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HOUSE BILL 1481

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State of Washington

56th Legislature

1999 Regular Session

By Representatives Anderson, Van Luven, Morris, Kessler, Hatfield, Murray, Lantz, Kenney and McIntire; by request of Governor Locke

Read first time 01/26/1999. Referred to Committee on Economic Development, Housing & Trade.

1 AN ACT Relating to providing excise tax incentives for persons  
2 engaged in software technology businesses in distressed counties;  
3 adding a new section to chapter 82.04 RCW; adding a new section to  
4 chapter 82.62 RCW; creating a new section; providing an effective date;  
5 and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** It is the intent of the legislature to  
8 attract and retain technology-based businesses in distressed counties.  
9 This act provides a tax incentive to those businesses that develop or  
10 manufacture software in distressed counties. Encouragement of these  
11 types of business will stimulate the information technology industry  
12 and be of benefit to the state economy in general. To further the  
13 impact and benefit of this program, this incentive is limited to those  
14 counties of the state that are characterized by unemployment or low  
15 income. The legislature finds that providing this targeted incentive  
16 will both increase its effectiveness and create a high technology work  
17 force in distressed counties.

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

3        (1) Subject to the limits and provisions of this section, a credit  
4 is authorized against the tax otherwise due under this chapter for  
5 persons engaged in a distressed county in the business of manufacturing  
6 or programming of software, as those terms are defined in this section.

7        (2) A person who partially or totally relocates a business from one  
8 distressed county to another distressed county is eligible for any  
9 qualifying new jobs created as a result of the relocation but is not  
10 eligible to receive credit for the jobs moved from one county to the  
11 other.

12        (3)(a) To qualify for the credit, the qualifying activity of the  
13 person must be conducted in a distressed county and the qualified  
14 employment position must be located in the distressed county.

15        (b) If an activity is conducted both from a distressed county and  
16 outside of a distressed county, the credit is available if at least  
17 ninety percent of the qualifying activity takes place within a  
18 distressed county. If the qualifying activity is a service taxable  
19 activity, the place where the work is performed is the place at which  
20 the activity is conducted.

21        (4)(a) The credit under this section shall equal one thousand  
22 dollars for each qualified employment position created after July 1,  
23 1999, in an eligible area. A credit is earned for the calendar year  
24 the person is hired to fill the position. Additionally a credit is  
25 earned for each year the position is maintained over the subsequent  
26 consecutive years, up to six years. The county must meet the  
27 definition of a distressed county at the time the position is filled.  
28 If the county does not have a distressed county status the following  
29 year or years, the position is still eligible for the remaining years  
30 if all other conditions are met.

31        (b) Credit may not be taken for hiring of persons into positions  
32 that exist before July 1, 1999. Credit is authorized for new employees  
33 hired for new positions created on or after July 1, 1999. New  
34 positions filled by existing employees are eligible for the credit  
35 under this section only if the position vacated by the existing  
36 employee is filled by a new hire. A business that is a sole  
37 proprietorship without any employees is equivalent to one employee  
38 position and this type of business is eligible to receive credit for  
39 one position.

1 (c) If a position is filled before July 1st, this position is  
2 eligible for the full yearly credit. If it is filled after June 30th,  
3 this position is eligible for half of the credit.

4 (d) A person that has engaged in qualifying activities in the  
5 distressed county before the effective date of this section qualifies  
6 for the credit under this section for positions created and filled  
7 after the effective date of this section.

8 (5) No application is necessary for the tax credit. The person  
9 must keep records necessary for the department to verify eligibility  
10 under this section. This information includes information relating to  
11 description of qualifying activity engaged in the distressed county and  
12 outside the distressed county by the person as well as detailed records  
13 on positions and employees. The department shall, in consultation with  
14 a representative group of affected taxpayers, develop a method of  
15 segregating activity and related income so that those persons who  
16 engage in multiple activities can determine eligibility for credit  
17 under this section.

18 (6) If at any time the department finds that a person is not  
19 eligible for tax credit under this section, the amount of taxes for  
20 which a credit has been claimed shall be immediately due. The  
21 department shall assess interest, but not penalties, on the taxes for  
22 which the person is not eligible. The interest shall be assessed at  
23 the rate provided for delinquent excise taxes under chapter 82.32 RCW,  
24 shall be assessed retroactively to the date the tax credit was taken,  
25 and shall accrue until the taxes for which a credit has been used are  
26 repaid.

27 (7) The credit under this section may be used against any tax due  
28 under this chapter, but in no case may a credit earned during one  
29 calendar year be carried over to be credited against taxes incurred in  
30 a subsequent calendar year. A person is not eligible to receive a  
31 credit under this section if the person is receiving credit for the  
32 same position under chapter 82.62 RCW or RCW 82.04.44525. No refunds  
33 may be granted for credits under this section.

34 (8) County eligibility under this section shall be based on the  
35 same list as published by the department under chapter 82.60 RCW. The  
36 eligibility period is from July 1st of each year to June 30th of the  
37 next year.

38 (9) A person taking tax credits under this section shall make an  
39 annual report to the department. The report shall be in a letter form

1 and shall include the following information: Number of positions for  
2 which credit is being claimed, type of position for which credit is  
3 being claimed, type of activity in which the person is engaged in the  
4 county, and how long the person has been located in the county. The  
5 report must be filed by January 30th of each year for which credit was  
6 claimed during the previous year.

7 (10) Transfer of ownership does not affect credit eligibility;  
8 however, the credit is available to the successor for remaining periods  
9 in the seven years only if the eligibility conditions of this section  
10 are met.

11 (11) As used in this section:

12 (a) "Distressed county" means either (i) a county in which the  
13 average level of unemployment for the previous three years exceeds the  
14 average state unemployment for those years by twenty percent or (ii) a  
15 county that has a median household income that is less than seventy-  
16 five percent of the state median household income for the previous  
17 three years.

18 (b) "Manufacturing" means the same as "to manufacture" under RCW  
19 82.04.120. Manufacturing includes the activities of both manufacturers  
20 and processors for hire.

21 (c) "Programming" means the activities that involve the creation or  
22 modification of software, as that term is defined in this chapter, and  
23 that are taxable as "service and other" under RCW 82.04.290(2) or  
24 retail under RCW 82.04.050.

25 (d) "Qualifying activity" means manufacturing or programming of  
26 software.

27 (e) "Qualified employment position" means a permanent full-time  
28 position doing programming of software or manufacturing of software.  
29 This excludes administrative, professional, service, executive, and  
30 other similar positions. If an employee is either voluntarily or  
31 involuntarily separated from employment, the employment position is  
32 considered filled on a full-time basis if the employer is either  
33 training or actively recruiting a replacement employee. Full-time  
34 means a position for at least thirty-five hours a week.

35 (f) "Software" has the same meaning as defined in this chapter.

36 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.62 RCW  
37 to read as follows:

1       A person is not eligible to receive a credit under this chapter if  
2 the person is receiving credit for the same position under section 2 of  
3 this act or RCW 82.04.44525.

4       NEW SECTION.   **Sec. 4.** This act is necessary for the immediate  
5 preservation of the public peace, health, or safety, or support of the  
6 state government and its existing public institutions, and takes effect  
7 July 1, 1999.

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