
SUBSTITUTE HOUSE BILL 1476

State of Washington

56th Legislature

1999 Regular Session

By House Committee on Economic Development, Housing & Trade (originally sponsored by Representatives Gombosky, Benson, Wood, Veloria, D. Sommers, Schindler, Crouse, Dunshee, Morris, Miloscia, Eickmeyer and Linville)

Read first time 03/02/1999.

1 AN ACT Relating to community empowerment; amending RCW 43.63A.700,
2 43.63A.710, and 82.60.020; adding a new chapter to Title 43 RCW;
3 creating a new section; and recodifying RCW 43.63A.700 and 43.63A.710.

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

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

6 (a) There are geographic areas within communities that are
7 characterized by a lack of employment opportunities, an average income
8 level that is below the median income level for the surrounding
9 community, a lack of affordable housing, deteriorating infrastructure,
10 and a lack of facilities for community services, job training, and
11 education;

12 (b) Strategies to encourage reinvestment in these areas by
13 assisting local businesses to become stronger and area residents to
14 gain economic power involve a variety of activities and partnerships;

15 (c) Reinvestment in these areas cannot be accomplished with only
16 governmental resources and require a comprehensive approach that
17 integrates various incentives, programs, and initiatives to meet the
18 economic, physical, and social needs of the area;

1 (d) Successful reinvestment depends on a local government's ability
2 to coordinate public resources in a cohesive, comprehensive strategy
3 that is designed to leverage long-term private investment in an area;

4 (e) Reinvestment can strengthen the overall tax base through
5 increased tax revenue from expanded and new business activities and
6 physical property improvement;

7 (f) Local governments, in cooperation with area residents, can
8 provide leadership as well as planning and coordination of resources
9 and necessary supportive services to address reinvestment in the area;
10 and

11 (g) It is in the public interest to adopt a targeted approach to
12 revitalization and enlist the resources of all levels of government,
13 the private sector, community-based organizations, and community
14 residents to revitalize an area.

15 (2) The legislature declares that the purposes of the community
16 empowerment zone act are to:

17 (a) Encourage reinvestment through strong partnerships and
18 cooperation between all levels of government, community-based
19 organizations, area residents, and the private sector;

20 (b) Involve the private sector and stimulate private reinvestment
21 through the judicious use of public resources;

22 (c) Target governmental resources to those areas of greatest need;
23 and

24 (d) Include all levels of government, community individuals,
25 organizations, and the private sector in the policy-making process.

26 NEW SECTION. **Sec. 2.** The definitions in this section apply
27 throughout this chapter unless the context clearly requires otherwise.

28 (1) "Area" means a geographic area within a local government that
29 is described by a close perimeter boundary.

30 (2) "Community empowerment zone" means an area meeting the
31 requirements of RCW 43.63A.700 (as recodified by this act) and
32 officially designated by the director.

33 (3) "Department" means the department of community, trade, and
34 economic development.

35 (4) "Director" means the director of the department of community,
36 trade, and economic development.

37 (5) "Local government" means a city, code city, town, or county.

1 **Sec. 3.** RCW 43.63A.700 and 1994 sp.s. c 7 s 702 are each amended
2 to read as follows:

3 (1) The department, in cooperation with the department of revenue,
4 the employment security department, and the office of financial
5 management, ~~((shall))~~ may approve applications submitted by local
6 governments for an area's designation as a community empowerment zone
7 under this ~~((section))~~ chapter. The application for designation shall
8 be in the form and manner and contain such information as the
9 department may prescribe, provided that the application ~~((for~~
10 designation)) shall:

11 (a) Contain information sufficient for the director to determine if
12 the criteria established in RCW 43.63A.710 (as recodified by this act)
13 have been met~~((-))~~i

14 (b) Be submitted on behalf of the local government by its chief
15 elected official, or, if none, by the governing body of the local
16 government~~((-))~~i

17 (c) Contain a five-year community empowerment plan that ~~((describes~~
18 ~~the proposed designated community empowerment zone's community~~
19 ~~development needs and present a strategy for meeting those needs. The~~
20 ~~plan shall address the following categories: Housing needs; public~~
21 ~~infrastructure needs, such as transportation, water, sanitation,~~
22 ~~energy, and drainage/flood control; other public facilities needs, such~~
23 ~~as neighborhood facilities or facilities for provision of health,~~
24 ~~education, recreation, public safety, or other services; community~~
25 ~~economic development needs, such as commercial/industrial~~
26 ~~revitalization, job creation and retention considering the unemployment~~
27 ~~and underemployment of area residents, accessibility to financial~~
28 ~~resources by area residents and businesses, investment within the area,~~
29 ~~or other related components of community economic development; and~~
30 ~~social service needs.~~

31 The local government is required to provide a description of its
32 strategy for meeting the needs identified in this subsection (1)(c).
33 As part of the strategy, the local government is required to identify
34 the needs for which specific plans are currently in place and the
35 source of funds expected to be used. For the balance of the area's
36 needs, the local government must identify the source of funds expected
37 to become available during the next two year period and actions the
38 local government will take to acquire those funds.)) meets the
39 requirements of section 5 of this act; and

1 (d) Certify that (~~neighborhood~~) area residents were given the
2 opportunity to participate in the development of the five-year
3 community empowerment strategy required under (~~(c) of this~~
4 ~~subsection~~) section 5 of this act.

5 (2) No local government shall submit more than two
6 (~~neighborhoods~~) areas to the department for possible designation as
7 a (~~designated~~) community empowerment zone under this (~~section~~)
8 chapter.

9 (3)(a)(i) Within ninety days after January 1, 1994, the director
10 may designate up to six (~~designated~~) community empowerment zones from
11 among the applications (~~eligible~~) submitted for designation as a
12 (~~designated~~) community empowerment zone.

13 (ii) After July 1, 1999, the director may designate up to an
14 additional three community empowerment zones from the applications
15 submitted for designation as a community empowerment zone. The
16 director shall designate at least one of the community empowerment
17 zones in a county that is (A) located east of the crest of the Cascade
18 mountains; and (B) classified as a metropolitan statistical area, as
19 determined by the office of financial management.

20 (b) The director shall make determinations of (~~designated~~)
21 designation as community empowerment zones on the basis of the
22 following factors:

23 (i) The strength and quality of the local government commitments to
24 meet the needs identified in the five-year community empowerment plan
25 required under (~~this~~) section 5 of this act.

26 (ii) The level of private (~~commitments by private entities~~)
27 sector commitment of additional resources and contributions to the
28 (~~designated community empowerment zone~~) area.

29 (iii) The potential for revitalization of the area as a result of
30 designation as a (~~designated~~) community empowerment zone.

31 (iv) Other factors the director deems necessary.

32 (c) The determination of the director as to the areas designated as
33 community empowerment zones shall be final.

34 (4) Except as provided in section 6 of this act, an area that was
35 designated a community empowerment zone before January 1, 1996, under
36 this section, automatically and without additional action by the local
37 government continues its designation under this chapter.

38 (5) The department may not designate additional community
39 empowerment zones after January 1, 2001, but may amend or rescind

1 designations of community empowerment zones in accordance with section
2 6 of this act.

3 **Sec. 4.** RCW 43.63A.710 and 1994 sp.s. c 7 s 703 are each amended
4 to read as follows:

5 (1) The director may not designate an area as a (~~designated~~)
6 community empowerment zone unless that area meets the following
7 requirements:

8 (a) The area must be designated by the legislative authority of the
9 local government as an area to receive federal, state, and local
10 assistance designed to increase economic, physical, or social activity
11 in the area;

12 (b) The area must have at least fifty-one percent of the households
13 in the area with incomes at or below eighty percent of the county's
14 median income, adjusted for household size;

15 (c) The average unemployment rate for the area, for the most recent
16 twelve-month period for which data is available must be at least one
17 hundred twenty percent of the average unemployment rate of the county;
18 and

19 (d) A five-year community empowerment plan for the area that meets
20 the requirements of (~~RCW 43.63A.700(1)(c) and as further defined by~~
21 ~~the director~~) section 5 of this act must be adopted.

22 (2) The director may establish, by rule, such other requirements as
23 the director may reasonably determine necessary and appropriate to
24 assure that the purposes of this (~~section~~) chapter are satisfied.

25 (3) In determining if an area meets the requirements of this
26 section, the director may consider data provided by the United States
27 bureau of the census from the most recent census or any other reliable
28 data that the director determines to be acceptable for the purposes for
29 which the data is used.

30 NEW SECTION. **Sec. 5.** (1) The five-year community empowerment plan
31 required under RCW 43.63A.700 (as recodified by this act) shall contain
32 information that describes the community development needs of the
33 proposed community empowerment zone and present a strategy for meeting
34 those needs. The plan shall address the following categories:

35 (a) Housing needs for all economic segments of the proposed
36 community empowerment zone;

1 (b) Public infrastructure needs, such as transportation, water,
2 sanitation, energy, and drainage and flood control;

3 (c) Other public facilities needs, such as neighborhood facilities
4 or facilities for provision of health, education, recreation, public
5 safety, and other services;

6 (d) Community economic development needs, such as commercial and
7 industrial revitalization, job creation and retention considering the
8 unemployment and underemployment of area residents, accessibility to
9 financial resources by area residents and businesses, investment within
10 the area, and other related components of community economic
11 development; and

12 (e) Social service needs of residents in the proposed community
13 empowerment zone.

14 (2) The local government must provide a description of its strategy
15 for meeting the needs identified in subsection (1) of this section. As
16 part of the community empowerment zone strategy, the local government
17 must identify the needs for which specific plans are currently in place
18 and the source of funds expected to be used. For the balance of the
19 area's needs, the local government must identify the source of funds
20 expected to become available during the next two-year period and
21 actions the local government will take to acquire those funds.

22 (3) The local government must submit an annual progress report, to
23 the department, that details the extent to which the local government
24 is working to meet the needs identified in the five-year community
25 empowerment plan. If applicable, the progress report shall also
26 contain a discussion on the impediments to meeting the needs outlined
27 in the five-year community empowerment plan. The department shall
28 determine the date the annual progress reports are due from each local
29 government.

30 NEW SECTION. **Sec. 6.** (1) The terms or conditions of a community
31 empowerment zone approved under this chapter may be amended to:

32 (a) Alter the boundaries of the community empowerment zone; or

33 (b) Terminate the designation of a community empowerment zone.

34 (2)(a) A request for an amendment under subsection (1)(a) of this
35 section may not be in effect until the department issues an amended
36 designation for the community empowerment zone that approves the
37 requested amendment. The local government must promptly file with the
38 department a request for approval that contains information the

1 department deems necessary to evaluate the proposed changes and its
2 impact on the area's designation as a community empowerment zone under
3 RCW 43.63A.710 (as recodified by this act). The local government must
4 hold at least two public hearings on the proposed changes and include
5 the information in its request for an amendment to its community
6 empowerment zone.

7 (b) The department shall approve or disapprove a proposed amendment
8 to a community empowerment zone within sixty days of its receipt of a
9 request under subsection (1)(a) of this section. The department may
10 not approve changes in a community empowerment zone that are not in
11 conformity with this chapter.

12 (3)(a) The termination of an area's designation as a community
13 empowerment zone under subsection (1)(b) of this section is not
14 effective until the department issues a finding stating the reasons for
15 the termination. The local government may file an appeal to the
16 department's findings within sixty days of the notice to terminate the
17 area's designation. The department shall notify the local government
18 of the results within thirty days of the filing of the appeal.

19 (b) A termination of an area's designation as a community
20 empowerment zone shall have no effect on benefits previously extended
21 to individual businesses. The local government may not commit benefits
22 to a business after the effective date of the termination of an area's
23 designation as a community empowerment zone.

24 NEW SECTION. **Sec. 7.** The department shall administer this chapter
25 and has the following powers and duties:

26 (1) To monitor the implementation of chapter . . . , Laws of 1999
27 (this act) and submit reports evaluating the effectiveness of the
28 program and any suggestions for legislative changes to the governor and
29 legislature by December 1, 1999, and every December 1st thereafter;

30 (2) To prepare and submit an annual report to the legislature on
31 the progress of the areas designated as community empowerment zones
32 under this chapter;

33 (3) To provide information and appropriate assistance to persons
34 desiring to locate and operate a business in a community empowerment
35 zone;

36 (4) To assist local governments in obtaining federal designation as
37 either an empowerment zone or enterprise community;

1 (5) To work with appropriate state agencies and the department to
2 coordinate the delivery of programs, including but not limited to
3 housing, community and economic development, small business assistance,
4 social service, and employment and training programs which are carried
5 on in a community empowerment zone; and

6 (6) To develop rules necessary for the administration of this
7 chapter.

8 NEW SECTION. **Sec. 8.** The administration of a community
9 empowerment zone is under the jurisdiction of the local government.
10 Each local government shall, by ordinance, designate a community
11 empowerment zone administrator for the area designated as a community
12 empowerment zone that is within its jurisdiction. A community
13 empowerment zone administrator must be an officer or employee of the
14 local government. The community empowerment zone administrator shall
15 be the liaison between the local government, the department, the
16 business community, and labor and community-based organizations within
17 the community empowerment zone.

18 NEW SECTION. **Sec. 9.** This chapter may be known and cited as the
19 Washington community empowerment zone act.

20 NEW SECTION. **Sec. 10.** (1) Sections 1, 2, and 5 through 9 of this
21 act constitute a new chapter in Title 43 RCW.

22 (2) RCW 43.63A.700 and 43.63A.710, as amended by this act, are each
23 recodified as sections in chapter 43.-- RCW (sections 1, 2, and 5
24 through 9 of this act).

25 **Sec. 11.** RCW 82.60.020 and 1996 c 290 s 4 are each amended to read
26 as follows:

27 Unless the context clearly requires otherwise, the definitions in
28 this section apply throughout this chapter.

29 (1) "Applicant" means a person applying for a tax deferral under
30 this chapter.

31 (2) "Department" means the department of revenue.

32 (3) "Eligible area" means: (a) A county in which the average level
33 of unemployment for the three years before the year in which an
34 application is filed under this chapter exceeds the average state
35 unemployment for those years by twenty percent; (b) a county that has

1 a median household income that is less than seventy-five percent of the
2 state median household income for the previous three years; (c) a
3 metropolitan statistical area, as defined by the office of federal
4 statistical policy and standards, United States department of commerce,
5 in which the average level of unemployment for the calendar year
6 immediately preceding the year in which an application is filed under
7 this chapter exceeds the average state unemployment for such calendar
8 year by twenty percent; (d) a designated community empowerment zone
9 approved under RCW 43.63A.700 or a county containing such a community
10 empowerment zone; (e) a town with a population of less than twelve
11 hundred persons in those counties that are not covered under (a) of
12 this subsection that are timber impact areas as defined in RCW
13 43.31.601; (f) a county designated by the governor as an eligible area
14 under RCW 82.60.047; or (g) a county that is contiguous to a county
15 that qualifies as an eligible area under (a) or (f) of this subsection.

16 (4)(a) "Eligible investment project" means:

17 (i) An investment project in an eligible area as defined in
18 subsection (3)(a), (b), (c), (e), or (f) of this section; or

19 (ii) That portion of an investment project in an eligible area as
20 defined in subsection (3)(d) or (g) of this section which is directly
21 utilized to create at least one new full-time qualified employment
22 position for each three hundred thousand dollars of investment on which
23 a deferral is requested in an application approved before July 1, 1994,
24 and for each (~~seven~~) two hundred fifty thousand dollars of investment
25 on which a deferral is requested in an application approved after June
26 30, 1994.

27 (b) The lessor/owner of a qualified building is not eligible for a
28 deferral unless the underlying ownership of the buildings, machinery,
29 and equipment vests exclusively in the same person, or unless the
30 lessor by written contract agrees to pass the economic benefit of the
31 deferral to the lessee in the form of reduced rent payments.

32 (c) For purposes of (a)(ii) of this subsection:

33 (i) The department shall consider the entire investment project,
34 including any investment in machinery and equipment that otherwise
35 qualifies for exemption under RCW 82.08.02565 or 82.12.02565, for
36 purposes of determining the portion of the investment project that
37 qualifies for deferral as an eligible investment project; and

38 (ii) The number of new full-time qualified employment positions
39 created by an investment project shall be deemed to be reduced by the

1 number of full-time employment positions maintained by the recipient in
2 any other community in this state that are displaced as a result of the
3 investment project.

4 (d) "Eligible investment project" does not include any portion of
5 an investment project undertaken by a light and power business as
6 defined in RCW 82.16.010(5), other than that portion of a cogeneration
7 project that is used to generate power for consumption within the
8 manufacturing site of which the cogeneration project is an integral
9 part, or investment projects which have already received deferrals
10 under this chapter.

11 (5) "Investment project" means an investment in qualified buildings
12 or qualified machinery and equipment, including labor and services
13 rendered in the planning, installation, and construction of the
14 project.

15 (6) "Manufacturing" means all activities of a commercial or
16 industrial nature wherein labor or skill is applied, by hand or
17 machinery, to materials so that as a result thereof a new, different,
18 or useful substance or article of tangible personal property is
19 produced for sale or commercial or industrial use and shall include the
20 production or fabrication of specially made or custom made articles.
21 "Manufacturing" also includes computer programming, the production of
22 computer software, and other computer-related services, and the
23 activities performed by research and development laboratories and
24 commercial testing laboratories.

25 (7) "Person" has the meaning given in RCW 82.04.030.

26 (8) "Qualified buildings" means construction of new structures, and
27 expansion or renovation of existing structures for the purpose of
28 increasing floor space or production capacity used for manufacturing
29 and research and development activities, including plant offices and
30 warehouses or other facilities for the storage of raw material or
31 finished goods if such facilities are an essential or an integral part
32 of a factory, mill, plant, or laboratory used for manufacturing or
33 research and development. If a building is used partly for
34 manufacturing or research and development and partly for other
35 purposes, the applicable tax deferral shall be determined by
36 apportionment of the costs of construction under rules adopted by the
37 department.

1 (9) "Qualified employment position" means a permanent full-time
2 employee employed in the eligible investment project during the entire
3 tax year.

4 (10) "Qualified machinery and equipment" means all new industrial
5 and research fixtures, equipment, and support facilities that are an
6 integral and necessary part of a manufacturing or research and
7 development operation. "Qualified machinery and equipment" includes:
8 Computers; software; data processing equipment; laboratory equipment;
9 manufacturing components such as belts, pulleys, shafts, and moving
10 parts; molds, tools, and dies; operating structures; and all equipment
11 used to control or operate the machinery.

12 (11) "Recipient" means a person receiving a tax deferral under this
13 chapter.

14 (12) "Research and development" means the development, refinement,
15 testing, marketing, and commercialization of a product, service, or
16 process before commercial sales have begun. As used in this
17 subsection, "commercial sales" excludes sales of prototypes or sales
18 for market testing if the total gross receipts from such sales of the
19 product, service, or process do not exceed one million dollars.

20 NEW SECTION. **Sec. 12.** If any part of this act is found to be in
21 conflict with federal requirements that are a prescribed condition to
22 the allocation of federal funds to the state, the conflicting part of
23 this act is inoperative solely to the extent of the conflict and with
24 respect to the agencies directly affected, and this finding does not
25 affect the operation of the remainder of this act in its application to
26 the agencies concerned. Rules adopted under this act must meet federal
27 requirements that are a necessary condition to the receipt of federal
28 funds by the state.

29 NEW SECTION. **Sec. 13.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

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