
SECOND SUBSTITUTE SENATE BILL 6344

State of Washington

53rd Legislature

1994 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Snyder, Bluechel, Franklin, Spanel, Owen, Pelz, Hochstatter, Deccio, McAuliffe, Quigley, Hargrove, Sheldon, Sellar, McDonald, Winsley, Moyer and M. Rasmussen; by request of Governor Lowry)

Read first time 02/08/94.

1 AN ACT Relating to tax deferrals for investment projects in
2 distressed areas; amending RCW 82.60.020, 82.60.030, 82.60.040,
3 82.60.065, 82.60.070, and 82.60.050; and providing an effective date.

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

5 **Sec. 1.** RCW 82.60.020 and 1993 sp.s. c 25 s 403 are each amended
6 to read as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

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

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

12 (3) "Eligible area" means: (a) A county in which the average level
13 of unemployment for the three years before the year in which an
14 application is filed under this chapter exceeds the average state
15 unemployment for those years by twenty percent; (b) a metropolitan
16 statistical area, as defined by the office of federal statistical
17 policy and standards, United States department of commerce, in which
18 the average level of unemployment for the calendar year immediately
19 preceding the year in which an application is filed under this chapter

1 exceeds the average state unemployment for such calendar year by twenty
2 percent; or (c) a designated neighborhood reinvestment area approved
3 under RCW 43.63A.700.

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

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

9 (ii) Either initiates a new operation, or expands or diversifies a
10 current operation by expanding, equipping, or renovating an existing
11 (~~building~~) facility with costs in excess of twenty-five percent of
12 the true and fair value of the (~~plant complex~~) facility prior to
13 improvement(~~;~~ or

14 (~~iii~~) ~~Acquires machinery and equipment to be used for either~~
15 ~~manufacturing or research and development if the machinery and~~
16 ~~equipment is housed in a new leased structure~~). The lessor/owner of
17 (~~the structure~~) a qualified building is not eligible for a deferral
18 unless the underlying ownership of the buildings, machinery, and
19 equipment vests exclusively in the same person, or unless the lessor by
20 written contract agrees to pass the economic benefit of the deferral to
21 the lessee in the form of reduced rent payments.

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

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

30 (6) "Manufacturing" means all activities of a commercial or
31 industrial nature wherein labor or skill is applied, by hand or
32 machinery, to materials so that as a result thereof a new, different,
33 or useful substance or article of tangible personal property is
34 produced for sale or commercial or industrial use and shall include the
35 production or fabrication of specially made or custom made articles.
36 "Manufacturing" also includes computer programming, the production of
37 computer software, and other computer-related services, and the
38 activities performed by research and development laboratories and
39 commercial testing laboratories.

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

2 (8) "Qualified buildings" means ((new)) structures used for
3 manufacturing and research and development activities, including plant
4 offices and warehouses or other facilities for the storage of raw
5 material or finished goods if such facilities are an essential or an
6 integral part of a factory, mill, plant, or laboratory used for
7 manufacturing or research and development. If a building is used
8 partly for manufacturing or research and development and partly for
9 other purposes, the applicable tax deferral shall be determined by
10 apportionment of the costs of construction under rules adopted by the
11 department.

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

15 (10) "Qualified machinery and equipment" means all new industrial
16 and research fixtures, equipment, and support facilities that are an
17 integral and necessary part of a manufacturing or research and
18 development operation. "Qualified machinery and equipment" includes:
19 Computers; software; data processing equipment; laboratory equipment;
20 manufacturing components such as belts, pulleys, shafts, and moving
21 parts; molds, tools, and dies; operating structures; and all equipment
22 used to control or operate the machinery.

23 (11) "Recipient" means a person receiving a tax deferral under this
24 chapter.

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

31 **Sec. 2.** RCW 82.60.030 and 1985 c 232 s 3 are each amended to read
32 as follows:

33 Application for deferral of taxes under this chapter must be made
34 before initiation of the construction of the investment project or
35 acquisition of equipment or machinery. The application shall be made
36 to the department in a form and manner prescribed by the department.
37 The application shall contain information regarding the location of the
38 investment project, the applicant's average employment in the state for

1 the prior year, estimated or actual new employment related to the
2 project, estimated or actual wages of employees related to the project,
3 estimated or actual costs, time schedules for completion and operation,
4 and other information required by the department. The department shall
5 rule on the application within sixty days.

6 **Sec. 3.** RCW 82.60.040 and 1986 c 116 s 13 are each amended to read
7 as follows:

8 (1) The department shall issue a sales and use tax deferral
9 certificate for state and local sales and use taxes due under chapters
10 82.08, 82.12, and 82.14 RCW on each eligible investment project that:

11 (a) Is located in an eligible area;

12 (b) Is located in any county if seventy-five percent of the new
13 qualified employment positions are to be filled by residents of a
14 contiguous county which qualifies as an eligible area; or

15 (c) Is located in a county containing a designated neighborhood
16 reinvestment area approved under RCW 43.63A.700 if seventy-five percent
17 of the new qualified employment positions are to be filled by residents
18 of the neighborhood reinvestment area.

19 (2) A recipient of a tax deferral under subsection (1)(b) or (c) of
20 this section shall maintain the required percentage of qualified
21 employment positions filled by residents of the contiguous county or
22 neighborhood reinvestment area for three calendar years after the date
23 on which the department certifies the investment project as having been
24 operationally completed.

25 (3) The department shall keep a running total of all deferrals
26 granted under this chapter during each fiscal biennium.

27 **Sec. 4.** RCW 82.60.065 and 1986 c 116 s 14 are each amended to read
28 as follows:

29 ~~((Notwithstanding any other provision of this chapter,))~~ Except as
30 provided in RCW 82.60.070:

31 (1) Taxes deferred under this chapter on the sale or use of labor
32 that is directly used in the construction of an investment project for
33 which a deferral has been granted under this chapter after June 11,
34 1986, and prior to July 1, 1994, need not be repaid.

35 (2) Taxes deferred under this chapter on an investment project for
36 which a deferral has been granted under this chapter after June 30,
37 1994, need not be repaid.

1 **Sec. 5.** RCW 82.60.070 and 1985 c 232 s 6 are each amended to read
2 as follows:

3 (1) Each recipient shall submit a report to the department on
4 December 31st of each year during the repayment period until the tax
5 deferral is repaid. The report shall contain information, as required
6 by the department, from which the department may determine whether the
7 recipient is meeting the requirements of this chapter. If the
8 recipient fails to submit a report or submits an inadequate report, the
9 department may declare the amount of deferred taxes outstanding to be
10 immediately assessed and payable.

11 (2) If, on the basis of a report under this section or other
12 information, the department finds that an investment project is not
13 eligible for tax deferral under this chapter for reasons other than
14 failure to create the required number of qualified employment
15 positions, or that a recipient has failed to fill or maintain the
16 required percentage of qualified employment positions with residents of
17 the contiguous county or neighborhood reinvestment area, as required in
18 RCW 82.60.040(1)(b) or (c) or (2), the amount of deferred taxes
19 outstanding for the project shall be immediately due.

20 (3) If, on the basis of a report under this section or other
21 information, the department finds that an investment project has been
22 operationally complete for three years and has failed to create the
23 required number of qualified employment positions, the department shall
24 assess interest, but not penalties, on the deferred taxes for the
25 project. The interest shall be assessed at the rate provided for
26 delinquent excise taxes, shall be assessed retroactively to the date of
27 deferral, and shall accrue until the deferred taxes are repaid.

28 **Sec. 6.** RCW 82.60.050 and 1993 sp.s. c 25 s 404 are each amended
29 to read as follows:

30 RCW 82.60.030 and 82.60.040 shall expire July 1, (~~1998~~) 2004.

31 NEW SECTION. **Sec. 7.** This act shall take effect July 1, 1994.

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