
HOUSE BILL 1918

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Holm, Kessler, Jones, Flemming, Springer, Rayburn and Roland

Read first time 02/15/93. Referred to Committee on Trade, Economic Development & Housing.

1 AN ACT Relating to encouraging new business start-ups; amending RCW
2 82.60.020, 82.60.050, 82.61.040, 82.62.010, 82.62.030, and 82.62.040;
3 adding a new section to chapter 28B.50 RCW; adding new sections to
4 chapter 43.31 RCW; adding new sections to chapter 82.04 RCW; adding a
5 new section to chapter 84.36 RCW; adding a new section to chapter 51.16
6 RCW; creating a new section; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that new small
9 business start-ups are a vital part of Washington's economic
10 development and a critical source of jobs for Washington's citizens.
11 The legislature finds that start-up businesses face many obstacles in
12 their first few years, resulting in many business failures in the early
13 years of existence, and resulting in fewer start-ups because of the
14 discouragement these obstacles create in entrepreneurs. It is the
15 intent of this act to promote the creation and success of new small
16 businesses through entrepreneurial training, technical assistance, and
17 tax credits and deferrals.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.50 RCW
2 to read as follows:

3 The board, in consultation with the department of trade and
4 economic development and the small business development center, shall
5 develop seminars, courses, or other activities to promote development
6 of entrepreneurial skills among the general public.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.31 RCW
8 to read as follows:

9 The department, in consultation with the small business development
10 center, shall provide technical assistance to small business start-ups
11 in Washington state. This assistance shall include an effort to
12 provide a one-stop source for state assistance available to start-up
13 businesses. The department shall also identify, to the extent
14 practicable, new business opportunities for small business start-ups in
15 distressed areas.

16 **Sec. 4.** RCW 82.60.020 and 1988 c 42 s 16 are each amended to read
17 as follows:

18 Unless the context clearly requires otherwise, the definitions in
19 this section apply throughout this chapter.

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

22 (2) "Department" means the department of revenue.

23 (3) "Eligible area" means: (a) A county in which the average level
24 of unemployment for the three years before the year in which an
25 application is filed under this chapter exceeds the average state
26 unemployment for those years by twenty percent; or (b) a metropolitan
27 statistical area, as defined by the office of federal statistical
28 policy and standards, United States department of commerce, in which
29 the average level of unemployment for the calendar year immediately
30 preceding the year in which an application is filed under this chapter
31 exceeds the average state unemployment for such calendar year by twenty
32 percent. (~~Applications under this subsection (3)(b) shall be filed by~~
33 ~~April 30, 1989.~~)

34 (4)(a) "Eligible investment project" means that portion of an
35 investment project which:

1 (i) Is directly utilized to create at least one new full-time
2 qualified employment position for each three hundred thousand dollars
3 of investment on which a deferral is requested; and

4 (ii) Either initiates a new operation, or expands or diversifies a
5 current operation by expanding or renovating an existing building with
6 costs in excess of twenty-five percent of the true and fair value of
7 the plant complex prior to improvement; ~~((or))~~

8 (iii) Acquires machinery and equipment to be used for either
9 manufacturing or research and development if the machinery and
10 equipment is housed in a new leased structure(~~(:—PROVIDED, That)~~).
11 The lessor/owner of the structure is not eligible for a deferral unless
12 the underlying ownership of the buildings, machinery, and equipment
13 vests exclusively in the same person; or

14 (iv) Is a new business.

15 For the purposes of this subsection (4)(a)(iv) "new business" means
16 a person or company, as defined in RCW 82.04.030, located in this state
17 that first registered, or that was first legally required to register,
18 with the department within the five-year period preceding the year in
19 which application is made for a deferral under this chapter. For out-
20 of-state entities first engaging in business in this state, "new
21 business" means a person or company, as defined in RCW 82.04.030,
22 located outside this state that first registered, or that was first
23 legally required to register, for tax purposes with a state or federal
24 agency within the five-year period preceding the year in which
25 application is made for a deferral under this chapter. "New business"
26 does not include a preexisting person or company, as defined in RCW
27 82.04.030, that is restructured, reorganized, or sold, unless the
28 business to be conducted after restructuring, reorganization, or sale
29 is significantly different from the business previously conducted, or
30 businesses primarily engaged in retail trade or consumer service. "New
31 business" does not include the establishment of a new branch location
32 or other facility except by an existing out-of-state entity first doing
33 business in this state.

34 (b) "Eligible investment project" does not include any portion of
35 an investment project undertaken by a light and power business as
36 defined in RCW 82.16.010(5) or investment projects which have already
37 received deferrals under this chapter.

38 (5) "Investment project" means an investment in qualified buildings
39 and qualified machinery and equipment, including labor and services

1 rendered in the planning, installation, and construction of the
2 project.

3 (6) "Manufacturing" means all activities of a commercial or
4 industrial nature wherein labor or skill is applied, by hand or
5 machinery, to materials so that as a result thereof a new, different,
6 or useful substance or article of tangible personal property is
7 produced for sale or commercial or industrial use and shall include the
8 production or fabrication of specially made or custom made articles.
9 "Manufacturing" also includes computer programming, the production of
10 computer software, and other computer-related services, and the
11 activities performed by research and development laboratories and
12 commercial testing laboratories.

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

14 (8) "Qualified buildings" means new structures used for
15 manufacturing and research and development activities, including plant
16 offices and warehouses or other facilities for the storage of raw
17 material or finished goods if such facilities are an essential or an
18 integral part of a factory, mill, plant, or laboratory used for
19 manufacturing or research and development. If a building is used
20 partly for manufacturing or research and development and partly for
21 other purposes, the applicable tax deferral shall be determined by
22 apportionment of the costs of construction under rules adopted by the
23 department.

24 (9) "Qualified employment position" means a permanent full-time
25 employee employed in the eligible investment project during the entire
26 tax year.

27 (10) "Qualified machinery and equipment" means all new industrial
28 and research fixtures, equipment, and support facilities that are an
29 integral and necessary part of a manufacturing or research and
30 development operation. "Qualified machinery and equipment" includes:
31 Computers; software; data processing equipment; laboratory equipment;
32 manufacturing components such as belts, pulleys, shafts, and moving
33 parts; molds, tools, and dies; operating structures; and all equipment
34 used to control or operate the machinery.

35 (11) "Recipient" means a person receiving a tax deferral under this
36 chapter.

37 (12) "Research and development" means the development, refinement,
38 testing, marketing, and commercialization of a product, service, or
39 process before commercial sales have begun. As used in this

1 subsection, "commercial sales" excludes sales of prototypes or sales
2 for market testing if the total gross receipts from such sales of the
3 product, service, or process do not exceed one million dollars.

4 **Sec. 5.** RCW 82.60.050 and 1988 c 41 s 5 are each amended to read
5 as follows:

6 RCW 82.60.030 and 82.60.040 shall expire July 1, (~~(1994)~~) 2000.

7 **Sec. 6.** RCW 82.61.040 and 1988 c 41 s 2 are each amended to read
8 as follows:

9 RCW 82.61.020 and 82.61.030 shall expire July 1, (~~(1994)~~) 1993.

10 **Sec. 7.** RCW 82.62.010 and 1988 c 42 s 17 are each amended to read
11 as follows:

12 Unless the context clearly requires otherwise, the definitions in
13 this section apply throughout this chapter.

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

16 (2) "Department" means the department of revenue.

17 (3) "Eligible area" means: (a) 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; or (b) a metropolitan
21 statistical area, as defined by the office of federal statistical
22 policy and standards, United States department of commerce, in which
23 the average level of unemployment for the calendar year immediately
24 preceding the year in which an application is filed under this chapter
25 exceeds the average state unemployment for such calendar year by twenty
26 percent. (~~Applications under this subsection (3)(b) shall be filed by~~
27 ~~April 30, 1989.~~)

28 (4)(a) "Eligible business project" means manufacturing or research
29 and development activities which are conducted by an applicant in an
30 eligible area at a specific facility(~~(:—PROVIDED, That)~~). The
31 applicant's average full-time qualified employment positions at the
32 specific facility will be at least fifteen percent greater in the year
33 for which the credit is being sought than the applicant's average full-
34 time qualified employment positions at the same facility in the
35 immediately preceding year.

1 (b) "Eligible business project" does not include any portion of a
2 business project undertaken by a light and power business as defined in
3 RCW 82.16.010(5) or that portion of a business project creating
4 qualified full-time employment positions outside an eligible area or
5 those recipients of a sales tax deferral under chapter 82.61 RCW.

6 (5) "Manufacturing" means all activities of a commercial or
7 industrial nature wherein labor or skill is applied, by hand or
8 machinery, to materials so that as a result thereof a new, different,
9 or useful substance or article of tangible personal property is
10 produced for sale or commercial or industrial use and shall include the
11 production or fabrication of specially made or custom made articles.
12 "Manufacturing" also includes computer programming, the production of
13 computer software, and other computer-related services, and the
14 activities performed by research and development laboratories and
15 commercial testing laboratories.

16 (6) "Person" has the meaning given in RCW 82.04.030.

17 (7) "Qualified employment position" means a permanent full-time
18 employee employed in the eligible business project during the entire
19 tax year.

20 (8) "Tax year" means the calendar year in which taxes are due.

21 (9) "Recipient" means a person receiving tax credits under this
22 chapter.

23 (10) "Research and development" means the development, refinement,
24 testing, marketing, and commercialization of a product, service, or
25 process before commercial sales have begun. As used in this
26 subsection, "commercial sales" excludes sales of prototypes or sales
27 for market testing if the total gross receipts from such sales of the
28 product, service, or process do not exceed one million dollars.

29 **Sec. 8.** RCW 82.62.030 and 1986 c 116 s 17 are each amended to read
30 as follows:

31 (1) A person shall be allowed a credit against the tax due under
32 chapter 82.04 RCW of an amount equal to one thousand dollars for each
33 qualified employment position directly created in an eligible business
34 project or, where the applicant is a new business, the credit shall be
35 five thousand dollars for each qualified position directly created in
36 an eligible business project. For purposes of this subsection, "new
37 business" means a person or company, as defined in RCW 82.04.030,
38 located in this state that first registered, or that was first legally

1 required to register, with the department within the five-year period
2 preceding the year in which application is made for a credit under this
3 chapter. For out-of-state entities first engaging in business in this
4 state, "new business" means a person or company, as defined in RCW
5 82.04.030, located outside this state that first registered, or that
6 was first legally required to register, for tax purposes with a state
7 or federal agency within the five-year period preceding the year in
8 which application is made for a credit under this chapter. "New
9 business" does not include a preexisting person or company, as defined
10 in RCW 82.04.030, that is restructured, reorganized, or sold, unless
11 the business to be conducted after restructuring, reorganization, or
12 sale is significantly different from the business previously conducted,
13 or businesses primarily engaged in retail trade or consumer service.
14 "New business" does not include the establishment of a new branch
15 location or other facility except by an existing out-of-state entity
16 first doing business in this state.

17 (2) The department shall keep a running total of all credits
18 granted under this chapter during each fiscal biennium. The department
19 shall not allow any credits which would cause the tabulation for a
20 biennium to exceed fifteen million dollars. If all or part of an
21 application for credit is disallowed under this subsection, the
22 disallowed portion shall be carried over for approval the next
23 biennium. However, the applicant's carryover into the next biennium is
24 only permitted if the tabulation for the next biennium does not exceed
25 fifteen million dollars as of the date on which the department has
26 disallowed the application.

27 (3) No recipient is eligible for tax credits in excess of three
28 hundred thousand dollars.

29 (4) No recipient may use the tax credits to decertify a union or to
30 displace existing jobs in any community in the state.

31 (5) No recipient may receive a tax credit on taxes which have not
32 been paid during the taxable year.

33 **Sec. 9.** RCW 82.62.040 and 1988 c 41 s 4 are each amended to read
34 as follows:

35 RCW 82.62.020 and 82.62.030 shall expire July 1, (~~1994~~) 2000.

36 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.04 RCW
37 to read as follows:

1 (1) New businesses that have experienced a loss during any year of
2 their first five years of operation shall be allowed a credit for taxes
3 paid or payable, whichever are less, under this chapter. The amount of
4 allowable credit shall be the amount paid or payable in taxes under
5 this chapter by the new business for the year of the loss. The amount
6 of the credit shall not exceed the amount of the loss. Only those
7 taxes based on activities of the new business may be used as credits
8 under this section. Excess credits allowed under this section may be
9 carried over to successive years. No credit claimed under this section
10 may be deducted on a return until the claimed amount has been approved
11 by the department.

12 (2) For the purposes of this section:

13 (a) "Loss" means a loss as defined by rule by the department of
14 revenue, which rule will be based on the taxpayer's returns filed with
15 the Internal Revenue Service, as amended or corrected by audit if
16 applicable, and which are then adjusted by deleting amounts reported
17 relating to those business activities, other than interstate sales,
18 which are not taxable under this chapter by the state of Washington.
19 The following general principles for the calculation of profit or loss
20 from Internal Revenue Service forms, to be applied to all taxpayers
21 regardless of business form and in conjunction with the deletions for
22 activities not taxable under this chapter, shall be adopted by the
23 department by rule:

24 (i) For sole proprietorships, "loss" shall be based on the figure
25 reported to the Internal Revenue Service for net profit or loss, plus
26 depreciation or depletion, for the year by the proprietorship.

27 (ii) For partnerships, "loss" shall be based on the figure reported
28 to the Internal Revenue Service for total partnership ordinary income
29 or loss, plus depreciation, depletion, and guaranteed payments to
30 partners, for the year by the partnership.

31 (iii) For corporations, "loss" shall be based on the figure
32 reported to the Internal Revenue Service for taxable income or loss
33 before the application of net operating loss carryovers, plus
34 depreciation and compensation of officers, for the year by the
35 corporation.

36 If the loss reflects business activities in more than one state,
37 the loss shall be adjusted using the allocation formula in RCW
38 82.56.010, in accordance with the rules of the department, to determine

1 the portion allocable to activities taxable in Washington under this
2 chapter.

3 (b) "New business" means a person or company, as defined in RCW
4 82.04.030, located in this state that first registered, or that was
5 first legally required to register, with the department within the
6 five-year period preceding the year in which application is made for a
7 credit under this section. For out-of-state entities first engaging in
8 business in this state, "new business" means a person or company, as
9 defined in RCW 82.04.030, located outside this state that first
10 registered, or that was first legally required to register, for tax
11 purposes with a state or federal agency within the five-year period
12 preceding the year in which application is made for a credit under this
13 section; and

14 "New business" does not include a preexisting person or company, as
15 defined in RCW 82.04.030, that is restructured, reorganized, or sold,
16 unless the business to be conducted after restructuring,
17 reorganization, or sale is significantly different from the business
18 previously conducted. "New business" does not include the
19 establishment of a new branch location or other facility except by an
20 existing out-of-state entity first doing business in this state.

21 (c) "Year" means "taxable year" as defined by the Internal Revenue
22 Code, and includes only those federal reporting periods that are six
23 months or more.

24 NEW SECTION. Sec. 11. A new section is added to chapter 82.04 RCW
25 to read as follows:

26 The department shall adopt rules to implement section 10 of this
27 act including rules on the procedure to be followed and information to
28 be submitted to qualify for a credit under section 10 of this act. To
29 support the credit, copies of federal income tax returns as filed with
30 the Internal Revenue Service, and as thereafter amended, shall be
31 submitted as required by the department to determine the amount of the
32 credit sought to be taken. The returns shall include but not be
33 limited to individual, trust, partnership, or corporate returns.

34 NEW SECTION. Sec. 12. A new section is added to chapter 43.31 RCW
35 to read as follows:

36 State assistance to a business, including tax deferral, tax credit,
37 technical or financial assistance, or other business assistance

1 provided by the state or a local service provider with state or federal
2 funds may not be rendered, and no funds expended for the assistance,
3 until a business requesting the assistance has:

4 (1) Demonstrated that an employment position filled as a result of
5 state assistance will not displace a current employee and will be equal
6 to or greater than twice the minimum wage;

7 (2) Entered into a contractual agreement with the department that:

8 (a) Requires the business to:

9 (i) Provide a job description, a description of the skills
10 required, and a salary range to the department for each position made
11 available as a result of state assistance;

12 (ii) Interview a prospective employee from a list of the unemployed
13 supplied by the department;

14 (iii) Hire a qualified candidate on the list before hiring a
15 candidate not on the list; and

16 (iv) Cooperate in conducting training programs that may help the
17 unemployed qualify to be hired; and

18 (b) Requires the department to:

19 (i) Solicit lists of unemployed persons with skills appropriate to
20 each job description made available by a business requesting assistance
21 from the employment security department, local private industry
22 councils, local labor unions, and other employment or placement
23 agencies; and

24 (ii) Work with the employment security department, community and
25 technical colleges, and private industry councils to develop training
26 programs that may help unemployed persons qualify to be hired by the
27 business requesting state assistance.

28 The director shall adopt rules to carry out this section.

29 NEW SECTION. **Sec. 13.** A new section is added to chapter 84.36 RCW
30 to read as follows:

31 (1) New construction of or physical improvements to buildings on
32 real property where the real property owner is a new business and the
33 improvements to the real property are related to starting up the new
34 business shall be exempt from taxation for the three assessment years
35 subsequent to the completion of the improvements. A taxpayer desiring
36 to obtain the exemption granted by this section must file notice of his
37 or her intention to construct the improvements prior to the
38 improvements being made, on forms prescribed by the department of

1 revenue, and furnished to the taxpayer by the county assessor. This
2 exemption cannot be claimed more than once in a five-year period.

3 (2) For purposes of this section, "new business" means a person or
4 company, as defined in RCW 82.04.030, located in this state that first
5 registered, or that was first legally required to register, with the
6 department within the five-year period preceding the year in which
7 application is made for an exemption under this section. For out-of-
8 state entities first engaging in business in this state, "new business"
9 means a person or company, as defined in RCW 82.04.030, located outside
10 this state that first registered, or that was first legally required to
11 register, for tax purposes with a state or federal agency within the
12 five-year period preceding the year in which application is made for a
13 deferral under this chapter. "New business" does not include a
14 preexisting person or company, as defined in RCW 82.04.030, that is
15 restructured, reorganized, or sold, unless the business to be conducted
16 after restructuring, reorganization, or sale is significantly different
17 from the business previously conducted, or businesses primarily engaged
18 in retail trade or consumer service. "New business" does not include
19 the establishment of a new branch location or other facility except by
20 an existing out-of-state entity first doing business in this state.

21 (3) The department of revenue shall adopt rules as necessary and
22 convenient to properly administer the provisions of this section.

23 NEW SECTION. **Sec. 14.** A new section is added to chapter 51.16 RCW
24 to read as follows:

25 (1) New businesses shall be exempt from the premiums required under
26 RCW 51.16.035 for their first three years of operation. After the
27 first three years, the premiums the department establishes under RCW
28 51.16.035 shall apply to new businesses.

29 (2) For purposes of this section, "new business" means a person or
30 company, as defined in RCW 82.04.030, located in this state that first
31 registered, or that was first legally required to register, with the
32 department within the five-year period preceding the year in which
33 application is made for an exemption under this section. For out-of-
34 state entities first engaging in business in this state, "new business"
35 means a person or company, as defined in RCW 82.04.030, located outside
36 this state that first registered, or that was first legally required to
37 register, for tax purposes with a state or federal agency within the
38 five-year period preceding the year in which application is made for a

1 deferral under this chapter. "New business" does not include a
2 preexisting person or company, as defined in RCW 82.04.030, that is
3 restructured, reorganized, or sold, unless the business to be conducted
4 after restructuring, reorganization, or sale is significantly different
5 from the business previously conducted, or businesses primarily engaged
6 in retail trade or consumer service. "New business" does not include
7 the establishment of a new branch location or other facility except by
8 an existing out-of-state entity first doing business in this state.

9 (3) No exemptions shall be granted under this section after June
10 30, 2000.

11 NEW SECTION. **Sec. 15.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 16.** This act is necessary for the immediate
16 preservation of the public peace, health, or safety, or support of the
17 state government and its existing public institutions, and shall take
18 effect immediately.

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