
SENATE BILL 5393

State of Washington

63rd Legislature

2013 Regular Session

By Senators Keiser, Conway, Kohl-Welles, Hasegawa, Kline, McAuliffe, Cleveland, and Chase

Read first time 01/29/13. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to extending apprenticeship utilization
2 requirements; amending RCW 39.04.320, 82.60.025, 82.75.010, 82.82.010,
3 82.08.820, 82.08.900, 82.08.955, and 82.12.955; and reenacting and
4 amending RCW 82.63.010.

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

6 **Sec. 1.** RCW 39.04.320 and 2009 c 197 s 1 are each amended to read
7 as follows:

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

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

16 (ii) For contracts advertised for bid on or after July 1, 2007, and
17 before July 1, 2008, for all public works by the department of
18 transportation estimated to cost five million dollars or more, all

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

3 (iii) For contracts advertised for bid on or after July 1, 2008,
4 and before July 1, 2009, for all public works by the department of
5 transportation estimated to cost three million dollars or more, all
6 specifications shall require that no less than twelve percent of the
7 labor hours be performed by apprentices.

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

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

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

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

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

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

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

1 (iii) For contracts advertised for bid on or after January 1, 2012,
2 for all public works by a four-year institution of higher education
3 estimated to cost one million dollars or more, all specifications must
4 require that no less than fifteen percent of the labor hours be
5 performed by apprentices.

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

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

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

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

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

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

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

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

26 (4)(a) This section applies to public works contracts awarded by
27 the state, to public works contracts awarded by school districts, and
28 to public works contracts awarded by state four-year institutions of
29 higher education.

30 ~~((However,))~~ (b) This section also applies to all work,
31 construction, alterations, repairs, or improvements other than ordinary
32 maintenance that is subsidized by the public. Work is subsidized by
33 the public if:

34 (i) One or more parties to the contract received or will receive a
35 tax preference under chapter 82.60, 82.63, 82.75, or 82.82 RCW, or RCW
36 82.08.820, 82.08.900, 82.08.955, 82.12.900, or 82.12.955;

37 (ii) One or more parties to the contract received or will receive

1 a loan from the state or any county, municipality, or political
2 subdivision;

3 (iii) The work occurs on land that a party to the contract leases
4 from the state or any county, municipality, or political subdivision;
5 or

6 (iv) The work occurs on land that a party to the contract purchased
7 from the state or any county, municipality, or political subdivision
8 for less than fair market value as determined by the state, county,
9 municipality, or political subdivision at the time of the sale.

10 (c) This section does not apply to contracts awarded by state
11 agencies headed by a separately elected public official.

12 (5)(a) The department of (~~general administration~~) enterprise
13 services must provide information and technical assistance to affected
14 agencies and collect the following data from affected agencies for each
15 project covered by this section:

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

17 (ii) The name of each project;

18 (iii) The dollar value of each project;

19 (iv) The date of the contractor's notice to proceed;

20 (v) The number of apprentices and labor hours worked by them,
21 categorized by trade or craft;

22 (vi) The number of journey level workers and labor hours worked by
23 them, categorized by trade or craft; and

24 (vii) The number, type, and rationale for the exceptions granted
25 under subsection (2) of this section.

26 (b) The department of labor and industries shall assist the
27 department of (~~general administration~~) enterprise services in
28 providing information and technical assistance.

29 (6) The secretary of transportation shall establish an
30 apprenticeship utilization advisory committee, which shall include
31 statewide geographic representation and consist of equal numbers of
32 representatives of contractors and labor. The committee must include
33 at least one member representing contractor businesses with less than
34 thirty-five employees. The advisory committee shall meet regularly
35 with the secretary of transportation to discuss implementation of this
36 section by the department of transportation, including development of
37 the process to be used to adjust the requirements of this section for
38 a specific project. The committee shall provide a report to the

1 legislature by January 1, 2008, on the effects of the apprentice labor
2 requirement on transportation projects and on the availability of
3 apprentice labor and programs statewide.

4 (7) At the request of the senate labor, commerce, research and
5 development committee, the house of representatives commerce and labor
6 committee, or their successor committees, and the governor, the
7 department of (~~general administration~~) enterprise services and the
8 department of labor and industries shall compile and summarize the
9 agency data and provide a joint report to both committees. The report
10 shall include recommendations on modifications or improvements to the
11 apprentice utilization program and information on skill shortages in
12 each trade or craft.

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

15 The lessor or owner of a qualified building is not eligible for a
16 deferral unless:

17 (1) The lessor or owner complies with the requirements of RCW
18 39.04.320; and

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

21 (~~(+2)~~) (3)(a) The lessor by written contract agrees to pass the
22 economic benefit of the deferral to the lessee;

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

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

31 **Sec. 3.** RCW 82.63.010 and 2009 c 268 s 2 are each reenacted and
32 amended to read as follows:

33 Unless the context clearly requires otherwise, the definitions in
34 this section apply throughout this chapter.

35 (1) "Advanced computing" means technologies used in the designing

1 and developing of computing hardware and software, including
2 innovations in designing the full spectrum of hardware from hand-held
3 calculators to super computers, and peripheral equipment.

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

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

10 (4) "Biotechnology" means the application of technologies, such as
11 recombinant DNA techniques, biochemistry, molecular and cellular
12 biology, genetics and genetic engineering, cell fusion techniques, and
13 new bioprocesses, using living organisms, or parts of organisms, to
14 produce or modify products, to improve plants or animals, to develop
15 microorganisms for specific uses, to identify targets for small
16 molecule pharmaceutical development, or to transform biological systems
17 into useful processes and products or to develop microorganisms for
18 specific uses.

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

20 (6) "Electronic device technology" means technologies involving
21 microelectronics; semiconductors; electronic equipment and
22 instrumentation; radio frequency, microwave, and millimeter
23 electronics; optical and optic-electrical devices; and data and digital
24 communications and imaging devices.

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

30 (a) The lessor or owner complies with the requirements of RCW
31 39.04.320; and

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

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

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

1 (iii) The economic benefit of the deferral passed to the lessee is
2 no less than the amount of tax deferred by the lessor and is evidenced
3 by written documentation of any type of payment, credit, or other
4 financial arrangement between the lessor or owner of the qualified
5 building and the lessee.

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

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

12 (i) Construction of the qualified building, if the underlying
13 ownership of the building vests exclusively with the person receiving
14 the economic benefit of the deferral;

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

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

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

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

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

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

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

37 (13) "Pilot scale manufacturing" means design, construction, and
38 testing of preproduction prototypes and models in the fields of

1 biotechnology, advanced computing, electronic device technology,
2 advanced materials, and environmental technology other than for
3 commercial sale. As used in this subsection, "commercial sale"
4 excludes sales of prototypes or sales for market testing if the total
5 gross receipts from such sales of the product, service, or process do
6 not exceed one million dollars.

7 (14) "Qualified buildings" means construction of new structures,
8 and expansion or renovation of existing structures for the purpose of
9 increasing floor space or production capacity used for pilot scale
10 manufacturing or qualified research and development, including plant
11 offices and other facilities that are an essential or an integral part
12 of a structure used for pilot scale manufacturing or qualified research
13 and development. If a building or buildings are used partly for pilot
14 scale manufacturing or qualified research and development, and partly
15 for other purposes, the applicable tax deferral shall be determined by
16 apportionment of the costs of construction under rules adopted by the
17 department. Such rules may include provisions for determining the
18 amount of the deferral based on apportionment of costs of construction
19 of an investment project consisting of a building or multiple
20 buildings, where qualified research and development or pilot scale
21 manufacturing activities are shifted within a building or from one
22 building to another building.

23 (15) "Qualified machinery and equipment" means fixtures, equipment,
24 and support facilities that are an integral and necessary part of a
25 pilot scale manufacturing or qualified research and development
26 operation. "Qualified machinery and equipment" includes: Computers;
27 software; data processing equipment; laboratory equipment,
28 instrumentation, and other devices used in a process of experimentation
29 to develop a new or improved pilot model, plant process, product,
30 formula, invention, or similar property; manufacturing components such
31 as belts, pulleys, shafts, and moving parts; molds, tools, and dies;
32 vats, tanks, and fermenters; operating structures; and all other
33 equipment used to control, monitor, or operate the machinery. For
34 purposes of this chapter, qualified machinery and equipment must be
35 either new to the taxing jurisdiction of the state or new to the
36 certificate holder, except that used machinery and equipment may be
37 treated as qualified machinery and equipment if the certificate holder

1 either brings the machinery and equipment into Washington or makes a
2 retail purchase of the machinery and equipment in Washington or
3 elsewhere.

4 (16) "Qualified research and development" means research and
5 development performed within this state in the fields of advanced
6 computing, advanced materials, biotechnology, electronic device
7 technology, and environmental technology.

8 (17) "Recipient" means a person receiving a tax deferral under this
9 chapter.

10 (18) "Research and development" means activities performed to
11 discover technological information, and technical and nonroutine
12 activities concerned with translating technological information into
13 new or improved products, processes, techniques, formulas, inventions,
14 or software. The term includes exploration of a new use for an
15 existing drug, device, or biological product if the new use requires
16 separate licensing by the federal food and drug administration under
17 chapter 21, C.F.R., as amended. The term does not include adaptation
18 or duplication of existing products where the products are not
19 substantially improved by application of the technology, nor does the
20 term include surveys and studies, social science and humanities
21 research, market research or testing, quality control, sale promotion
22 and service, computer software developed for internal use, and research
23 in areas such as improved style, taste, and seasonal design.

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

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

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

30 (2) "Biotechnology" means a technology based on the science of
31 biology, microbiology, molecular biology, cellular biology,
32 biochemistry, or biophysics, or any combination of these, and includes,
33 but is not limited to, recombinant DNA techniques, genetics and genetic
34 engineering, cell fusion techniques, and new bioprocesses, using living
35 organisms, or parts of organisms.

36 (3) "Biotechnology product" means any virus, therapeutic serum,
37 antibody, protein, toxin, antitoxin, vaccine, blood, blood component or

1 derivative, allergenic product, or analogous product produced through
2 the application of biotechnology that is used in the prevention,
3 treatment, or cure of diseases or injuries to humans.

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

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

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

11 (i) The lessor or owner complies with the requirements of RCW
12 39.04.320; and

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

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

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

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

25 (6)(a) "Initiation of construction" means the date that a building
26 permit is issued under the building code adopted under RCW 19.27.031
27 for:

28 (i) Construction of the qualified building, if the underlying
29 ownership of the building vests exclusively with the person receiving
30 the economic benefit of the deferral;

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

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

37 (b) "Initiation of construction" does not include soil testing,

1 site clearing and grading, site preparation, or any other related
2 activities that are initiated before the issuance of a building permit
3 for the construction of the foundation of the building.

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

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

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

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

13 (b) Intended for use in the diagnosis of disease, or in the cure,
14 mitigation, treatment, or prevention of disease or other conditions in
15 human beings or other animals; or

16 (c) Intended to affect the structure or any function of the body of
17 human beings or other animals, and which does not achieve any of its
18 primary intended purposes through chemical action within or on the body
19 of human beings or other animals and which is not dependent upon being
20 metabolized for the achievement of any of its principal intended
21 purposes.

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

23 (10) "Qualified buildings" means construction of new structures,
24 and expansion or renovation of existing structures for the purpose of
25 increasing floor space or production capacity used for biotechnology
26 product manufacturing or medical device manufacturing activities,
27 including plant offices, commercial laboratories for process
28 development, quality assurance and quality control, and warehouses or
29 other facilities for the storage of raw material or finished goods if
30 the facilities are an essential or an integral part of a factory,
31 plant, or laboratory used for biotechnology product manufacturing or
32 medical device manufacturing. If a building is used partly for
33 biotechnology product manufacturing or medical device manufacturing and
34 partly for other purposes, the applicable tax deferral must be
35 determined by apportionment of the costs of construction under rules
36 adopted by the department.

37 (11) "Qualified machinery and equipment" means all new industrial
38 and research fixtures, equipment, and support facilities that are an

1 integral and necessary part of a biotechnology product manufacturing or
2 medical device manufacturing operation. "Qualified machinery and
3 equipment" includes: Computers; software; data processing equipment;
4 laboratory equipment; manufacturing components such as belts, pulleys,
5 shafts, and moving parts; molds, tools, and dies; operating structures;
6 and all equipment used to control or operate the machinery.

7 (12) "Recipient" means a person receiving a tax deferral under this
8 chapter.

9 **Sec. 5.** RCW 82.82.010 and 2008 c 15 s 1 are each amended to read
10 as follows:

11 The definitions in this section apply throughout this chapter
12 unless the context clearly requires otherwise.

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

15 (2) "Corporate headquarters" means a facility or facilities where
16 corporate staff employees are physically employed, and where the
17 majority of the company's management services are handled either on a
18 regional or a national basis. Company management services may include:
19 Accounts receivable and payable, accounting, data processing,
20 distribution management, employee benefit plan, financial and
21 securities accounting, information technology, insurance, legal,
22 merchandising, payroll, personnel, purchasing procurement, planning,
23 reporting and compliance, research and development, tax, treasury, or
24 other headquarters-related services. "Corporate headquarters" does not
25 include a facility or facilities used for manufacturing, wholesaling,
26 or warehousing.

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

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

30 (5)(a) "Eligible investment project" means an investment project in
31 a qualified building or buildings in an eligible area, as defined in
32 subsection (4) of this section, which will have employment at the
33 qualified building or buildings of at least three hundred employees in
34 qualified employment positions, each of whom must earn for the year
35 reported at least the average annual wage for the state for that year
36 as determined by the employment security department.

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

3 (i) The lessor or owner complies with the requirements of RCW
4 39.04.320; and

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

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

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

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

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

23 (7) "Manufacture" has the same meaning as provided in RCW
24 82.04.120.

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

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

29 (10) "Qualified building or buildings" means construction of a new
30 structure or structures or expansion of an existing structure or
31 structures to be used for corporate headquarters. If a building is
32 used partly for corporate headquarters and partly for other purposes,
33 the applicable tax deferral is determined by apportionment of the costs
34 of construction under rules adopted by the department.

35 (11) "Qualified employment position" means a permanent full-time
36 employee employed in the eligible investment project during the entire
37 tax year. The term "entire tax year" means a full-time position that

1 is filled for a period of twelve consecutive months. The term "full-
2 time" means at least thirty-five hours a week, four hundred fifty-five
3 hours a quarter, or one thousand eight hundred twenty hours a year.

4 (12) "Recipient" means a person receiving a tax deferral under this
5 chapter.

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

9 (14) "Wholesale sale" has the same meaning as provided in RCW
10 82.04.060.

11 **Sec. 6.** RCW 82.08.820 and 2011 c 174 s 206 are each amended to
12 read as follows:

13 (1) Wholesalers or third-party warehouseurs who own or operate
14 warehouses or grain elevators and retailers who own or operate
15 distribution centers, and who have paid the tax levied by RCW 82.08.020
16 on:

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

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

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

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

27 (b) "Construction" means the actual construction of a warehouse or
28 grain elevator that did not exist before the construction began.
29 "Construction" includes expansion if the expansion adds at least two
30 hundred thousand square feet of additional space to an existing
31 warehouse or additional storage capacity of at least one million
32 bushels to an existing grain elevator. "Construction" does not include
33 renovation, remodeling, or repair;

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

35 (d) "Distribution center" means a warehouse that is used
36 exclusively by a retailer solely for the storage and distribution of

1 finished goods to retail outlets of the retailer. "Distribution
2 center" does not include a warehouse at which retail sales occur;

3 (e) "Finished goods" means tangible personal property intended for
4 sale by a retailer or wholesaler. "Finished goods" does not include
5 agricultural products stored by wholesalers, third-party warehouses, or
6 retailers if the storage takes place on the land of the person who
7 produced the agricultural product. "Finished goods" does not include
8 logs, minerals, petroleum, gas, or other extracted products stored as
9 raw materials or in bulk;

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

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

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

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

36 (j) "Square footage" means the product of the two horizontal
37 dimensions of each floor of a specific warehouse. The entire footprint
38 of the warehouse shall be measured in calculating the square footage,

1 including space that juts out from the building profile such as loading
2 docks. "Square footage" does not mean the aggregate of the square
3 footage of more than one warehouse at a location or the aggregate of
4 the square footage of warehouses at more than one location;

5 (k) "Third-party warehouser" means a person taxable under RCW
6 82.04.280(1)(d);

7 (l) "Warehouse" means an enclosed building or structure in which
8 finished goods are stored. A warehouse building or structure may have
9 more than one storage room and more than one floor. Office space,
10 lunchrooms, restrooms, and other space within the warehouse and
11 necessary for the operation of the warehouse are considered part of the
12 warehouse as are loading docks and other such space attached to the
13 building and used for handling of finished goods. Landscaping and
14 parking lots are not considered part of the warehouse. A storage yard
15 is not a warehouse, nor is a building in which manufacturing takes
16 place; and

17 (m) "Wholesaler" means a person who makes "sales at wholesale" as
18 defined in chapter 82.04 RCW of tangible personal property, but
19 "wholesaler" does not include a person who makes sales exempt under RCW
20 82.04.330.

21 (3)(a) A person claiming an exemption from state tax in the form of
22 a remittance under this section must pay the tax imposed by RCW
23 82.08.020. The buyer may then apply to the department for remittance
24 of all or part of the tax paid under RCW 82.08.020. For grain
25 elevators with bushel capacity of one million but less than two
26 million, the remittance is equal to fifty percent of the amount of tax
27 paid. For warehouses with square footage of two hundred thousand or
28 more and for grain elevators with bushel capacity of two million or
29 more, the remittance is equal to one hundred percent of the amount of
30 tax paid for qualifying construction, materials, service, and labor,
31 and fifty percent of the amount of tax paid for qualifying material-
32 handling equipment and racking equipment, and labor and services
33 rendered in respect to installing, repairing, cleaning, altering, or
34 improving the equipment.

35 (b) The department shall determine eligibility under this section
36 based on information provided by the buyer and through audit and other
37 administrative records. The buyer shall on a quarterly basis submit an
38 information sheet, in a form and manner as required by the department

1 by rule, specifying the amount of exempted tax claimed and the
2 qualifying purchases or acquisitions for which the exemption is
3 claimed. The buyer shall retain, in adequate detail to enable the
4 department to determine whether the equipment or construction meets the
5 criteria under this section: Invoices; proof of tax paid; documents
6 describing the material-handling equipment and racking equipment;
7 location and size of warehouses and grain elevators; and construction
8 invoices and documents.

9 (c) The department shall on a quarterly basis remit exempted
10 amounts to qualifying persons who submitted applications during the
11 previous quarter.

12 (4) Warehouses, grain elevators, and material-handling equipment
13 and racking equipment for which an exemption, credit, or deferral has
14 been or is being received under chapter 82.60, 82.62, or 82.63 RCW or
15 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance
16 under this section. Warehouses and grain elevators upon which
17 construction was initiated before May 20, 1997, are not eligible for a
18 remittance under this section.

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

21 (a) The lessor or owner complies with the requirements of RCW
22 39.04.320; and

23 (b) The underlying ownership of the warehouse or grain elevator and
24 the material-handling equipment and racking equipment vests exclusively
25 in the same person((~~7~~)); or ((~~unless~~))

26 (c) The lessor by written contract agrees to pass the economic
27 benefit of the remittance to the lessee in the form of reduced rent
28 payments.

29 **Sec. 7.** RCW 82.08.900 and 2006 c 151 s 4 are each amended to read
30 as follows:

31 (1) The tax levied by RCW 82.08.020 does not apply to sales to an
32 eligible person establishing or operating an anaerobic digester or to
33 services rendered in respect to installing, constructing, repairing,
34 cleaning, altering, or improving an anaerobic digester, or to sales of
35 tangible personal property that becomes an ingredient or component of
36 the anaerobic digester. The anaerobic digester must be used primarily
37 to treat livestock manure.

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

6 (b) A person claiming an exemption under this section must keep
7 records necessary for the department to verify eligibility under this
8 section. The exemption is available only when the buyer provides the
9 seller with an exemption certificate in a form and manner prescribed by
10 the department. The seller must retain a copy of the certificate for
11 the seller's files.

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

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

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

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

22 **Sec. 8.** RCW 82.08.955 and 2007 c 309 s 4 are each amended to read
23 as follows:

24 (1) The tax levied by RCW 82.08.020 does not apply to sales of
25 machinery and equipment, or to services rendered in respect to
26 constructing structures, installing, constructing, repairing, cleaning,
27 decorating, altering, or improving of structures or machinery and
28 equipment, or to sales of tangible personal property that becomes an
29 ingredient or component of structures or machinery and equipment, if
30 the machinery, equipment, or structure is used directly for the retail
31 sale of a biodiesel blend or E85 motor fuel. Structures and machinery
32 and equipment that are used for the retail sale of a biodiesel blend or
33 E85 motor fuel and for other purposes are exempt only on the portion
34 used directly for the retail sale of a biodiesel blend or E85 motor
35 fuel.

36 (2) The tax levied by RCW 82.08.020 does not apply to sales of fuel
37 delivery vehicles or to sales of or charges made for labor and services

1 rendered in respect to installing, repairing, cleaning, altering, or
2 improving the vehicles including repair parts and replacement parts if
3 at least seventy-five percent of the fuel distributed by the vehicles
4 is a biodiesel blend or E85 motor fuel.

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

12 (4) For the purposes of this section, the definitions in RCW
13 82.04.4334 and this subsection apply.

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

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

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

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

27 **Sec. 9.** RCW 82.12.955 and 2007 c 309 s 5 are each amended to read
28 as follows:

29 (1) The provisions of this chapter do not apply in respect to the
30 use of machinery and equipment, or to services rendered in respect to
31 installing, repairing, cleaning, altering, or improving of eligible
32 machinery and equipment, or tangible personal property that becomes an
33 ingredient or component of machinery and equipment used directly for
34 the retail sale of a biodiesel or E85 motor fuel.

35 (2) The provisions of this chapter do not apply in respect to the
36 use of fuel delivery vehicles including repair parts and replacement
37 parts and to services rendered in respect to installing, repairing,

1 cleaning, altering, or improving the vehicles if at least seventy-five
2 percent of the fuel distributed by the vehicles is a biodiesel or E85
3 motor fuel.

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

6 (4) For the purposes of this section, the definitions in RCW
7 82.04.4334 and 82.08.955 apply.

8 (~~(4)~~) (5) This section expires July 1, 2015.

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