its  
7 issuance.

8 (b) The deferral under this section is conditioned on the business  
9 remaining eligible under section 2 of this act. If the project fails  
10 to meet the eligibility criteria, the amount of taxes deferred under  
11 this section are immediately due. The department shall assess interest  
12 at the rate provided for delinquent excise taxes, but not penalties,  
13 retroactively to the date of deferral.

14 (4) The buyer must keep such records as the department requires for  
15 audit and verification purposes.

16 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.14 RCW  
17 to read as follows:

18 The deferral under sections 3 and 4 of this act is for the state  
19 portion of the sales and use tax and does not extend to the tax imposed  
20 in this chapter.

21 **Sec. 6.** RCW 81.104.170 and 1997 c 450 s 5 are each amended to read  
22 as follows:

23 Cities that operate transit systems, county transportation  
24 authorities, metropolitan municipal corporations, public transportation  
25 benefit areas, and regional transit authorities may submit an  
26 authorizing proposition to the voters and if approved by a majority of  
27 persons voting, fix and impose a sales and use tax in accordance with  
28 the terms of this chapter, solely for the purpose of providing high  
29 capacity transportation service.

30 The tax authorized pursuant to this section shall be in addition to  
31 the tax authorized by RCW 82.14.030 and shall be collected from those  
32 persons who are taxable by the state pursuant to chapters 82.08 and  
33 82.12 RCW upon the occurrence of any taxable event within the taxing  
34 district. The maximum rate of such tax shall be approved by the voters  
35 and shall not exceed one percent of the selling price (in the case of  
36 a sales tax) or value of the article used (in the case of a use tax).  
37 The maximum rate of such tax that may be imposed shall not exceed

1 nine-tenths of one percent in any county that imposes a tax under RCW  
2 82.14.340, or within a regional transit authority if any county within  
3 the authority imposes a tax under RCW 82.14.340. The exemptions in RCW  
4 82.08.820 and 82.12.820 are for the state portion of the sales and use  
5 tax and do not extend to the tax authorized in this section.

6 The deferral in sections 3 and 4 of this act is for the state  
7 portion of the sales tax and does not extend to the tax imposed in this  
8 chapter.

9 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.32 RCW  
10 to read as follows:

11 The department of revenue may develop and institute a tax reporting  
12 method whereby the taxpayer uses deductions, credits, or other  
13 accounting techniques, as directed by the department, to allow the  
14 department to administer, and the taxpayer to report, the deferral in  
15 sections 3 and 4 of this act simply and efficiently. Taxpayers who are  
16 entitled to this deferral and sellers who receive deferral certificates  
17 from buyers shall keep their records in a form and manner as directed  
18 by the department so that the department can distinguish between  
19 taxable and exempt transactions.

20 **Sec. 8.** RCW 82.62.030 and 1997 c 366 s 5 are each amended to read  
21 as follows:

22 (1) A person shall be allowed a credit against the tax due under  
23 chapter 82.04 RCW as provided in this section. For an application  
24 approved before January 1, 1996, the credit shall equal one thousand  
25 dollars for each qualified employment position directly created in an  
26 eligible business project. For an application approved on or after  
27 January 1, 1996, the credit shall equal two thousand dollars for each  
28 qualified employment position directly created in an eligible business  
29 project. For an application approved on or after July 1, 1997, the  
30 credit shall equal four thousand dollars for each qualified employment  
31 position with wages and benefits greater than forty thousand dollars  
32 annually that is directly created in an eligible business. For an  
33 application approved on or after July 1, 1997, the credit shall equal  
34 two thousand dollars for each qualified employment position with wages  
35 and benefits less than or equal to forty thousand dollars annually that  
36 is directly created in an eligible business.

1 (2) The department shall keep a running total of all credits  
2 granted under this chapter during each fiscal year. The department  
3 shall not allow any credits which would cause the tabulation to exceed  
4 five million five hundred thousand dollars in fiscal year 1998 or 1999  
5 or seven million five hundred thousand dollars in any fiscal year  
6 thereafter. If all or part of an application for credit is disallowed  
7 under this subsection, the disallowed portion shall be carried over for  
8 approval the next fiscal year. However, the applicant's carryover into  
9 the next fiscal year is only permitted if the tabulation for the next  
10 fiscal year does not exceed the cap for that fiscal year as of the date  
11 on which the department has disallowed the application.

12 (3) No recipient may use the tax credits to decertify a union or to  
13 displace existing jobs in any community in the state.

14 (4) No recipient may receive a tax credit on taxes which have not  
15 been paid during the taxable year.

16 (5) A business that has received certification from the department  
17 of revenue under section 2 of this act is eligible for an annual credit  
18 of four thousand dollars for each of the positions used to establish  
19 project eligibility. Positions created in excess of those required to  
20 maintain eligibility are also eligible for the credit under this  
21 subsection. The business may apply for the credit once the project is  
22 complete, as determined in section 2 of this act. The business may  
23 apply each of the successive seven years following its initial  
24 application under this subsection and shall receive the credit if the  
25 continuing employment requirements of section 2 of this act are met.  
26 The credits granted under this subsection do not affect the caps under  
27 subsection (2) of this section and the fifteen percent requirement  
28 under RCW 82.62.010. Application for the credit under this subsection  
29 may not be accepted before the effective date of this section.

30 NEW SECTION. Sec. 9. (1) All real and personal property belonging  
31 to a business and used in connection with a project that qualifies  
32 under this chapter is exempt from ad valorem property taxation for  
33 fifteen successive years from completion of construction and  
34 certification of the project, as determined under section 2 of this  
35 act.

36 (2) The exemption does not include real or personal property  
37 acquired or constructed prior to the approval of the application  
38 prescribed in this chapter. The exemption provided by this chapter is



1 in addition to any other incentives, tax credits, or grants provided by  
2 law.

3 (3) The definitions in section 2 of this act apply to this chapter,  
4 where applicable.

5 NEW SECTION. **Sec. 10.** A person making application for exemption  
6 under this chapter must meet the requirements of section 2 of this act  
7 and must enter into a contract approved by the department and the  
8 governing body or bodies of the city or county in which the project is  
9 located. In the contract the applicant must agree to the requirements  
10 of section 2 of this act and this chapter. The department of revenue  
11 may not accept any application for exemption under this chapter after  
12 June 30, 2003.

13 NEW SECTION. **Sec. 11.** An applicant seeking a tax exemption under  
14 this chapter must complete the following procedures:

15 (1) The applicant shall apply to the department on forms prepared  
16 by the department. The application for exemption must contain the  
17 following:

18 (a) A description of the manner in which the applicant intends to  
19 proceed with acquisition and construction of the project, together with  
20 proposed time frames for accomplishing the requirements of section 2 of  
21 this act and this chapter; and

22 (b) A statement that the applicant is aware of the potential tax  
23 liability that will be imposed if the property ceases to be eligible  
24 for the exemption provided under this chapter.

25 (2) The applicant must verify the application for exemption by oath  
26 or affirmation.

27 (3) The department may permit the applicant to revise an  
28 application for exemption before final action on the application is  
29 taken by the department.

30 NEW SECTION. **Sec. 12.** The department may approve the application  
31 for exemption filed under this chapter if it finds that:

32 (1) The proposed project is or will be, at the time of completion,  
33 in conformance with all applicable local government regulations in  
34 effect at the time the application for exemption is approved;

35 (2) The applicant has complied with all requirements under this  
36 chapter;

1 (3) The site of the project is located in a distressed county, as  
2 defined by section 2 of this act; and

3 (4) The governing body of the county or city in which the project  
4 is located has by a public vote approved the project and has sent a  
5 written notification of the approval to the department.

6 NEW SECTION. Sec. 13. (1) The department shall approve or deny an  
7 application for exemption filed under this chapter within sixty days  
8 after it is received, unless in the discretion of the department  
9 additional time is necessary in order to make a decision.

10 (2) If the application for exemption is approved, the department  
11 shall issue the applicant a conditional certificate of tax exemption.  
12 The certificate must contain a statement by a duly authorized  
13 administrative official of the department that the applicant has  
14 complied with the requirements of this chapter.

15 (3) If the application for exemption is denied by the department,  
16 the deciding administrative official shall state in writing the reasons  
17 for the denial and mail the notice to the applicant at the applicant's  
18 last known address within ten days of the denial.

19 (4) Upon receiving a denial of the application for a property tax  
20 exemption under this chapter, the applicant may appeal the denial to  
21 the board of tax appeals in accordance with the rules of practice and  
22 procedure of the board. This appeal must be submitted within thirty  
23 days of the date the notice is received. If the exemption is denied,  
24 the sixty-day time period for approving the application for exemption  
25 regarding the project must be extended to the extent necessary to  
26 accommodate the appeal process.

27 NEW SECTION. Sec. 14. (1) Upon completion of construction of a  
28 project for which an application for exemption under this chapter has  
29 been approved, the owner of the eligible business shall file with the  
30 department the following:

31 (a) A statement of the amount of expenditures for land, structures,  
32 machinery, and equipment made with respect to the project;

33 (b) A description of the work that has been completed and a  
34 statement that the owner's property qualifies the property for  
35 exemption under this chapter; and

36 (c) A statement that the work has been completed within two years  
37 of the issuance of the conditional certificate of tax exemption.

1 (2) Within thirty days of the date the statements required under  
2 subsection (1) of this section are received, the authorized  
3 representative of the department shall determine whether the work  
4 completed is consistent with the application for exemption and the  
5 contract approved by the legislative authority of the local taxing  
6 districts and is qualified for exemption under this chapter. The  
7 department shall also determine which completed improvements  
8 specifically meet the requirements and required findings.

9 (3) The department shall file the certificate of tax exemption with  
10 the county assessor within ten days of approval if:

11 (a) The construction is completed within two years of the date the  
12 conditional certificate of tax exemption was issued or within an  
13 authorized extension of this time limit; and

14 (b) The authorized representative of the department determines that  
15 improvements were constructed consistent with the application for  
16 exemption and other applicable requirements and the applicant's  
17 property is qualified for exemption under this chapter.

18 (4) The authorized representative of the department shall notify  
19 the applicant that a certificate of tax exemption will not be issued if  
20 the representative determines that:

21 (a) The construction was not completed within two years of the  
22 approval date or within any authorized extension of the time limit;

23 (b) The improvements were not constructed consistent with the  
24 application for exemption or other applicable requirements; or

25 (c) The applicant's property is otherwise not qualified for  
26 exemption under this chapter.

27 (5) If the authorized representative of the department finds that  
28 the project was not completed within the required time period is due to  
29 circumstances beyond the control of the applicant and that the  
30 applicant has been acting and could reasonably be expected to act in  
31 good faith and with due diligence, the department may extend the  
32 deadline for completion of the project for a period not to exceed  
33 twenty-four consecutive months.

34 (6) The decision by the deciding officer that an owner of an  
35 eligible business is not entitled to a certificate of tax exemption may  
36 be appealed to the board of tax appeals in accordance with the rules of  
37 practice and procedure of the board.

1        NEW SECTION.    **Sec. 15.**    (1) Within thirty days of the anniversary  
2 of the date the certificate of tax exemption was issued and each year  
3 thereafter for a period of fifteen years, the owner of the eligible  
4 business shall file with a designated representative of the department  
5 of community, trade, and economic development an annual report  
6 indicating the following:

7        (a) A certification by the owner that the use of the property has  
8 not changed since the date the certificate was approved by the  
9 department; and

10       (b) A description of changes or improvements made after the  
11 certificate of tax exemption was issued.

12       (2) The department of community, trade, and economic development  
13 shall annually determine whether the business meets the requirements of  
14 this chapter and shall annually report this determination to the  
15 department of revenue.

16       NEW SECTION.    **Sec. 16.**    (1) Land, structures, and machinery and  
17 equipment that have been exempted under this chapter shall continue to  
18 be exempt if not converted to another use for at least fifteen years  
19 from the date of issuance of the certificate of tax exemption. If the  
20 owner intends to convert the development to another use, the owner must  
21 notify the assessor within sixty days of the change in use. If, after  
22 a certificate of tax exemption has been filed with the county assessor,  
23 the assessor discovers that the use of a portion of the property has  
24 changed or will be changed to a use that no longer meets the  
25 requirements as previously approved or agreed upon by contract between  
26 the department and the owner and that the eligible business no longer  
27 qualifies for the exemption, the tax exemption must be canceled and the  
28 following must occur:

29       (a) Additional property tax must be imposed upon the property in  
30 the amount that would normally be imposed, plus a penalty amounting to  
31 twenty percent of the additional tax. This additional tax is  
32 calculated based upon the difference between the property tax paid and  
33 the amount of property tax otherwise due and payable had the property  
34 not been granted an exemption. The tax, together with penalty and  
35 interest, is due in accordance with RCW 84.56.020 the year following  
36 the year the property no longer qualifies for exemption;

37       (b) The tax must include interest upon the amount of additional tax  
38 at the same statutory rate charged on delinquent property taxes from

1 the dates on which the additional tax could have been paid without  
2 penalty if the property had been assessed at a value without regard to  
3 this chapter; and

4 (c) An additional tax unpaid on its due date is delinquent. From  
5 the date of delinquency until the additional tax and penalty are paid,  
6 interest must be charged at the same rate applied by law to delinquent  
7 ad valorem property taxes. The additional tax owed together with  
8 interest and penalty become a lien on the land and attach at the time  
9 the property or portion of the property no longer meets applicable  
10 requirement. The lien has priority to and must be fully paid and  
11 satisfied before a recognizance, mortgage, judgment, debt, obligation,  
12 or responsibility to or with which the land may become charged or  
13 liable. The lien may be foreclosed upon expiration of the same period  
14 after delinquency and in the same manner provided by law for  
15 foreclosure of liens for delinquent real or personal property taxes.

16 (2) When a determination has been made that a tax exemption is to  
17 be canceled for a reason stated in this section, the department shall  
18 notify the owner of the property, shown by the tax rolls, by mail that  
19 the exemption will be canceled. Upon receiving the notice that the  
20 exemption is to be canceled, the owner may appeal the cancellation to  
21 the board of tax appeals in accordance with the rules of practice and  
22 procedures of the board. This appeal must be submitted within thirty  
23 days of the date the notice of cancellation is received and must  
24 specify the factual and legal basis on which the determination of  
25 cancellation is alleged to be erroneous.

26 (3) Upon receiving notice from the department or its authorized  
27 representative that an exemption has been canceled, the county  
28 officials having possession of the assessment and tax rolls shall  
29 correct the rolls and collect additional taxes, interest, and penalty  
30 in accordance with this section.

31 NEW SECTION. **Sec. 17.** A new section is added to chapter 82.04 RCW  
32 to read as follows:

33 (1) As used in this section:

34 (a) "Board" means the community economic revitalization board under  
35 chapter 43.160 RCW;

36 (b) "Private-sector business" or "business" means "person" as  
37 defined in RCW 82.04.030. "Private-sector business" does not include  
38 a public agency. "Public agency" means the state or its agencies,

1 instrumentalities, or political subdivisions, or the United States or  
2 any instrumentality thereof, or an Indian tribe or nation; and

3 (c) "Public facilities" means bridges, roads, domestic and  
4 industrial water, sanitary sewer, storm sewer, railroad, electricity,  
5 natural gas, buildings or structures, and port facilities, in the state  
6 of Washington.

7 (2) A person shall be allowed a credit against tax due under this  
8 chapter or chapter 82.16 RCW as provided in this section. The credit  
9 shall equal fifty cents for each dollar of private funds spent on  
10 qualifying public facilities. A person may not receive credit for  
11 funds spent by another person. Eligible spending is limited to  
12 construction, reconstruction, or improvement of the public facility,  
13 and includes rights of way and real property acquisition, engineering  
14 and design work, environmental assessment and mitigation, and materials  
15 acquisition.

16 (3) The department, subject to the limitations of subsection (4) of  
17 this section, shall approve applications for tax credits upon  
18 occurrence of the following:

19 (a) A written certification is submitted by the board to the  
20 department, stating the applicant has been approved for a loan or grant  
21 under chapter 43.160 RCW. The tax credit applicant shall provide a  
22 written request to the board, requesting the board to provide such  
23 certification to the department;

24 (b) A written agreement is submitted to the department before the  
25 start of the public facility project, signed by the public agency  
26 responsible for the public facility and the business spending money on  
27 the public facility, establishing the financial obligations of the  
28 business and stating that the public facility is to be owned and  
29 controlled by the public agency;

30 (c) If the facility will be owned by the business until completion,  
31 a written agreement is submitted to the department providing a  
32 mechanism for transfer of ownership of the facility to the public  
33 agency upon completion of the project; and

34 (d) The business, in consultation with the public agency, provides  
35 a letter to the department establishing that the public facility will  
36 enable the business to create, retain, or expand jobs. The business  
37 making the expenditures must be the same business upon which the job  
38 criteria is based. A business may not use the jobs upon which an

1 earlier project was based to justify additional projects for which the  
2 business is applying for tax credits.

3 (4)(a) Tax credits are available on a first-come basis, with  
4 priority based on the date an application is received by the  
5 department. Upon completion of a public facility, as determined by the  
6 department, the department shall certify the business as eligible for  
7 tax credits under this section. An applicant is not eligible for tax  
8 credits under this section in excess of the amount of tax that would  
9 otherwise be due under this chapter. Approved credit may be carried  
10 over one calendar year after the year in which the credit is approved.  
11 Any unused credit remaining after the one-year carry-over period has  
12 elapsed expires. Refunds shall not be given in place of credits.

13 (b) The department shall keep a running total of all credits  
14 approved. The sum total of credits granted under this section and  
15 section 18 of this act shall be no more than five million dollars of  
16 credits each fiscal year. If the amount requested for a credit in an  
17 application will cause the cap to be exceeded, the department shall  
18 give a partial approval of the project, equal to the amount of  
19 remaining credit available for the fiscal year.

20 (c) The amount of credit taken is not confidential or subject to  
21 RCW 82.32.330, and is disclosable by the department as a public record.

22 (5) Investments in a public facility do not give the private-sector  
23 business a right or privilege, or any other benefit in the public  
24 facility.

25 (6) An application under this section may not be approved after  
26 June 30, 2005.

27 (7) Tax credits shall not be granted for spending that occurred  
28 before the effective date of this section. Applicants are not eligible  
29 based on a loan or grant approved before the effective date of this  
30 section.

31 (8) If a person has used a credit granted under this section  
32 against tax due under chapter 82.16 RCW the person may not use the same  
33 credit for tax due under this chapter.

34 (9) The tax credit program under this section and section 18 of  
35 this act is limited to expenditures for public facilities located in  
36 distressed counties. "Distressed county" means a county in which the  
37 average level of unemployment for the three years before the year in  
38 which an application is filed under this section exceeds the average  
39 state unemployment for those years by twenty percent.

1        NEW SECTION.    **Sec. 18.**    A new section is added to chapter 82.16 RCW  
2 to read as follows:

3        The tax credit program under section 17 of this act is available to  
4 persons for tax due under this chapter.    If a person has used a credit  
5 granted under this section against tax due under chapter 82.04 RCW the  
6 person may not use the same credit for tax due under this chapter.

7        NEW SECTION.    **Sec. 19.**    It is the intent of the legislature to  
8 promote the creation and the retention of jobs.    To that end section  
9 20, chapter . . . , Laws of 1998 (section 20 of this act) allows  
10 counties to provide public facilities that will attract and retain  
11 businesses, thereby creating and maintaining jobs.

12        **Sec. 20.**    RCW 82.14.370 and 1997 c 366 s 3 are each amended to read  
13 as follows:

14        (1) The legislative authority of a distressed county may impose a  
15 sales and use tax in accordance with the terms of this chapter.    The  
16 tax is in addition to other taxes authorized by law and shall be  
17 collected from those persons who are taxable by the state under  
18 chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event  
19 within the county.    The rate of tax shall not exceed (~~(0.04)~~) 0.12  
20 percent of the selling price in the case of a sales tax or value of the  
21 article used in the case of a use tax.

22        (2) The tax imposed under subsection (1) of this section shall be  
23 deducted from the amount of tax otherwise required to be collected or  
24 paid over to the department of revenue under chapter 82.08 or 82.12  
25 RCW.    The department of revenue shall perform the collection of such  
26 taxes on behalf of the county at no cost to the county.

27        (3) Moneys collected under this section shall only be used for the  
28 purpose of financing qualifying public facilities in rural counties.  
29 The public facility must be listed as an item in the economic  
30 development section of the comprehensive plan for those counties  
31 planning under RCW 36.70A.040, or, for those counties who do not plan  
32 under the growth management act, the public facility must be listed in  
33 the county's capital facilities plan.    For the purposes of this  
34 section, "public facilities" means bridges, roads, domestic and  
35 industrial water, sanitary sewer, storm sewer, railroad, electricity,  
36 natural gas, buildings or structures, and port facilities, in the state  
37 of Washington.



1 (4) No tax may be collected under this section before July 1, 1998.  
2 No tax may be collected under this section by a county more than  
3 twenty-five years after the date that a tax is first imposed under this  
4 section.

5 (5) For purposes of this section, "distressed county" means a  
6 county in which the average level of unemployment for the three years  
7 before the year in which a tax is first imposed under this section  
8 exceeds the average state ((~~employment~~)) unemployment for those years  
9 by twenty percent.

10 NEW SECTION. **Sec. 21.** A new section is added to chapter 44.28 RCW  
11 to read as follows:

12 The joint committee shall review and study the public facility  
13 financing program under RCW 82.14.370 and make a report to the  
14 legislature in January 2002. The report must include the local  
15 revenues generated by the tax, the facilities constructed, and to the  
16 extent possible, the number of jobs in each county created or retained  
17 due to this public facility financing program.

18 NEW SECTION. **Sec. 22.** Sections 9 through 16 of this act  
19 constitute a new chapter in Title 84 RCW.

20 NEW SECTION. **Sec. 23.** If any provision of this act or its  
21 application to any person or circumstance is held invalid, the  
22 remainder of the act or the application of the provision to other  
23 persons or circumstances is not affected.

24 NEW SECTION. **Sec. 24.** This act takes effect July 1, 1998.

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