

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2260

Chapter 311, Laws of 1999

56th Legislature
1999 Regular Session

TAX INCENTIVES--RURAL COUNTIES

EFFECTIVE DATE: 7/25/99 - Except section 501 which becomes effective on 5/14/99; and sections 1, 101, 201, 301 through 305, 401, 402, 601, 605 which become effective on 8/1/99.

Passed by the House April 24, 1999
Yeas 96 Nays 0

JOHN E. PENNINGTON, JR.
Speaker of the House of Representatives

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 23, 1999
Yeas 45 Nays 0

BRAD OWEN
President of the Senate

Approved May 14, 1999

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2260** as passed by the House of Representatives and the Senate on the dates hereon set forth.

DEAN R. FOSTER

Chief Clerk

TIMOTHY A. MARTIN

Chief Clerk

FILED

May 14, 1999 - 6:21 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2260

AS AMENDED BY THE SENATE

Passed Legislature - 1999 Regular Session

State of Washington

56th Legislature

1999 Regular Session

By House Committee on Finance (originally sponsored by Representatives Eickmeyer, Alexander, Mulliken, Kessler, McMorris, Grant, Parlette, Doumit, Clements, Linville, Mielke, Koster, DeBolt, Cox, Pennington, Dunn, Crouse, Sump, Ericksen, Voloria, Mastin, Hankins, Murray, Van Luven, Skinner, Schoesler, Hatfield, Conway, Kenney, Rockefeller, Thomas, Lantz, Barlean and Haigh)

Read first time 03/08/1999.

1 AN ACT Relating to tax incentives in rural counties; amending RCW
2 82.14.370 and 82.14.380; adding new sections to chapter 82.04 RCW;
3 adding a new section to chapter 82.62 RCW; adding a new section to
4 chapter 82.16 RCW; adding a new section to chapter 82.08 RCW; creating
5 new sections; repealing RCW 82.60.045 and 82.60.047; providing an
6 effective date; providing expiration dates; 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 while
9 Washington's economy is currently prospering, economic growth continues
10 to be uneven, particularly as between metropolitan and rural areas.
11 This has created in effect two Washingtons: One afflicted by
12 inadequate infrastructure to support and attract investment, another
13 suffering from congestion and soaring housing prices. In order to
14 address these problems, the legislature intends to use resources
15 strategically to build on our state's strengths while addressing
16 threats to our prosperity.

17 **PART I**

18 **LOCAL OPTION SALES AND USE TAX**

1 **Sec. 101.** RCW 82.14.370 and 1998 c 55 s 6 are each amended to read
2 as follows:

3 (1) The legislative authority of a (~~distressed~~) rural county may
4 impose a sales and use tax in accordance with the terms of this
5 chapter. The tax is in addition to other taxes authorized by law and
6 shall be collected from those persons who are taxable by the state
7 under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable
8 event within the county. The rate of tax shall not exceed (~~0.04~~)
9 0.08 percent of the selling price in the case of a sales tax or value
10 of the article used in the case of a use tax, except that for rural
11 counties with population densities between sixty and one hundred
12 persons per square mile, the rate shall not exceed 0.04 percent before
13 January 1, 2000.

14 (2) The tax imposed under subsection (1) of this section shall be
15 deducted from the amount of tax otherwise required to be collected or
16 paid over to the department of revenue under chapter 82.08 or 82.12
17 RCW. The department of revenue shall perform the collection of such
18 taxes on behalf of the county at no cost to the county.

19 (3) Moneys collected under this section shall only be used for the
20 purpose of financing public facilities in rural counties. The public
21 facility must be listed as an item in the officially adopted county
22 overall economic development plan, or the economic development section
23 of the county's comprehensive plan, or the comprehensive plan of a city
24 or town located within the county for those counties planning under RCW
25 36.70A.040. For those counties that do not have an adopted overall
26 economic development plan and do not plan under the growth management
27 act, the public facility must be listed in the county's capital
28 facilities plan or the capital facilities plan of a city or town
29 located within the county. In implementing this section, the county
30 shall consult with cities, towns, and port districts located within the
31 county. For the purposes of this section, "public facilities" means
32 bridges, roads, domestic and industrial water facilities, sanitary
33 sewer facilities, earth stabilization, storm sewer facilities,
34 railroad, electricity, natural gas, buildings, structures,
35 telecommunications infrastructure, transportation infrastructure, or
36 commercial infrastructure, and port facilities in the state of
37 Washington.

38 (4) No tax may be collected under this section before July 1, 1998.
39 No tax may be collected under this section by a county more than

1 twenty-five years after the date that a tax is first imposed under this
2 section.

3 (5) For purposes of this section, "~~((distressed))~~ rural county"
4 means a county (~~((in which the average level of unemployment for the~~
5 ~~three years before the year in which a tax is first imposed under this~~
6 ~~section exceeds the average state unemployment for those years by~~
7 ~~twenty percent))~~ with a population density of less than one hundred
8 persons per square mile as determined by the office of financial
9 management and published each year by the department for the period
10 July 1st to June 30th.

11 **PART II**

12 **DISTRESSED COUNTY ASSISTANCE ACCOUNT**

13 **Sec. 201.** RCW 82.14.380 and 1998 c 321 s 10 (Referendum Bill No.
14 49) are each amended to read as follows:

15 (1) The distressed county assistance account is created in the
16 state treasury. Into this account shall be placed a portion of all
17 motor vehicle excise tax receipts as provided in RCW 82.44.110. At
18 such times as distributions are made under RCW 82.44.150, the state
19 treasurer shall distribute the funds in the distressed county
20 assistance account to each county imposing the sales and use tax
21 authorized under RCW 82.14.370 as of January 1, 1999, in the same
22 proportions as distributions of the tax imposed under RCW 82.14.370 for
23 these counties for the previous quarter.

24 (2) Funds distributed from the distressed county assistance account
25 shall be expended by the counties for criminal justice and other
26 purposes.

27 **PART III**

28 **TECHNOLOGY-BASED BUSINESSES**

29 **Software**

30 NEW SECTION. **Sec. 301.** It is the intent of the legislature to
31 attract and retain technology-based businesses in rural counties.
32 Section 302 of this act provides a tax incentive to those businesses
33 that develop or manufacture software and hardware in rural counties.
34 Section 303 of this act provides a tax incentive to those businesses
35 that are engaged in the business of providing technical support

1 services from rural counties. Encouragement of these types of business
2 will stimulate the information technology industry and be of benefit to
3 the state economy in general. To further the impact and benefit of
4 this program, this incentive is limited to those counties of the state
5 that are characterized by unemployment or low income. The legislature
6 finds that providing this targeted incentive will both increase its
7 effectiveness and create a high technology work force in rural
8 counties.

9 NEW SECTION. **Sec. 302.** A new section is added to chapter 82.04
10 RCW to read as follows:

11 (1) Subject to the limits and provisions of this section, a credit
12 is authorized against the tax otherwise due under this chapter for
13 persons engaged in a rural county in the business of manufacturing
14 software or programming, as those terms are defined in this section.

15 (2) A person who partially or totally relocates a business from one
16 rural county to another rural county is eligible for any qualifying new
17 jobs created as a result of the relocation but is not eligible to
18 receive credit for the jobs moved from one county to the other.

19 (3)(a) To qualify for the credit, the qualifying activity of the
20 person must be conducted in a rural county and the qualified employment
21 position must be located in the rural county.

22 (b) If an activity is conducted both from a rural county and
23 outside of a rural county, the credit is available if at least ninety
24 percent of the qualifying activity takes place within a rural county.
25 If the qualifying activity is a service taxable activity, the place
26 where the work is performed is the place at which the activity is
27 conducted.

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

1 (b) Credit may not be taken for hiring of persons into positions
2 that exist before July 1, 1999. Credit is authorized for new employees
3 hired for new positions created on or after July 1, 1999. New
4 positions filled by existing employees are eligible for the credit
5 under this section only if the position vacated by the existing
6 employee is filled by a new hire. A business that is a sole
7 proprietorship without any employees is equivalent to one employee
8 position and this type of business is eligible to receive credit for
9 one position.

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

13 (d) A person that has engaged in qualifying activities in the rural
14 county before the effective date of this section qualifies for the
15 credit under this section for positions created and filled after the
16 effective date of this section.

17 (5) No application is necessary for the tax credit. The person
18 must keep records necessary for the department to verify eligibility
19 under this section. This information includes information relating to
20 description of qualifying activity engaged in the rural county and
21 outside the rural county by the person as well as detailed records on
22 positions and employees. The department shall, in consultation with a
23 representative group of affected taxpayers, develop a method of
24 segregating activity and related income so that those persons who
25 engage in multiple activities can determine eligibility for credit
26 under this section.

27 (6) If at any time the department finds that a person is not
28 eligible for tax credit under this section, the amount of taxes for
29 which a credit has been claimed shall be immediately due. The
30 department shall assess interest, but not penalties, on the taxes for
31 which the person is not eligible. The interest shall be assessed at
32 the rate provided for delinquent excise taxes under chapter 82.32 RCW,
33 shall be assessed retroactively to the date the tax credit was taken,
34 and shall accrue until the taxes for which a credit has been used are
35 repaid.

36 (7) The credit under this section may be used against any tax due
37 under this chapter, but in no case may a credit earned during one
38 calendar year be carried over to be credited against taxes incurred in
39 a subsequent calendar year. A person is not eligible to receive a

1 credit under this section if the person is receiving credit for the
2 same position under chapter 82.62 RCW or RCW 82.04.44525 or is taking
3 the credit under section 303 of this act. No refunds may be granted
4 for credits under this section.

5 (8) A person taking tax credits under this section shall make an
6 annual report to the department. The report shall be in a letter form
7 and shall include the following information: Number of positions for
8 which credit is being claimed, type of position for which credit is
9 being claimed, type of activity in which the person is engaged in the
10 county, and how long the person has been located in the county. The
11 report must be filed by January 30th of each year for which credit was
12 claimed during the previous year.

13 (9) Transfer of ownership does not affect credit eligibility;
14 however, the credit is available to the successor for remaining periods
15 in the five years only if the eligibility conditions of this section
16 are met.

17 (10) As used in this section:

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

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

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

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

35 (e) "Rural county" means a county with a population density of less
36 than one hundred persons per square mile as determined by the office of
37 financial management and published each year by the department for the
38 period July 1st to June 30th.

39 (f) "Software" has the same meaning as defined in RCW 82.04.215.

1 (11) No credit may be taken or accrued under this section on or
2 after January 1, 2004.

3 (12) This section expires December 31, 2003.

4 **Help Desk Services**

5 NEW SECTION. **Sec. 303.** A new section is added to chapter 82.04
6 RCW to read as follows:

7 (1) Subject to the limits and provisions of this section, a credit
8 is authorized against the tax otherwise due under this chapter for
9 persons engaged in a rural county in the business of providing
10 information technology help desk services to third parties.

11 (2) To qualify for the credit, the help desk services must be
12 conducted from a rural county.

13 (3) The amount of the tax credit for persons engaged in the
14 activity of providing information technology help desk services in
15 rural counties shall be equal to one hundred percent of the amount of
16 tax due under this chapter that is attributable to providing the
17 services from the rural county. In order to qualify for the credit
18 under this subsection, the county must meet the definition of rural
19 county at the time the person begins to conduct qualifying business in
20 the county.

21 (4) No application is necessary for the tax credit. The person
22 must keep records necessary for the department to verify eligibility
23 under this section. These records include information relating to
24 description of activity engaged in a rural county by the person.

25 (5) If at any time the department finds that a person is not
26 eligible for tax credit under this section, the amount of taxes for
27 which a credit has been used is immediately due. The department shall
28 assess interest, but not penalties, on the credited taxes for which the
29 person is not eligible. The interest shall be assessed at the rate
30 provided for delinquent excise taxes under chapter 82.32 RCW, shall be
31 assessed retroactively to the date the tax credit was taken, and shall
32 accrue until the taxes for which a credit has been used are repaid.

33 (6) The credit under this section may be used against any tax due
34 under this chapter, but in no case may a credit earned during one
35 calendar year be carried over to be credited against taxes incurred in
36 a subsequent calendar year. No refunds may be granted for credits
37 under this section.

1 (7) A person taking tax credits under this section shall make an
2 annual report to the department. The report shall be in a letter form
3 and shall include the following information: Type of activity in which
4 the person is engaged in the county, number of employees in the rural
5 county, and how long the person has been located in the county. The
6 report must be filed by January 30th of each year for which credit was
7 claimed during the previous year.

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

11 (9) As used in this section:

12 (a) "Information technology help desk services" means the following
13 services performed using electronic and telephonic communication:

- 14 (i) Software and hardware maintenance;
- 15 (ii) Software and hardware diagnostics and troubleshooting;
- 16 (iii) Software and hardware installation;
- 17 (iv) Software and hardware repair;
- 18 (v) Software and hardware information and training; and
- 19 (vi) Software and hardware upgrade.

20 (b) "Rural county" means a county with a population density of less
21 than one hundred persons per square mile, as determined by the office
22 of financial management and published each year by the department for
23 the period July 1st to June 30th.

24 (10) This section expires December 31, 2003.

25 NEW SECTION. **Sec. 304.** A new section is added to chapter 82.62
26 RCW to read as follows:

27 (1) A person is not eligible to receive a credit under this chapter
28 if the person is receiving credit for the same position under section
29 303 of this act or RCW 82.04.44525.

30 (2) This section expires December 31, 2003.

31 NEW SECTION. **Sec. 305.** The following acts or parts of acts are
32 each repealed:

33 (1) RCW 82.60.045 (Eligible projects--Additional requirements) and
34 1995 1st sp.s. c 3 s 7 & 1994 sp.s. c 1 s 4; and

35 (2) RCW 82.60.047 (Governor designation of county as eligible
36 area--Natural disaster, business closure, military base closure, mass
37 layoff) and 1994 sp.s. c 1 s 9.

PART IV
ELECTRIC UTILITIES

1
2
3 NEW SECTION. **Sec. 401.** The legislature finds that it is necessary
4 to employ multiple approaches to revitalize the economy of Washington
5 state's rural areas. The legislature also finds that where possible,
6 Washington state should develop programs which can complement other
7 private, state, and federal programs. It is the intent of section 402
8 of this act to complement such rural economic development efforts by
9 creating a public utility tax offset program to help establish locally
10 based electric utility revolving fund programs to be used for economic
11 development and job creation.

12 NEW SECTION. **Sec. 402.** A new section is added to chapter 82.16
13 RCW to read as follows:

14 (1) The following definitions apply to this section:

15 (a) "Qualifying project" means a project designed to achieve job
16 creation or business retention, to add or upgrade nonelectrical
17 infrastructure, to add or upgrade health and safety facilities, to
18 accomplish energy and water use efficiency improvements, including
19 renewable energy development, or to add or upgrade emergency services
20 in any designated qualifying rural area.

21 (b) "Qualifying rural area" means:

22 (i) A rural county, which is a county with a population density of
23 less than one hundred persons per square mile as determined by the
24 office of financial management and published each year by the
25 department for the period July 1st to June 30th; or

26 (ii) Any geographic area in the state that receives electricity
27 from a light and power business with twelve thousand or fewer customers
28 and with fewer than twenty-six meters per mile of distribution line as
29 determined and published by the department of revenue effective July
30 1st of each year. The department shall use current data provided by
31 the electricity industry.

32 (c) "Electric utility rural economic development revolving fund"
33 means a fund devoted exclusively to funding qualifying projects in
34 qualifying rural areas.

35 (d) "Local board" is a board of directors with at least, but not
36 limited to, three members representing local businesses and community
37 groups who have been appointed by the sponsoring electric utility to

1 oversee and direct the activities of the electric utility rural
2 economic development revolving fund.

3 (2) A light and power business with fewer than twenty-six active
4 meters per mile of distribution line in any geographic area in the
5 state shall be allowed a credit against taxes due under this chapter in
6 an amount equal to fifty percent of contributions made in any calendar
7 year directly to an electric utility rural economic development
8 revolving fund. The credit shall be taken in a form and manner as
9 required by the department. The credit under this section shall not
10 exceed twenty-five thousand dollars per calendar year per light and
11 power business. The credit may not exceed the tax that would otherwise
12 be due under this chapter. Refunds shall not be granted in the place
13 of credits. Expenditures not used to earn a credit in one calendar
14 year may not be used to earn a credit in subsequent years.

15 (3) The right to earn tax credits under this section expires
16 December 31, 2005.

17 (4) To qualify for the credit in subsection (2) of this section,
18 the light and power business shall establish an electric utility rural
19 economic development revolving fund which is governed by a local board
20 whose members shall reside in the qualifying rural area served by the
21 light and power business. The local board shall have authority to
22 determine all criteria and conditions for the expenditure of funds from
23 the electric utility rural economic development fund, and for the terms
24 and conditions of repayment.

25 (5) Any funds repaid to the electric utility rural economic
26 development fund by recipients shall be made available for additional
27 qualifying projects.

28 (6) If at any time the electric utility rural economic development
29 fund is dissolved, any moneys claimed as a tax credit under this
30 section shall either be granted to a qualifying project or refunded to
31 the state within two years of termination.

32 (7) The total amount of credits that may be used in any fiscal year
33 shall not exceed three hundred fifty thousand dollars in any fiscal
34 year. The department shall allow the use of earned credits on a first-
35 come, first-served basis. Unused earned credits may be carried over to
36 subsequent years.

37

PART V

38

DISASTER VICTIMS' RELIEF

1 NEW SECTION. Sec. 501. A new section is added to chapter 82.08
 2 RCW to read as follows:
 3 (1) The tax levied by RCW 82.08.020 shall not apply to sales of
 4 labor and services rendered in respect to:
 5 (a) The moving of houses out of any landslide area that has been
 6 declared as a federal disaster area;
 7 (b) The demolition of houses located in a landslide area that has
 8 been declared as a federal disaster area; or
 9 (c) The removal of debris from a landslide area that has been
 10 declared as a federal disaster area.
 11 (2) This section expires July 1, 2000.

12 **PART VI**
 13 **MISCELLANEOUS**

14 NEW SECTION. Sec. 601. Part headings and subheadings used in this
 15 act are not any part of the law.

16 NEW SECTION. Sec. 602. Section 501 of this act applies
 17 retroactively to March 1, 1998.

18 NEW SECTION. Sec. 603. Section 501 of this act is necessary for
 19 the immediate preservation of the public peace, health, or safety, or
 20 support of the state government and its existing public institutions,
 21 and takes effect immediately.

22 NEW SECTION. Sec. 604. Sections 1, 101, 201, 301 through 305,
 23 401, 402, 601, and 605 of this act take effect August 1, 1999.

24 NEW SECTION. Sec. 605. Section 305 of this act does not affect
 25 any existing right acquired or liability or obligation under the
 26 sections repealed in section 305 of this act or any rule or order
 27 adopted under those sections, nor does it affect any proceeding
 28 instituted under those sections.

29 NEW SECTION. Sec. 606. If any provision of this act or its
 30 application to any person or circumstance is held invalid, the
 31 remainder of the act or the application of the provision to other
 32 persons or circumstances is not affected.

Passed the House April 24, 1999.
Passed the Senate April 23, 1999.
Approved by the Governor May 14, 1999.
Filed in Office of Secretary of State May 14, 1999.