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SENATE BILL 5816

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Hobbs, Harper, Pearson, and McAuliffe

Read first time 02/19/13. Referred to Committee on Trade & Economic Development.

1 AN ACT Relating to providing for property tax exemption for the  
2 value of new construction of industrial/manufacturing facilities in  
3 targeted urban areas; and adding a new chapter to Title 84 RCW.

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

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

6 (1) Many cities have planned under the growth management act,  
7 chapter 36.70A RCW, and designated and zoned lands for industrial and  
8 manufacturing use;

9 (2) The industrial and manufacturing industries provide family  
10 living wage jobs;

11 (3) In the current economic climate the creation of additional  
12 family living wage jobs is essential;

13 (4) It is critical that Washington state promote its continued  
14 strength in the fields of aerospace, technology, biomedical, and other  
15 industries that will provide family wage job growth; and

16 (5) Planning for industrial and manufacturing use is inadequate to  
17 attract new industry and manufacturing and an incentive should be  
18 created to stimulate the development of new industrial and

1 manufacturing uses in the existing inventory of lands zoned for  
2 industrial and manufacturing use in targeted urban areas through a tax  
3 incentive as provided by this chapter.

4 NEW SECTION. **Sec. 2.** It is the purpose of this chapter to  
5 encourage new manufacturing and industrial uses on undeveloped or  
6 underutilized lands zoned for industrial and manufacturing uses in  
7 targeted urban areas, thereby increasing employment opportunities for  
8 family living wage jobs. Cities that plan under the growth management  
9 act meeting the criteria of this chapter where the governing authority  
10 of the affected city has found there is insufficient family living wage  
11 jobs for its wage earning population may designate a portion of the  
12 city's industrial and manufacturing zoned and undeveloped land to  
13 receive an ad valorem tax exemption for the value of new construction  
14 of industrial/manufacturing facilities within the designated area.

15 NEW SECTION. **Sec. 3.** The definitions in this section apply  
16 throughout this chapter unless the context clearly requires otherwise.

17 (1) "City" means: (a) A city with a population of at least fifty  
18 thousand; or (b) the largest city or town, if there is no city or town  
19 with a population of at least fifty thousand, located in a county  
20 planning under the growth management act.

21 (2) "Family living wage job" means a job with a wage that is  
22 sufficient for raising a family. A family living wage job must have an  
23 average wage of eighteen dollars an hour or more, working two thousand  
24 eighty hours per year on the subject site, as adjusted annually for  
25 inflation by the consumer price index. The family living wage may be  
26 increased by the local authority based on regional factors and wage  
27 conditions.

28 (3) "Governing authority" means the local legislative authority of  
29 a city having jurisdiction over the property for which an exemption may  
30 be applied for under this chapter.

31 (4) "Growth management act" means chapter 36.70A RCW.

32 (5) "Industrial/manufacturing facilities" means building  
33 improvements that are ten thousand square feet or larger, representing  
34 a minimum improvement valuation of eight hundred thousand dollars for  
35 uses categorized as "division D: manufacturing" by the United States

1 department of labor in the occupation safety and health  
2 administration's standard industrial classification manual.

3 (6) "Lands zoned for industrial and manufacturing uses" means lands  
4 in a city zoned as of January 1, 2012, for an industrial or  
5 manufacturing use consistent with the city's comprehensive plan where  
6 the lands are designated for industry.

7 (7) "Owner" means the property owner of record.

8 (8) "Targeted area" means an area of undeveloped lands zoned for  
9 industrial and manufacturing uses in the city and designated for  
10 possible exemption under the provisions of this chapter.

11 (9) "Undeveloped or underutilized" means that there are no existing  
12 building improvements on the property or portions of the property  
13 targeted for new or expanded industrial or manufacturing uses.

14 NEW SECTION. **Sec. 4.** (1)(a) The value of new construction of  
15 industrial/manufacturing facilities qualifying under this chapter is  
16 exempt from property taxation under this title, as provided in this  
17 section. The value of new construction of industrial/manufacturing  
18 facilities is exempt from taxation for properties for which an  
19 application for a certificate of tax exemption is submitted under this  
20 chapter before December 31, 2020. The value is exempt under this  
21 section for ten successive years beginning January 1st of the year  
22 immediately following the calendar year of issuance of the certificate.

23 (b) The exemption provided in this section does not include the  
24 value of land or nonindustrial/manufacturing-related improvements not  
25 qualifying under this chapter.

26 (2) The exemption provided in this section is in addition to any  
27 other exemptions, deferrals, credits, grants, or other tax incentives  
28 provided by law.

29 (3) This chapter does not apply to state levies or increases in  
30 assessed valuation made by the assessor on nonqualifying portions of  
31 buildings and value of land nor to increases made by lawful order of a  
32 county board of equalization, the department of revenue, or a county,  
33 to a class of property throughout the county or specific area of the  
34 county to achieve the uniformity of assessment or appraisal required by  
35 law.

36 (4) At the conclusion of the exemption period, the new

1 industrial/manufacturing facilities cost must be considered as new  
2 construction for the purposes of chapter 84.55 RCW.

3 NEW SECTION. **Sec. 5.** An owner of property making application  
4 under this chapter must meet the following requirements:

5 (1) The new construction of industrial/manufacturing facilities  
6 must be located on land zoned for industrial and manufacturing uses,  
7 undeveloped or underutilized, and as provided in section 6 of this act,  
8 designated by the city as a targeted area;

9 (2) The new construction of industrial/manufacturing facilities  
10 must meet all construction and development regulations of the city;

11 (3) The new construction of industrial/manufacturing facilities  
12 must be completed within three years from the date of approval of the  
13 application; and

14 (4) The applicant must enter into a contract with the city approved  
15 by the governing authority, or an administrative official or commission  
16 authorized by the governing authority, under which the applicant has  
17 agreed to the implementation of the development on terms and conditions  
18 satisfactory to the governing authority.

19 NEW SECTION. **Sec. 6.** (1) The following criteria must be met  
20 before an area may be designated as a targeted area:

21 (a) The area must be lands zoned for industrial and manufacturing  
22 uses; and

23 (b) The city must have determined that the targeting of the area,  
24 as evaluated by the governing authority, will assist in the new  
25 construction of industrial/manufacturing facilities that will provide  
26 employment for family living wage jobs.

27 (2) For the purpose of designating a targeted area, the governing  
28 authority may adopt a resolution of intention to so designate an area  
29 as generally described in the resolution. The resolution must state  
30 the time and place of a hearing to be held by the governing authority  
31 to consider the designation of the area and may include such other  
32 information pertaining to the designation of the area as the governing  
33 authority determines to be appropriate to apprise the public of the  
34 action intended.

35 (3) The governing authority must give notice of a hearing held  
36 under this chapter by publication of the notice once each week for two

1 consecutive weeks, not less than seven days, nor more than thirty days  
2 before the date of the hearing in a paper having a general circulation  
3 in the city where the proposed targeted area is located. The notice  
4 must state the time, date, place, and purpose of the hearing and  
5 generally identify the area proposed to be designated as a targeted  
6 area.

7 (4) Following the hearing or a continuance of the hearing, and  
8 subject to the limit on targeted areas, the governing authority may  
9 designate all or a portion of the area described in the resolution of  
10 intent as a targeted area if it finds, in its sole discretion, that the  
11 criteria in subsection (1) of this section have been met.

12 NEW SECTION. **Sec. 7.** An owner of property seeking an exemption  
13 under this chapter must complete the following procedures:

14 (1) The owner must apply to the city on forms adopted by the  
15 governing authority. The application must contain the following:

16 (a) Information setting forth the grounds supporting the requested  
17 exemption including information indicated on the application form or in  
18 the guidelines;

19 (b) A description of the project and site plan, and other  
20 information requested;

21 (c) A statement of the expected number of new family living wage  
22 jobs to be created; and

23 (d) A statement that the applicant is aware of the potential tax  
24 liability involved when the property ceases to be eligible for the  
25 incentive provided under this chapter;

26 (2) The applicant must verify the application by oath or  
27 affirmation; and

28 (3) The application must be accompanied by the application fee, if  
29 any, required under this chapter. The governing authority may permit  
30 the applicant to revise an application before final action by the  
31 governing authority.

32 NEW SECTION. **Sec. 8.** The duly authorized administrative official  
33 or committee of the city may approve the application if it finds that:

34 (1) A minimum of twenty-five new family living wage jobs will be  
35 created on the subject site as a result of new construction of

1 manufacturing/industrial facilities within one year of building  
2 occupancy;

3 (2) The proposed project is, or will be, at the time of completion,  
4 in conformance with all local plans and regulations that apply at the  
5 time the application is approved; and

6 (3) The criteria of this chapter have been satisfied.

7 NEW SECTION. **Sec. 9.** (1) The city governing authority or its  
8 authorized representative must approve or deny an application filed  
9 under this chapter within ninety days after receipt of the application.

10 (2) If the application is approved, the city must issue the owner  
11 of the property a conditional certificate of acceptance of tax  
12 exemption. The certificate must contain a statement by a duly  
13 authorized administrative official of the governing authority that the  
14 property has complied with the required criteria of this chapter.

15 (3) If the application is denied by the city, the city must state  
16 in writing the reasons for denial and send the notice to the applicant  
17 at the applicant's last known address within ten days of the denial.

18 (4) Upon denial by the city, an applicant may appeal the denial to  
19 the city's governing authority within thirty days after receipt of the  
20 denial. The appeal before the city's governing authority must be based  
21 upon the record made before the city with the burden of proof on the  
22 applicant to show that there was no substantial evidence to support the  
23 city's decision. The decision of the city in denying or approving the  
24 application is final.

25 NEW SECTION. **Sec. 10.** The governing authority may establish an  
26 application fee. This fee may not exceed an amount determined to be  
27 required to cover the cost to be incurred by the governing authority  
28 and the assessor in administering this chapter. The application fee  
29 must be paid at the time the application for limited exemption is  
30 filed. If the application is approved, the governing authority of the  
31 city must pay the application fee to the county assessor for deposit in  
32 the county current expense fund, after first deducting that portion of  
33 the fee attributable to its own administrative costs in processing the  
34 application. If the application is denied, the city's governing  
35 authority may retain that portion of the application fee attributable

1 to its own administrative costs and refund the balance to the  
2 applicant.

3 NEW SECTION. **Sec. 11.** (1) Upon completion of the new construction  
4 of a manufacturing/industrial facility for which an application for an  
5 exemption under this chapter has been approved and issued a certificate  
6 of occupancy, the owner must file with the city the following:

7 (a) A description of the work that has been completed and a  
8 statement that the new construction on the owner's property qualify the  
9 property for a partial exemption under this chapter;

10 (b) A statement of the new family living wage jobs to be offered as  
11 a result of the new construction of manufacturing/industrial  
12 facilities; and

13 (c) A statement that the work has been completed within three years  
14 of the issuance of the conditional certificate of tax exemption.

15 (2) Within thirty days after receipt of the statements required  
16 under subsection (1) of this section, the city must determine whether  
17 the work completed and the jobs to be offered are consistent with the  
18 application and the contract approved by the city and whether the  
19 application is qualified for a tax exemption under this chapter.

20 (3) If the criteria of this chapter have been satisfied and the  
21 owner's property is qualified for a tax exemption under this chapter,  
22 the city must file the certificate of tax exemption with the county  
23 assessor within ten days of the expiration of the thirty-day period  
24 provided under subsection (2) of this section.

25 (4) The city must notify the applicant that a certificate of tax  
26 exemption is denied if the city determines that:

27 (a) The work was not completed within three years of the  
28 application date;

29 (b) The work was not constructed consistent with the application or  
30 other applicable requirements;

31 (c) The jobs to be offered are not consistent with the application  
32 and criteria of this chapter; or

33 (d) The owner's property is otherwise not qualified for an  
34 exemption under this chapter.

35 (5) If the city finds that the work was not completed within the  
36 required time period due to circumstances beyond the control of the  
37 owner and that the owner has been acting and could reasonably be

1 expected to act in good faith and with due diligence, the governing  
2 authority or the city official authorized by the governing authority  
3 may extend the deadline for completion of the work for a period not to  
4 exceed twenty-four consecutive months.

5 (6) The city's governing authority may enact an ordinance to  
6 provide a process for an owner to appeal a decision by the city that  
7 the owner is not entitled to a certificate of tax exemption to the  
8 city. The owner may appeal a decision by the city to deny a  
9 certificate of tax exemption in superior court under RCW 34.05.510  
10 through 34.05.598, if the appeal is filed within thirty days of  
11 notification by the city to the owner of the exemption denial.

12 NEW SECTION. **Sec. 12.** (1) Thirty days after the anniversary of  
13 the date of the certificate of tax exemption and each year for the tax  
14 exemption period, the owner of the new industrial/manufacturing  
15 facilities must file with a designated authorized representative of the  
16 city an annual report indicating the following:

17 (a) A statement of the family living wage jobs at the facility as  
18 of the anniversary date;

19 (b) A certification by the owner that the property has not changed  
20 use;

21 (c) A description of changes or improvements constructed after  
22 issuance of the certificate of tax exemption; and

23 (d) Any additional information requested by the city.

24 (2) A city that issues a certificate of tax exemption under this  
25 chapter must report annually by December 31st of each year, beginning  
26 in 2013, to the department of commerce. The report must include the  
27 following information:

28 (a) The number of tax exemption certificates granted;

29 (b) The total number and type of new manufacturing/industrial  
30 facilities constructed;

31 (c) The number of family living wage jobs resulting from the new  
32 manufacturing/industrial facilities; and

33 (d) The value of the tax exemption for each project receiving a tax  
34 exemption and the total value of tax exemptions granted.

35 NEW SECTION. **Sec. 13.** (1) If the value of improvements have been  
36 exempted under this chapter, the improvements continue to be exempted



1 for the applicable period under this chapter so long as they are not  
2 converted to another use and continue to satisfy all applicable  
3 conditions including, but not limited to, zoning, land use, building,  
4 and family wage job creation.

5 (2) If an owner voluntarily opts to discontinue compliance with the  
6 requirements of this chapter, the owner must notify the assessor within  
7 sixty days of the change in use or intended discontinuance.

8 (3) If, after a certificate of tax exemption has been filed with  
9 the county assessor, the city discovers that a portion of the property  
10 is changed or will be changed to disqualify the owner for exemption  
11 eligibility under this chapter, the tax exemption must be canceled and  
12 the following occurs:

13 (a) Additional real property tax must be imposed on the value of  
14 the nonqualifying improvements in the amount that would be imposed if  
15 an exemption had not been available under this chapter, plus a penalty  
16 equal to twenty percent of the additional value. This additional tax  
17 is calculated based upon the difference between the property tax paid  
18 and the property tax that would have been paid if it had included the  
19 value of the nonqualifying improvements dated back to the date that the  
20 improvements were converted to a nonqualifying use;

21 (b) The tax must include interest upon the amounts of the  
22 additional tax at the same statutory rate charged on delinquent  
23 property taxes from the dates on which the additional tax could have  
24 been paid without penalty if the improvements had been assessed at a  
25 value without regard to this chapter; and

26 (c) The additional tax owed together with interest and penalty  
27 becomes a lien on the property and attaches at the time the property or  
28 portion of the property is removed from the qualifying use under this  
29 chapter or the amenities no longer meet the applicable requirements for  
30 exemption under this chapter. A lien under this section has priority  
31 to, and must be fully paid and satisfied before, a recognizance,  
32 mortgage, judgment, debt, obligation, or responsibility to or with  
33 which the property may become charged or liable. The lien may be  
34 foreclosed upon expiration of the same period after delinquency and in  
35 the same manner provided by law for foreclosure of liens for delinquent  
36 real property taxes. An additional tax unpaid on its due date is  
37 delinquent. From the date of delinquency until paid, interest must be  
38 charged at the same rate applied by law to delinquent property taxes.

1 (4) Upon a determination that a tax exemption is to be terminated  
2 for a reason stated in this section, the city's governing authority  
3 must notify the record owner of the property as shown by the tax rolls  
4 by mail, return receipt requested, of the determination to terminate  
5 the exemption. The owner may appeal the determination to the city,  
6 within thirty days by filing a notice of appeal with the city, which  
7 notice must specify the factual and legal basis on which the  
8 determination of termination is alleged to be erroneous. At an appeal  
9 hearing, all affected parties may be heard and all competent evidence  
10 received. After the hearing, the deciding body or officer must either  
11 affirm, modify, or repeal the decision of termination of exemption  
12 based on the evidence received. An aggrieved party may appeal the  
13 decision of the deciding body or officer to the superior court as  
14 provided in RCW 34.05.510 through 34.05.598.

15 (5) Upon determination by the city to terminate an exemption, the  
16 county officials having possession of the assessment and tax rolls must  
17 correct the rolls in the manner provided for omitted property under RCW  
18 84.40.080. The county assessor must make such a valuation of the  
19 property and improvements as is necessary to permit the correction of  
20 the rolls. The value of the new industrial/manufacturing facilities  
21 added to the rolls is considered new construction for the purposes of  
22 chapter 84.40 RCW. The owner may appeal the valuation to the county  
23 board of equalization as provided in chapter 84.40 RCW. If there has  
24 been a failure to comply with this chapter, the property must be listed  
25 as an omitted assessment for assessment years beginning January 1st of  
26 the calendar year in which the noncompliance first occurred, but the  
27 listing as an omitted assessment may not be for a period more than  
28 three calendar years preceding the year in which the failure to comply  
29 was discovered.

30 NEW SECTION. **Sec. 14.** Sections 1 through 13 of this act  
31 constitute a new chapter in Title 84 RCW.

32 NEW SECTION. **Sec. 15.** If any provision of this act or its  
33 application to any person or circumstance is held invalid, the  
34 remainder of the act or the application of the provision to other

1 persons or circumstances is not affected.

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