

2 **SHB 3099 - H AMD 938 BEYOND OBJECT OF BILL 2-17-98**  
3 By Representative Morris

4

5 On page 3, after line 11, insert the following:

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

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

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

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

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

21 (d) "Employment position" means a position in which a permanent  
22 full-time employee is employed in a project during the entire tax year.  
23 "The entire tax year" means the full-time position is filled for a  
24 period of twelve consecutive months. "Full-time" means at least  
25 thirty-five hours a week.

26 (e) "Equipping and operating" means the acquisition of tangible  
27 personal property for use at the manufacturing operation complex, and  
28 includes labor and services rendered in respect to the installation of  
29 tangible personal property.

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

33 (g) "Manufacturing operation complex" means the buildings,  
34 structures, and improvements located at the site where the  
35 manufacturing activity occurs. The complex includes the buildings,  
36 structures, and improvements used to receive, store, and ship raw

1 materials and finished products as well as buildings, structures, and  
2 improvements used for the manufacturing production line. In addition,  
3 the term includes all administrative offices, employee support  
4 facilities, and production support facilities located at the site. The  
5 manufacturing operation complex does not include buildings, structures,  
6 and improvements located off of the site.

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

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

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

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

15 (l) "Site preparation" means demolition of existing improvements,  
16 environmental remediation, earth moving, land clearing, site  
17 excavation, and shoring, and includes labor and services rendered in  
18 respect to site preparation.

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

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

24 (b) The business must commit to an investment, by the time of  
25 completion of the project, in land, structures, and equipment, the  
26 value of which must be at least four percent of the total of the  
27 equalized assessed value in the county in which the project is located.  
28 The total equalized assessed value in the county is as published  
29 annually by the department in accordance with RCW 84.48.080.  
30 Continuing eligibility is conditioned on this investment having  
31 actually occurred;

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

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

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

7 (d) The business must commit to and must pay an average wage of at  
8 least one hundred fifty percent of the average wage in the county. The  
9 employment security department shall determine the average wage in the  
10 county and shall report this amount to the department of community,  
11 trade, and economic development; and

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

16 (3)(a) The department of community, trade, and economic development  
17 shall determine the eligibility of a business and certify eligibility  
18 to the department of revenue.

19 (b) Approval of the project by a public vote of the governing body  
20 of the county or city in which the project is located is a precondition  
21 to deferral certification by the department of revenue. If the county  
22 or city approves the project, the county or city shall send a written  
23 notification of the approval to the department of revenue. If the  
24 project is in two jurisdictions, both jurisdictions must approve the  
25 project.

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

29 (4) In addition to the initial certification under subsection (3)  
30 of this section, the project must be reviewed by the department of  
31 community, trade, and economic development each year for continuing  
32 eligibility. The business shall provide an annual report to the  
33 department of community, trade, and economic development, in a form as  
34 required by the department, of its status relative to the eligibility  
35 criteria under subsection (2) of this section. The department of  
36 community, trade, and economic development shall review the annual  
37 report and determine whether the project continues to meet the  
38 eligibility criteria. The department of community, trade, and economic  
39 development shall provide a written notice of this determination to the

1 business and to the department of revenue. Annual reapproval by the  
2 county or city in which the project is located is not required. If the  
3 project fails to meet the eligibility criteria the amount of taxes  
4 deferred under sections 3 and 4 of this act are immediately due.

5 (5) Taxes deferred under sections 3 and 4 of this act need not be  
6 repaid if the project maintains its eligibility criteria for a fifteen-  
7 year period. The fifteen-year period begins when the deferral  
8 certificate is sent under subsection (3)(c) of this section by the  
9 department of revenue to the business.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36        The tax authorized pursuant to this section shall be in addition to  
37 the tax authorized by RCW 82.14.030 and shall be collected from those

1 persons who are taxable by the state pursuant to chapters 82.08 and  
2 82.12 RCW upon the occurrence of any taxable event within the taxing  
3 district. The maximum rate of such tax shall be approved by the voters  
4 and shall not exceed one percent of the selling price (in the case of  
5 a sales tax) or value of the article used (in the case of a use tax).  
6 The maximum rate of such tax that may be imposed shall not exceed  
7 nine-tenths of one percent in any county that imposes a tax under RCW  
8 82.14.340, or within a regional transit authority if any county within  
9 the authority imposes a tax under RCW 82.14.340. The exemptions in RCW  
10 82.08.820 and 82.12.820 are for the state portion of the sales and use  
11 tax and do not extend to the tax authorized in this section.

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

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

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

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

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

1 annually that is directly created in an eligible business. For an  
2 application approved on or after July 1, 1997, the credit shall equal  
3 two thousand dollars for each qualified employment position with wages  
4 and benefits less than or equal to forty thousand dollars annually that  
5 is directly created in an eligible business.

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

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

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

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

35 NEW SECTION. Sec. 9. (1) All real and personal property belonging  
36 to a business and used in connection with a project that qualifies  
37 under this chapter is exempt from ad valorem property taxation for  
38 fifteen successive years from completion of construction and

1 certification of the project, as determined under section 2 of this  
2 act.

3 (2) The exemption does not include real or personal property  
4 acquired or constructed prior to the approval of the application  
5 prescribed in this chapter. The exemption provided by this chapter is  
6 in addition to any other incentives, tax credits, or grants provided by  
7 law.

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

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

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

20 (1) The applicant shall apply to the department on forms prepared  
21 by the department. The application for exemption must contain the  
22 following:

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

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

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

32 (3) The department may permit the applicant to revise an  
33 application for exemption before final action on the application is  
34 taken by the department.

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

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

4 (2) The applicant has complied with all requirements under this  
5 chapter;

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

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

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

15 (2) If the application for exemption is approved, the department  
16 shall issue the applicant a conditional certificate of tax exemption.  
17 The certificate must contain a statement by a duly authorized  
18 administrative official of the department that the applicant has  
19 complied with the requirements of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (a) A certification by the owner that the use of the property has  
12 not changed since the date the certificate was approved by the  
13 department; and

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

16 (2) The department of community, trade, and economic development  
17 shall annually determine whether the business meets the requirements of  
18 this chapter and shall annually report this determination to the  
19 department of revenue.

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

33 (a) Additional property tax must be imposed upon the property in  
34 the amount that would normally be imposed, plus a penalty amounting to  
35 twenty percent of the additional tax. This additional tax is  
36 calculated based upon the difference between the property tax paid and  
37 the amount of property tax otherwise due and payable had the property

1 not been granted an exemption. The tax, together with penalty and  
2 interest, is due in accordance with RCW 84.56.020 the year following  
3 the year the property no longer qualifies for exemption;

4 (b) The tax must include interest upon the amount of additional tax  
5 at the same statutory rate charged on delinquent property taxes from  
6 the dates on which the additional tax could have been paid without  
7 penalty if the property had been assessed at a value without regard to  
8 this chapter; and

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

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

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

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

38 (1) As used in this section:

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

3 (b) "Private-sector business" or "business" means "person" as  
4 defined in RCW 82.04.030. "Private-sector business" does not include  
5 a public agency. "Public agency" means the state or its agencies,  
6 instrumentalities, or political subdivisions, or the United States or  
7 any instrumentality thereof, or an Indian tribe or nation; and

8 (c) "Public facilities" means bridges, roads, domestic and  
9 industrial water, sanitary sewer, storm sewer, railroad, electricity,  
10 natural gas, buildings or structures, and port facilities, in the state  
11 of Washington.

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

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

24 (a) A written certification is submitted by the board to the  
25 department, stating the applicant has been approved for a loan or grant  
26 under chapter 43.160 RCW. The tax credit applicant shall provide a  
27 written request to the board, requesting the board to provide such  
28 certification to the department;

29 (b) A written agreement is submitted to the department before the  
30 start of the public facility project, signed by the public agency  
31 responsible for the public facility and the business spending money on  
32 the public facility, establishing the financial obligations of the  
33 business and stating that the public facility is to be owned and  
34 controlled by the public agency;

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

1 (d) The business, in consultation with the public agency, provides  
2 a letter to the department establishing that the public facility will  
3 enable the business to create, retain, or expand jobs. The business  
4 making the expenditures must be the same business upon which the job  
5 criteria is based. A business may not use the jobs upon which an  
6 earlier project was based to justify additional projects for which the  
7 business is applying for tax credits.

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

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

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

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

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

32 (7) Tax credits shall not be granted for spending that occurred  
33 before the effective date of this section. Applicants are not eligible  
34 based on a loan or grant approved before the effective date of this  
35 section.

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

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

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

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

13 NEW SECTION. **Sec. 19.** It is the intent of the legislature to  
14 promote the creation and the retention of jobs. To that end section  
15 20, chapter . . ., Laws of 1998 (section 20 of this act) allows  
16 counties to provide public facilities that will attract and retain  
17 businesses, thereby creating and maintaining jobs.

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

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

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

33 (3) Moneys collected under this section shall only be used for the  
34 purpose of financing qualifying public facilities in rural counties.  
35 The public facility must be listed as an item in the economic  
36 development section of the comprehensive plan for those counties

1 planning under RCW 36.70A.040, or, for those counties who do not plan  
2 under the growth management act, the public facility must be listed in  
3 the county's capital facilities plan. For the purposes of this  
4 section, "public facilities" means bridges, roads, domestic and  
5 industrial water, sanitary sewer, storm sewer, railroad, electricity,  
6 natural gas, buildings or structures, and port facilities, in the state  
7 of Washington.

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

12 (5) For purposes of this section, "distressed county" means a  
13 county in which the average level of unemployment for the three years  
14 before the year in which a tax is first imposed under this section  
15 exceeds the average state ((employment)) unemployment for those years  
16 by twenty percent.

17 NEW SECTION. Sec. 21. Sections 9 through 16 of this act  
18 constitute a new chapter in Title 84 RCW.

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

23 NEW SECTION. Sec. 23. This act takes effect July 1, 1998."

24 Correct the title.

25 EFFECT: Provides for additional industrial development by making  
26 available certain tax benefits for manufacturing projects locating in  
27 distressed counties; allowing a credit against B&O taxes for private  
28 funds spent on public facilities; and allowing distressed counties  
29 additional sales taxes for economic development related public  
30 facilities.

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