
HOUSE BILL 1038

State of Washington

64th Legislature

2015 Regular Session

By Representatives Moeller, Appleton, Stanford, Hudgins, Santos, and Ormsby

Prefiled 12/08/14. Read first time 01/12/15. Referred to Committee on Labor.

1 AN ACT Relating to extending apprenticeship utilization
2 requirements; amending RCW 39.04.310, 39.04.320, 82.60.025,
3 82.75.010, 82.82.010, 82.08.820, 82.08.900, 82.08.955, and 82.12.955;
4 reenacting and amending RCW 82.63.010; and adding a new section to
5 chapter 49.04 RCW.

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

7 **Sec. 1.** RCW 39.04.310 and 2007 c 437 s 1 are each amended to
8 read as follows:

9 The definitions in this section apply throughout this section and
10 RCW 39.04.300 and 39.04.320 unless the context clearly requires
11 otherwise.

12 (1) "Apprentice" means an apprentice enrolled in a state-approved
13 apprenticeship training program.

14 (2) "Apprentice utilization requirement" means the requirement
15 that the appropriate percentage of labor hours be performed by
16 apprentices.

17 (3) "Labor hours" means the total hours of workers receiving an
18 hourly wage who are directly employed on the site of the public works
19 project. "Labor hours" includes hours performed by workers employed
20 by the contractor and all subcontractors working on the project.
21 "Labor hours" does not include hours worked by foremen,

1 superintendents, owners, and workers who are not subject to
2 prevailing wage requirements.

3 (4) "School district" has the same meaning as in RCW 28A.315.025.

4 (5) "State-approved apprenticeship training program" means an
5 apprenticeship training program approved by the Washington state
6 apprenticeship council.

7 (6)(a) "Subsidized public work" means all work, construction,
8 alterations, repairs, or improvements other than ordinary maintenance
9 where:

10 (i) One or more parties to the contract for the project received
11 or will receive a tax preference for the project under chapter 82.60,
12 82.63, 82.75, or 82.82 RCW, or RCW 82.08.820, 82.08.900, 82.08.955,
13 82.12.900, or 82.12.955; or

14 (ii) One or more parties to the contract for the project received
15 or will receive a loan for the project from the state or any county,
16 municipality, or political subdivision.

17 (b) "Subsidized public work" does not include:

18 (i) Work financed by a loan provided by a housing authority
19 created under chapter 35.82 RCW; or

20 (ii) Affordable housing projects that receive financing from the
21 Washington state housing finance commission and are not subject to
22 federal prevailing wage requirements.

23 **Sec. 2.** RCW 39.04.320 and 2009 c 197 s 1 are each amended to
24 read as follows:

25 (1)(a) Except as provided in (b) through (d) of this subsection,
26 from January 1, 2005, and thereafter, for all public works estimated
27 to cost one million dollars or more, all specifications shall require
28 that no less than fifteen percent of the labor hours be performed by
29 apprentices.

30 (b)(i) This section does not apply to contracts advertised for
31 bid before July 1, 2007, for any public works by the department of
32 transportation.

33 (ii) For contracts advertised for bid on or after July 1, 2007,
34 and before July 1, 2008, for all public works by the department of
35 transportation estimated to cost five million dollars or more, all
36 specifications shall require that no less than ten percent of the
37 labor hours be performed by apprentices.

38 (iii) For contracts advertised for bid on or after July 1, 2008,
39 and before July 1, 2009, for all public works by the department of

1 transportation estimated to cost three million dollars or more, all
2 specifications shall require that no less than twelve percent of the
3 labor hours be performed by apprentices.

4 (iv) For contracts advertised for bid on or after July 1, 2009,
5 for all public works by the department of transportation estimated to
6 cost two million dollars or more, all specifications shall require
7 that no less than fifteen percent of the labor hours be performed by
8 apprentices.

9 (c)(i) This section does not apply to contracts advertised for
10 bid before January 1, 2008, for any public works by a school
11 district, or to any project funded in whole or in part by bond issues
12 approved before July 1, 2007.

13 (ii) For contracts advertised for bid on or after January 1,
14 2008, for all public works by a school district estimated to cost
15 three million dollars or more, all specifications shall require that
16 no less than ten percent of the labor hours be performed by
17 apprentices.

18 (iii) For contracts advertised for bid on or after January 1,
19 2009, for all public works by a school district estimated to cost two
20 million dollars or more, all specifications shall require that no
21 less than twelve percent of the labor hours be performed by
22 apprentices.

23 (iv) For contracts advertised for bid on or after January 1,
24 2010, for all public works by a school district estimated to cost one
25 million dollars or more, all specifications shall require that no
26 less than fifteen percent of the labor hours be performed by
27 apprentices.

28 (d)(i) For contracts advertised for bid on or after January 1,
29 2010, for all public works by a four-year institution of higher
30 education estimated to cost three million dollars or more, all
31 specifications must require that no less than ten percent of the
32 labor hours be performed by apprentices.

33 (ii) For contracts advertised for bid on or after January 1,
34 2011, for all public works by a four-year institution of higher
35 education estimated to cost two million dollars or more, all
36 specifications must require that no less than twelve percent of the
37 labor hours be performed by apprentices.

38 (iii) For contracts advertised for bid on or after January 1,
39 2012, for all public works by a four-year institution of higher
40 education estimated to cost one million dollars or more, all

1 specifications must require that no less than fifteen percent of the
2 labor hours be performed by apprentices.

3 (2) For all subsidized public works projects estimated to cost
4 five million dollars or more, all specifications must require that no
5 less than fifteen percent of the labor hours be performed by
6 apprentices.

7 (3) Awarding entities may adjust the requirements of this section
8 for a specific project for the following reasons:

9 (a) The demonstrated lack of availability of apprentices in
10 specific geographic areas;

11 (b) A disproportionately high ratio of material costs to labor
12 hours, which does not make feasible the required minimum levels of
13 apprentice participation;

14 (c) Participating contractors have demonstrated a good faith
15 effort to comply with the requirements of RCW 39.04.300 and 39.04.310
16 and this section; or

17 (d) Other criteria the awarding entity deems appropriate, which
18 are subject to review by the office of the governor.

19 ~~((+3))~~ (4) The secretary of the department of transportation
20 shall adjust the requirements of this section for a specific project
21 for the following reasons:

22 (a) The demonstrated lack of availability of apprentices in
23 specific geographic areas; or

24 (b) A disproportionately high ratio of material costs to labor
25 hours, which does not make feasible the required minimum levels of
26 apprentice participation.

27 ~~((+4))~~ (5) This section applies to public works contracts
28 awarded by the state, to public works contracts awarded by school
29 districts, and to public works contracts awarded by state four-year
30 institutions of higher education. However, this section does not
31 apply to contracts awarded by state agencies headed by a separately
32 elected public official.

33 ~~((+5))~~ (6)(a) The department of ~~((general—administration))~~
34 enterprise services must provide information and technical assistance
35 to affected agencies and collect the following data from affected
36 agencies for each project covered by this section:

37 (i) The name of each apprentice and apprentice registration
38 number;

39 (ii) The name of each project;

40 (iii) The dollar value of each project;

1 (iv) The date of the contractor's notice to proceed;
2 (v) The number of apprentices and labor hours worked by them,
3 categorized by trade or craft;
4 (vi) The number of journey level workers and labor hours worked
5 by them, categorized by trade or craft; and
6 (vii) The number, type, and rationale for the exceptions granted
7 under subsection ~~((+2))~~ (3) of this section.

8 (b) The department of labor and industries shall assist the
9 department of ~~((general administration))~~ enterprise services in
10 providing information and technical assistance.

11 ~~((+6))~~ (7) The secretary of transportation shall establish an
12 apprenticeship utilization advisory committee, which shall include
13 statewide geographic representation and consist of equal numbers of
14 representatives of contractors and labor. The committee must include
15 at least one member representing contractor businesses with less than
16 thirty-five employees. The advisory committee shall meet regularly
17 with the secretary of transportation to discuss implementation of
18 this section by the department of transportation, including
19 development of the process to be used to adjust the requirements of
20 this section for a specific project. The committee shall provide a
21 report to the legislature by January 1, 2008, on the effects of the
22 apprentice labor requirement on transportation projects and on the
23 availability of apprentice labor and programs statewide.

24 ~~((+7))~~ (8) At the request of the senate labor, commerce,
25 research and development committee, the house of representatives
26 commerce and labor committee, or their successor committees, and the
27 governor, the department of ~~((general administration))~~ enterprise
28 services and the department of labor and industries shall compile and
29 summarize the agency data and provide a joint report to both
30 committees. The report shall include recommendations on modifications
31 or improvements to the apprentice utilization program and information
32 on skill shortages in each trade or craft.

33 NEW SECTION. Sec. 3. A new section is added to chapter 49.04
34 RCW to read as follows:

35 Upon request from a party to a contract for subsidized public
36 work, as defined in RCW 39.04.310(6)(a)(i), the apprenticeship
37 council must provide written certification of the party's compliance
38 with RCW 39.04.320.

1 **Sec. 4.** RCW 82.60.025 and 2010 1st sp.s. c 16 s 4 are each
2 amended to read as follows:

3 The lessor or owner of a qualified building is not eligible for a
4 deferral unless:

5 (1) The lessor or owner complies with the requirements of RCW
6 39.04.320; and

7 (2) The underlying ownership of the buildings, machinery, and
8 equipment vests exclusively in the same person; or

9 ~~((+2))~~ (3)(a) The lessor by written contract agrees to pass the
10 economic benefit of the deferral to the lessee;

11 (b) The lessee that receives the economic benefit of the deferral
12 agrees in writing with the department to complete the annual survey
13 required under RCW 82.60.070; and

14 (c) The economic benefit of the deferral passed to the lessee is
15 no less than the amount of tax deferred by the lessor and is
16 evidenced by written documentation of any type of payment, credit, or
17 other financial arrangement between the lessor or owner of the
18 qualified building and the lessee.

19 **Sec. 5.** RCW 82.63.010 and 2009 c 268 s 2 are each reenacted and
20 amended to read as follows:

21 Unless the context clearly requires otherwise, the definitions in
22 this section apply throughout this chapter.

23 (1) "Advanced computing" means technologies used in the designing
24 and developing of computing hardware and software, including
25 innovations in designing the full spectrum of hardware from hand-held
26 calculators to super computers, and peripheral equipment.

27 (2) "Advanced materials" means materials with engineered
28 properties created through the development of specialized processing
29 and synthesis technology, including ceramics, high value-added
30 metals, electronic materials, composites, polymers, and biomaterials.

31 (3) "Applicant" means a person applying for a tax deferral under
32 this chapter.

33 (4) "Biotechnology" means the application of technologies, such
34 as recombinant DNA techniques, biochemistry, molecular and cellular
35 biology, genetics and genetic engineering, cell fusion techniques,
36 and new bioprocesses, using living organisms, or parts of organisms,
37 to produce or modify products, to improve plants or animals, to
38 develop microorganisms for specific uses, to identify targets for
39 small molecule pharmaceutical development, or to transform biological

1 systems into useful processes and products or to develop
2 microorganisms for specific uses.

3 (5) "Department" means the department of revenue.

4 (6) "Electronic device technology" means technologies involving
5 microelectronics; semiconductors; electronic equipment and
6 instrumentation; radio frequency, microwave, and millimeter
7 electronics; optical and optic-electrical devices; and data and
8 digital communications and imaging devices.

9 (7) "Eligible investment project" means an investment project
10 which either initiates a new operation, or expands or diversifies a
11 current operation by expanding, renovating, or equipping an existing
12 facility. The lessor or owner of the qualified building is not
13 eligible for a deferral unless:

14 (a) The lessor or owner complies with the requirements of RCW
15 39.04.320; and

16 (b) The underlying ownership of the buildings, machinery, and
17 equipment vests exclusively in the same person; or

18 ((~~b~~)) (c)(i) The lessor by written contract agrees to pass the
19 economic benefit of the deferral to the lessee;

20 (ii) The lessee that receives the economic benefit of the
21 deferral agrees in writing with the department to complete the annual
22 survey required under RCW 82.63.020(2); and

23 (iii) The economic benefit of the deferral passed to the lessee
24 is no less than the amount of tax deferred by the lessor and is
25 evidenced by written documentation of any type of payment, credit, or
26 other financial arrangement between the lessor or owner of the
27 qualified building and the lessee.

28 (8) "Environmental technology" means assessment and prevention of
29 threats or damage to human health or the environment, environmental
30 cleanup, and the development of alternative energy sources.

31 (9)(a) "Initiation of construction" means the date that a
32 building permit is issued under the building code adopted under RCW
33 19.27.031 for:

34 (i) Construction of the qualified building, if the underlying
35 ownership of the building vests exclusively with the person receiving
36 the economic benefit of the deferral;

37 (ii) Construction of the qualified building, if the economic
38 benefits of the deferral are passed to a lessee as provided in
39 subsection (7) of this section; or

1 (iii) Tenant improvements for a qualified building, if the
2 economic benefits of the deferral are passed to a lessee as provided
3 in subsection (7) of this section.

4 (b) "Initiation of construction" does not include soil testing,
5 site clearing and grading, site preparation, or any other related
6 activities that are initiated before the issuance of a building
7 permit for the construction of the foundation of the building.

8 (c) If the investment project is a phased project, "initiation of
9 construction" shall apply separately to each phase.

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

14 (11) "Multiple qualified buildings" means qualified buildings
15 leased to the same person when such structures: (a) Are located
16 within a five-mile radius; and (b) the initiation of construction of
17 each building begins within a sixty-month period.

18 (12) "Person" has the meaning given in RCW 82.04.030 and includes
19 state universities as defined in RCW 28B.10.016.

20 (13) "Pilot scale manufacturing" means design, construction, and
21 testing of preproduction prototypes and models in the fields of
22 biotechnology, advanced computing, electronic device technology,
23 advanced materials, and environmental technology other than for
24 commercial sale. As used in this subsection, "commercial sale"
25 excludes sales of prototypes or sales for market testing if the total
26 gross receipts from such sales of the product, service, or process do
27 not exceed one million dollars.

28 (14) "Qualified buildings" means construction of new structures,
29 and expansion or renovation of existing structures for the purpose of
30 increasing floor space or production capacity used for pilot scale
31 manufacturing or qualified research and development, including plant
32 offices and other facilities that are an essential or an integral
33 part of a structure used for pilot scale manufacturing or qualified
34 research and development. If a building or buildings are used partly
35 for pilot scale manufacturing or qualified research and development,
36 and partly for other purposes, the applicable tax deferral shall be
37 determined by apportionment of the costs of construction under rules
38 adopted by the department. Such rules may include provisions for
39 determining the amount of the deferral based on apportionment of
40 costs of construction of an investment project consisting of a

1 building or multiple buildings, where qualified research and
2 development or pilot scale manufacturing activities are shifted
3 within a building or from one building to another building.

4 (15) "Qualified machinery and equipment" means fixtures,
5 equipment, and support facilities that are an integral and necessary
6 part of a pilot scale manufacturing or qualified research and
7 development operation. "Qualified machinery and equipment" includes:
8 Computers; software; data processing equipment; laboratory equipment,
9 instrumentation, and other devices used in a process of
10 experimentation to develop a new or improved pilot model, plant
11 process, product, formula, invention, or similar property;
12 manufacturing components such as belts, pulleys, shafts, and moving
13 parts; molds, tools, and dies; vats, tanks, and fermenters; operating
14 structures; and all other equipment used to control, monitor, or
15 operate the machinery. For purposes of this chapter, qualified
16 machinery and equipment must be either new to the taxing jurisdiction
17 of the state or new to the certificate holder, except that used
18 machinery and equipment may be treated as qualified machinery and
19 equipment if the certificate holder either brings the machinery and
20 equipment into Washington or makes a retail purchase of the machinery
21 and equipment in Washington or elsewhere.

22 (16) "Qualified research and development" means research and
23 development performed within this state in the fields of advanced
24 computing, advanced materials, biotechnology, electronic device
25 technology, and environmental technology.

26 (17) "Recipient" means a person receiving a tax deferral under
27 this chapter.

28 (18) "Research and development" means activities performed to
29 discover technological information, and technical and nonroutine
30 activities concerned with translating technological information into
31 new or improved products, processes, techniques, formulas,
32 inventions, or software. The term includes exploration of a new use
33 for an existing drug, device, or biological product if the new use
34 requires separate licensing by the federal food and drug
35 administration under chapter 21, C.F.R., as amended. The term does
36 not include adaptation or duplication of existing products where the
37 products are not substantially improved by application of the
38 technology, nor does the term include surveys and studies, social
39 science and humanities research, market research or testing, quality
40 control, sale promotion and service, computer software developed for

1 internal use, and research in areas such as improved style, taste,
2 and seasonal design.

3 **Sec. 6.** RCW 82.75.010 and 2010 c 114 s 145 are each amended to
4 read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

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

9 (2) "Biotechnology" means a technology based on the science of
10 biology, microbiology, molecular biology, cellular biology,
11 biochemistry, or biophysics, or any combination of these, and
12 includes, but is not limited to, recombinant DNA techniques, genetics
13 and genetic engineering, cell fusion techniques, and new
14 bioprocesses, using living organisms, or parts of organisms.

15 (3) "Biotechnology product" means any virus, therapeutic serum,
16 antibody, protein, toxin, antitoxin, vaccine, blood, blood component
17 or derivative, allergenic product, or analogous product produced
18 through the application of biotechnology that is used in the
19 prevention, treatment, or cure of diseases or injuries to humans.

20 (4) "Department" means the department of revenue.

21 (5)(a) "Eligible investment project" means an investment in
22 qualified buildings or qualified machinery and equipment, including
23 labor and services rendered in the planning, installation, and
24 construction of the project.

25 (b) The lessor or owner of a qualified building is not eligible
26 for a deferral unless:

27 (i) The lessor or owner complies with the requirements of RCW
28 39.04.320; and

29 (ii) The underlying ownership of the buildings, machinery, and
30 equipment vests exclusively in the same person; or

31 ~~((+ii+))~~ (iii)(A) The lessor by written contract agrees to pass
32 the economic benefit of the deferral to the lessee;

33 (B) The lessee that receives the economic benefit of the deferral
34 agrees in writing with the department to complete the annual survey
35 required under RCW 82.75.070; and

36 (C) The economic benefit of the deferral passed to the lessee is
37 no less than the amount of tax deferred by the lessor and is
38 evidenced by written documentation of any type of payment, credit, or

1 other financial arrangement between the lessor or owner of the
2 qualified building and the lessee.

3 (6)(a) "Initiation of construction" means the date that a
4 building permit is issued under the building code adopted under RCW
5 19.27.031 for:

6 (i) Construction of the qualified building, if the underlying
7 ownership of the building vests exclusively with the person receiving
8 the economic benefit of the deferral;

9 (ii) Construction of the qualified building, if the economic
10 benefits of the deferral are passed to a lessee as provided in
11 subsection (5)(b)(~~(ii)~~) (iii)(A) of this section; or

12 (iii) Tenant improvements for a qualified building, if the
13 economic benefits of the deferral are passed to a lessee as provided
14 in subsection (5)(b)(~~(ii)~~) (iii)(A) of this section.

15 (b) "Initiation of construction" does not include soil testing,
16 site clearing and grading, site preparation, or any other related
17 activities that are initiated before the issuance of a building
18 permit for the construction of the foundation of the building.

19 (c) If the investment project is a phased project, "initiation of
20 construction" applies separately to each phase.

21 (7) "Manufacturing" has the meaning provided in RCW 82.04.120.

22 (8) "Medical device" means an instrument, apparatus, implement,
23 machine, contrivance, implant, in vitro reagent, or other similar or
24 related article, including any component, part, or accessory, that is
25 designed or developed and:

26 (a) Recognized in the national formulary, or the United States
27 pharmacopeia, or any supplement to them;

28 (b) Intended for use in the diagnosis of disease, or in the cure,
29 mitigation, treatment, or prevention of disease or other conditions
30 in human beings or other animals; or

31 (c) Intended to affect the structure or any function of the body
32 of human beings or other animals, and which does not achieve any of
33 its primary intended purposes through chemical action within or on
34 the body of human beings or other animals and which is not dependent
35 upon being metabolized for the achievement of any of its principal
36 intended purposes.

37 (9) "Person" has the meaning provided in RCW 82.04.030.

38 (10) "Qualified buildings" means construction of new structures,
39 and expansion or renovation of existing structures for the purpose of
40 increasing floor space or production capacity used for biotechnology

1 product manufacturing or medical device manufacturing activities,
2 including plant offices, commercial laboratories for process
3 development, quality assurance and quality control, and warehouses or
4 other facilities for the storage of raw material or finished goods if
5 the facilities are an essential or an integral part of a factory,
6 plant, or laboratory used for biotechnology product manufacturing or
7 medical device manufacturing. If a building is used partly for
8 biotechnology product manufacturing or medical device manufacturing
9 and partly for other purposes, the applicable tax deferral must be
10 determined by apportionment of the costs of construction under rules
11 adopted by the department.

12 (11) "Qualified machinery and equipment" means all new industrial
13 and research fixtures, equipment, and support facilities that are an
14 integral and necessary part of a biotechnology product manufacturing
15 or medical device manufacturing operation. "Qualified machinery and
16 equipment" includes: Computers; software; data processing equipment;
17 laboratory equipment; manufacturing components such as belts,
18 pulleys, shafts, and moving parts; molds, tools, and dies; operating
19 structures; and all equipment used to control or operate the
20 machinery.

21 (12) "Recipient" means a person receiving a tax deferral under
22 this chapter.

23 **Sec. 7.** RCW 82.82.010 and 2008 c 15 s 1 are each amended to read
24 as follows:

25 The definitions in this section apply throughout this chapter
26 unless the context clearly requires otherwise.

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

29 (2) "Corporate headquarters" means a facility or facilities where
30 corporate staff employees are physically employed, and where the
31 majority of the company's management services are handled either on a
32 regional or a national basis. Company management services may
33 include: Accounts receivable and payable, accounting, data
34 processing, distribution management, employee benefit plan, financial
35 and securities accounting, information technology, insurance, legal,
36 merchandising, payroll, personnel, purchasing procurement, planning,
37 reporting and compliance, research and development, tax, treasury, or
38 other headquarters-related services. "Corporate headquarters" does

1 not include a facility or facilities used for manufacturing,
2 wholesaling, or warehousing.

3 (3) "Department" means the department of revenue.

4 (4) "Eligible area" means a designated community empowerment zone
5 approved under RCW 43.31C.020.

6 (5)(a) "Eligible investment project" means an investment project
7 in a qualified building or buildings in an eligible area, as defined
8 in subsection (4) of this section, which will have employment at the
9 qualified building or buildings of at least three hundred employees
10 in qualified employment positions, each of whom must earn for the
11 year reported at least the average annual wage for the state for that
12 year as determined by the employment security department.

13 (b) The lessor or owner of a qualified building or buildings is
14 not eligible for a deferral unless:

15 (i) The lessor or owner complies with the requirements of RCW
16 39.04.320; and

17 (ii) The underlying ownership of the building or buildings vests
18 exclusively in the same person; or

19 ~~((+ii))~~ (iii)(A) The lessor by written contract agrees to pass
20 the economic benefit of the deferral to the lessee;

21 (B) The lessee that receives the economic benefit of the deferral
22 agrees in writing with the department to complete the annual survey
23 required under RCW 82.82.020; and

24 (C) The economic benefit of the deferral passed to the lessee is
25 no less than the amount of tax deferred by the lessor and is
26 evidenced by written documentation of any type of payment, credit, or
27 other financial arrangement between the lessor or owner of the
28 qualified building and the lessee.

29 (6) "Investment project" means a capital investment of at least
30 thirty million dollars in a qualified building or buildings including
31 tangible personal property and fixtures that will be incorporated as
32 an ingredient or component of such buildings during the course of
33 their construction, and including labor and services rendered in the
34 planning, installation, and construction of the project.

35 (7) "Manufacture" has the same meaning as provided in RCW
36 82.04.120.

37 (8) "Operationally complete" means a date no later than one year
38 from the date the project is issued an occupancy permit by the local
39 permit issuing authority.

40 (9) "Person" has the same meaning as provided in RCW 82.04.030.

1 (10) "Qualified building or buildings" means construction of a
2 new structure or structures or expansion of an existing structure or
3 structures to be used for corporate headquarters. If a building is
4 used partly for corporate headquarters and partly for other purposes,
5 the applicable tax deferral is determined by apportionment of the
6 costs of construction under rules adopted by the department.

7 (11) "Qualified employment position" means a permanent full-time
8 employee employed in the eligible investment project during the
9 entire tax year. The term "entire tax year" means a full-time
10 position that is filled for a period of twelve consecutive months.
11 The term "full-time" means at least thirty-five hours a week, four
12 hundred fifty-five hours a quarter, or one thousand eight hundred
13 twenty hours a year.

14 (12) "Recipient" means a person receiving a tax deferral under
15 this chapter.

16 (13) "Warehouse" means a building or structure, or any part
17 thereof, in which goods, wares, or merchandise are received for
18 storage for compensation.

19 (14) "Wholesale sale" has the same meaning as provided in RCW
20 82.04.060.

21 **Sec. 8.** RCW 82.08.820 and 2014 c 140 s 23 are each amended to
22 read as follows:

23 (1) Wholesalers or third-party warehouseurs who own or operate
24 warehouses or grain elevators and retailers who own or operate
25 distribution centers, and who have paid the tax levied by RCW
26 82.08.020 on:

27 (a) Material-handling and racking equipment, and labor and
28 services rendered in respect to installing, repairing, cleaning,
29 altering, or improving the equipment; or

30 (b) Construction of a warehouse or grain elevator, including
31 materials, and including service and labor costs,
32 are eligible for an exemption in the form of a remittance. The amount
33 of the remittance is computed under subsection (3) of this section
34 and is based on the state share of sales tax.

35 (2) For purposes of this section and RCW 82.12.820:

36 (a) "Agricultural products" has the meaning given in RCW
37 82.04.213;

38 (b) "Construction" means the actual construction of a warehouse
39 or grain elevator that did not exist before the construction began.

1 "Construction" includes expansion if the expansion adds at least two
2 hundred thousand square feet of additional space to an existing
3 warehouse or additional storage capacity of at least one million
4 bushels to an existing grain elevator. "Construction" does not
5 include renovation, remodeling, or repair;

6 (c) "Department" means the department of revenue;

7 (d) "Distribution center" means a warehouse that is used
8 exclusively by a retailer solely for the storage and distribution of
9 finished goods to retail outlets of the retailer. "Distribution
10 center" does not include a warehouse at which retail sales occur;

11 (e) "Finished goods" means tangible personal property intended
12 for sale by a retailer or wholesaler. "Finished goods" does not
13 include:

14 (i) Agricultural products stored by wholesalers, third-party
15 warehouses, or retailers if the storage takes place on the land of
16 the person who produced the agricultural product;

17 (ii) Logs, minerals, petroleum, gas, or other extracted products
18 stored as raw materials or in bulk; or

19 (iii) Marijuana, useable marijuana, or marijuana-infused
20 products;

21 (f) "Grain elevator" means a structure used for storage and
22 handling of grain in bulk;

23 (g) "Material-handling equipment and racking equipment" means
24 equipment in a warehouse or grain elevator that is primarily used to
25 handle, store, organize, convey, package, or repackage finished
26 goods. The term includes tangible personal property with a useful
27 life of one year or more that becomes an ingredient or component of
28 the equipment, including repair and replacement parts. The term does
29 not include equipment in offices, lunchrooms, restrooms, and other
30 like space, within a warehouse or grain elevator, or equipment used
31 for nonwarehousing purposes. "Material-handling equipment" includes
32 but is not limited to: Conveyers, carousels, lifts, positioners,
33 pick-up-and-place units, cranes, hoists, mechanical arms, and robots;
34 mechanized systems, including containers that are an integral part of
35 the system, whose purpose is to lift or move tangible personal
36 property; and automated handling, storage, and retrieval systems,
37 including computers that control them, whose purpose is to lift or
38 move tangible personal property; and forklifts and other off-the-road
39 vehicles that are used to lift or move tangible personal property and
40 that cannot be operated legally on roads and streets. "Racking

1 equipment" includes, but is not limited to, conveying systems,
2 chutes, shelves, racks, bins, drawers, pallets, and other containers
3 and storage devices that form a necessary part of the storage system;

4 (h) "Person" has the meaning given in RCW 82.04.030;

5 (i) "Retailer" means a person who makes "sales at retail" as
6 defined in chapter 82.04 RCW of tangible personal property;

7 (j) "Square footage" means the product of the two horizontal
8 dimensions of each floor of a specific warehouse. The entire
9 footprint of the warehouse must be measured in calculating the square
10 footage, including space that juts out from the building profile such
11 as loading docks. "Square footage" does not mean the aggregate of the
12 square footage of more than one warehouse at a location or the
13 aggregate of the square footage of warehouses at more than one
14 location;

15 (k) "Third-party warehouser" means a person taxable under RCW
16 82.04.280(1)(d);

17 (l) "Warehouse" means an enclosed building or structure in which
18 finished goods are stored. A warehouse building or structure may have
19 more than one storage room and more than one floor. Office space,
20 lunchrooms, restrooms, and other space within the warehouse and
21 necessary for the operation of the warehouse are considered part of
22 the warehouse as are loading docks and other such space attached to
23 the building and used for handling of finished goods. Landscaping and
24 parking lots are not considered part of the warehouse. A storage yard
25 is not a warehouse, nor is a building in which manufacturing takes
26 place; and

27 (m) "Wholesaler" means a person who makes "sales at wholesale" as
28 defined in chapter 82.04 RCW of tangible personal property, but
29 "wholesaler" does not include a person who makes sales exempt under
30 RCW 82.04.330.

31 (3)(a) A person claiming an exemption from state tax in the form
32 of a remittance under this section must pay the tax imposed by RCW
33 82.08.020. The buyer may then apply to the department for remittance
34 of all or part of the tax paid under RCW 82.08.020. For grain
35 elevators with bushel capacity of one million but less than two
36 million, the remittance is equal to fifty percent of the amount of
37 tax paid. For warehouses with square footage of two hundred thousand
38 or more and for grain elevators with bushel capacity of two million
39 or more, the remittance is equal to one hundred percent of the amount
40 of tax paid for qualifying construction, materials, service, and

1 labor, and fifty percent of the amount of tax paid for qualifying
2 material-handling equipment and racking equipment, and labor and
3 services rendered in respect to installing, repairing, cleaning,
4 altering, or improving the equipment.

5 (b) The department must determine eligibility under this section
6 based on information provided by the buyer and through audit and
7 other administrative records. The buyer must on a quarterly basis
8 submit an information sheet, in a form and manner as required by the
9 department by rule, specifying the amount of exempted tax claimed and
10 the qualifying purchases or acquisitions for which the exemption is
11 claimed. The buyer must retain, in adequate detail to enable the
12 department to determine whether the equipment or construction meets
13 the criteria under this section: Invoices; proof of tax paid;
14 documents describing the material-handling equipment and racking
15 equipment; location and size of warehouses and grain elevators; and
16 construction invoices and documents.

17 (c) The department must on a quarterly basis remit exempted
18 amounts to qualifying persons who submitted applications during the
19 previous quarter.

20 (4) Warehouses, grain elevators, and material-handling equipment
21 and racking equipment for which an exemption, credit, or deferral has
22 been or is being received under chapter 82.60, 82.62, or 82.63 RCW or
23 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance
24 under this section. Warehouses and grain elevators upon which
25 construction was initiated before May 20, 1997, are not eligible for
26 a remittance under this section.

27 (5) The lessor or owner of a warehouse or grain elevator is not
28 eligible for a remittance under this section unless:

29 (a) The lessor or owner complies with the requirements of RCW
30 39.04.320; and

31 (b) The underlying ownership of the warehouse or grain elevator
32 and the material-handling equipment and racking equipment vests
33 exclusively in the same person((τ)); or ((unless))

34 (c) The lessor by written contract agrees to pass the economic
35 benefit of the remittance to the lessee in the form of reduced rent
36 payments.

37 **Sec. 9.** RCW 82.08.900 and 2006 c 151 s 4 are each amended to
38 read as follows:

1 (1) The tax levied by RCW 82.08.020 does not apply to sales to an
2 eligible person establishing or operating an anaerobic digester or to
3 services rendered in respect to installing, constructing, repairing,
4 cleaning, altering, or improving an anaerobic digester, or to sales
5 of tangible personal property that becomes an ingredient or component
6 of the anaerobic digester. The anaerobic digester must be used
7 primarily to treat livestock manure.

8 (2)(a) The department of revenue must provide an exemption
9 certificate to an eligible person upon application by that person.
10 The application must be in a form and manner prescribed by the
11 department and must contain information regarding the location of the
12 facility and other information as the department may require.

13 (b) A person claiming an exemption under this section must keep
14 records necessary for the department to verify eligibility under this
15 section. The exemption is available only when the buyer provides the
16 seller with an exemption certificate in a form and manner prescribed
17 by the department. The seller must retain a copy of the certificate
18 for the seller's files.

19 (3) The definitions in this subsection apply to this section and
20 RCW 82.12.900 unless the context clearly requires otherwise:

21 (a) "Anaerobic digester" means a facility that processes manure
22 from livestock into biogas and dried manure using microorganisms in a
23 decomposition process within a closed, oxygen-free container.

24 (b) "Eligible person" means any person establishing or operating
25 an anaerobic digester to treat primarily livestock manure who
26 complies with the requirements of RCW 39.04.320.

27 (c) "Primarily" means more than fifty percent measured by volume
28 or weight.

29 **Sec. 10.** RCW 82.08.955 and 2007 c 309 s 4 are each amended to
30 read as follows:

31 (1) The tax levied by RCW 82.08.020 does not apply to sales of
32 machinery and equipment, or to services rendered in respect to
33 constructing structures, installing, constructing, repairing,
34 cleaning, decorating, altering, or improving of structures or
35 machinery and equipment, or to sales of tangible personal property
36 that becomes an ingredient or component of structures or machinery
37 and equipment, if the machinery, equipment, or structure is used
38 directly for the retail sale of a biodiesel blend or E85 motor fuel.
39 Structures and machinery and equipment that are used for the retail

1 sale of a biodiesel blend or E85 motor fuel and for other purposes
2 are exempt only on the portion used directly for the retail sale of a
3 biodiesel blend or E85 motor fuel.

4 (2) The tax levied by RCW 82.08.020 does not apply to sales of
5 fuel delivery vehicles or to sales of or charges made for labor and
6 services rendered in respect to installing, repairing, cleaning,
7 altering, or improving the vehicles including repair parts and
8 replacement parts if at least seventy-five percent of the fuel
9 distributed by the vehicles is a biodiesel blend or E85 motor fuel.

10 (3) A person taking the exemption under this section must keep
11 records necessary for the department to verify eligibility under this
12 section and comply with the requirements of RCW 39.04.320. The
13 exemption is available only when the buyer provides the seller with
14 an exemption certificate in a form and manner prescribed by the
15 department. The seller shall retain a copy of the certificate for the
16 seller's files.

17 (4) For the purposes of this section, the definitions in RCW
18 82.04.4334 and this subsection apply.

19 (a) "Biodiesel blend" means fuel that contains at least twenty
20 percent biodiesel fuel by volume.

21 (b) "E85 motor fuel" means an alternative fuel that is a blend of
22 ethanol and hydrocarbon of which the ethanol portion is nominally
23 seventy-five to eighty-five percent denatured fuel ethanol by volume
24 that complies with the most recent version of American society of
25 testing and materials specification D 5798.

26 (c) "Machinery and equipment" means industrial fixtures, devices,
27 and support facilities and tangible personal property that becomes an
28 ingredient or component thereof, including repair parts and
29 replacement parts that are integral and necessary for the delivery of
30 biodiesel blends or E85 motor fuel into the fuel tank of a motor
31 vehicle.

32 (5) This section expires July 1, 2015.

33 **Sec. 11.** RCW 82.12.955 and 2007 c 309 s 5 are each amended to
34 read as follows:

35 (1) The provisions of this chapter do not apply in respect to the
36 use of machinery and equipment, or to services rendered in respect to
37 installing, repairing, cleaning, altering, or improving of eligible
38 machinery and equipment, or tangible personal property that becomes

1 an ingredient or component of machinery and equipment used directly
2 for the retail sale of a biodiesel or E85 motor fuel.

3 (2) The provisions of this chapter do not apply in respect to the
4 use of fuel delivery vehicles including repair parts and replacement
5 parts and to services rendered in respect to installing, repairing,
6 cleaning, altering, or improving the vehicles if at least seventy-
7 five percent of the fuel distributed by the vehicles is a biodiesel
8 or E85 motor fuel.

9 (3) A person taking the exemption under this section must comply
10 with the requirements of RCW 39.04.320.

11 (4) For the purposes of this section, the definitions in RCW
12 82.04.4334 and 82.08.955 apply.

13 ((4)) (5) This section expires July 1, 2015.

--- END ---