

EHB 2146 - S COMM AMD

By Committee on Natural Resources, Energy & Water

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** Unless the context clearly requires
4 otherwise, the definitions in this section apply throughout this
5 chapter.

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

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

9 (3) "Eligible area" means a county with fewer than one hundred
10 persons per square mile as determined annually by the office of
11 financial management and published by the department effective for the
12 period July 1st through June 30th, or a county that has a population of
13 less than two hundred twenty-five thousand as determined by the office
14 of financial management and has an area greater than two hundred
15 twenty-five square miles.

16 (4)(a) "Eligible investment project" means an investment project in
17 an eligible area.

18 (b) The lessor or owner of a qualified building is not eligible for
19 a deferral unless the underlying ownership of the buildings, machinery,
20 and equipment vests exclusively in the same person, or unless the
21 lessor by written contract agrees to pass the economic benefit of the
22 deferral to the lessee in the form of reduced rent payments.

23 (c) "Eligible investment project" does not include any portion of
24 an investment project undertaken by a light and power business as
25 defined in RCW 82.16.010(5), other than that portion of a cogeneration
26 project that is used to generate power for consumption within the
27 manufacturing site of which the cogeneration project is an integral
28 part, or investment projects which have already received deferrals
29 under this chapter.

1 (5) "Investment project" means an investment in qualified buildings
2 or qualified machinery and equipment, including labor and services
3 rendered in the planning, installation, and construction of the
4 project.

5 (6) "Manufacturing" means the same as defined in RCW 82.04.120.
6 "Manufacturing" also includes computer programming, the production of
7 computer software, and other computer-related services, and the
8 activities performed by research and development laboratories and
9 commercial testing laboratories.

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

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

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

31 (10) "Recipient" means a person receiving a tax deferral under this
32 chapter.

33 (11) "Research and development" means the development, refinement,
34 testing, marketing, and commercialization of a product, service, or
35 process before commercial sales have begun. As used in this
36 subsection, "commercial sales" excludes sales of prototypes or sales

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

3 (12) "Wood biomass fuel" means a pyrolytic liquid fuel or synthesis
4 gas-derived liquid fuel, used in internal combustion engines, and
5 produced from wood, forest, or field residue, or dedicated energy crops
6 that do not include wood pieces that have been treated with chemical
7 preservatives such as creosote, pentachlorophenol, or copper-chroma-
8 arsenic.

9 NEW SECTION. **Sec. 2.** (1) Application for deferral of taxes under
10 this chapter must be made before initiation of the construction of the
11 investment project or acquisition of equipment or machinery. The
12 application shall be made to the department in a form and manner
13 prescribed by the department. The application shall contain
14 information regarding the location of the investment project, the
15 applicant's average employment in the state for the prior year,
16 estimated or actual new employment related to the project, estimated or
17 actual wages of employees related to the project, estimated or actual
18 costs, time schedules for completion and operation, and other
19 information required by the department.

20 (2) The department shall rule on the application within sixty days.
21 The department shall keep a running total of all deferrals granted
22 under this chapter during each fiscal biennium.

23 NEW SECTION. **Sec.3.** (1) The department shall issue a sales and
24 use tax deferral certificate for state and local sales and use taxes
25 due under chapters 82.08, 82.12, and 82.14 RCW on each eligible
26 investment project that is located in an eligible area as defined in
27 section 1 of this act, if the investment project is undertaken for the
28 purpose of manufacturing wood biomass fuel.

29 (2) This section expires July 1, 2009.

30 NEW SECTION. **Sec. 4.** (1) For the purposes of this section:

31 (a) "Eligible area" means a designated community empowerment zone
32 approved under RCW 43.31C.020 or a county containing a community
33 empowerment zone.

1 (b) "Eligible investment project" means an investment project
2 undertaken for the purpose of manufacturing wood biomass fuel that is
3 located in an eligible area.

4 (c) "Qualified employment position" means a permanent full-time
5 employee employed in the eligible investment project during the entire
6 year.

7 (2) In addition to the provisions of section 3 of this act, the
8 department shall issue a sales and use tax deferral certificate for
9 state and local sales and use taxes due under chapters 82.08, 82.12,
10 and 82.14 RCW, on each eligible investment project that is located in
11 an eligible area, if the applicant establishes that at the time the
12 project is operationally complete:

13 (a) The applicant will hire at least one qualified employment
14 position for each seven hundred fifty thousand dollars of investment on
15 which a deferral is requested; and

16 (b) The positions will be filled by persons who at the time of hire
17 are residents of the community empowerment zone. As used in this
18 subsection, "resident" means the person makes his or her home in the
19 community empowerment zone. A mailing address alone is insufficient to
20 establish that a person is a resident for the purposes of this section.
21 The persons must be hired after the date the application is filed with
22 the department.

23 (3) All other provisions and eligibility requirements of this
24 chapter apply to applicants eligible under this section.

25 (4) The qualified employment position must be filled by the end of
26 the calendar year following the year in which the project is certified
27 as operationally complete. If a person does not meet the requirements
28 for qualified employment positions by the end of the second calendar
29 year following the year in which the project is certified as
30 operationally complete, all deferred taxes are immediately due.

31 NEW SECTION. **Sec. 5.** (1) Each recipient of a deferral granted
32 under this chapter after June 30, 2003, shall submit a report to the
33 department on December 31st of the year in which the investment project
34 is certified by the department as having been operationally completed,
35 and on December 31st of each of the seven succeeding calendar years.
36 The report shall contain information, as required by the department,

1 from which the department may determine whether the recipient is
2 meeting the requirements of this chapter. If the recipient fails to
3 submit a report or submits an inadequate report, the department may
4 declare the amount of deferred taxes outstanding to be immediately
5 assessed and payable.

6 (2) If, on the basis of a report under this section or other
7 information, the department finds that an investment project is not
8 eligible for tax deferral under this chapter, the amount of deferred
9 taxes outstanding for the project are immediately due. For any taxes
10 that are due, penalties and interest applicable to delinquent excise
11 taxes shall be assessed and imposed for delinquent payments under this
12 chapter. The debt for deferred taxes will not be extinguished by
13 insolvency or other failure of the recipient. Transfer of ownership
14 does not terminate the deferral. The deferral is transferred, subject
15 to the successor meeting the eligibility requirements of this chapter,
16 for the remaining periods of the deferral.

17 (3) Deferred taxes need not be repaid if the department determines,
18 in accordance with the provisions of subsection (1) of this section,
19 that the recipient has met the requirements of this chapter for the
20 seven calendar years following the certification by the department that
21 the investment project has been operationally completed.

22 NEW SECTION. **Sec. 6.** The employment security department shall
23 make, and certify to the department of revenue, all determinations of
24 employment and wages as requested by the department under this chapter.

25 NEW SECTION. **Sec. 7.** Chapter 82.32 RCW applies to the
26 administration of this chapter.

27 NEW SECTION. **Sec. 8.** Applications, reports, and any other
28 information received by the department under this chapter shall not be
29 confidential and shall be subject to disclosure.

30 NEW SECTION. **Sec. 9.** A new section is added to chapter 84.36 RCW
31 to read as follows:

32 (1) For the purposes of this section, "wood biomass fuel" means a
33 pyrolytic liquid fuel or synthesis gas-derived liquid fuel, used in

1 internal combustion engines, and produced from wood, forest, or field
2 residue, or dedicated energy crops that do not include wood pieces that
3 have been treated with chemical preservatives such as creosote,
4 pentachlorophenol, or copper-chroma-arsenic.

5 (2)(a) All buildings, machinery, equipment, and other personal
6 property which is used primarily for the manufacturing of wood biomass
7 fuel, the land upon which this property is located, and land that is
8 reasonably necessary in the manufacturing of wood biomass fuel, but not
9 land necessary for growing of crops, which together comprise a new
10 manufacturing facility or an addition to an existing manufacturing
11 facility, are exempt from property taxation for the six assessment
12 years following the date on which the facility or the addition to the
13 existing facility becomes operational.

14 (b) For manufacturing facilities which produce products in addition
15 to wood biomass fuel, the amount of the property tax exemption shall be
16 based upon the annual percentage of the total value of all products
17 manufactured that is the value of the wood biomass fuel manufactured.

18 (3) Claims for exemptions authorized by this section shall be filed
19 with the county assessor on forms prescribed by the department of
20 revenue and furnished by the assessor. Once filed, the exemption is
21 valid for six years and shall not be renewed. The assessor shall
22 verify and approve claims as the assessor determines to be justified
23 and in accordance with this section. No claims may be filed after
24 December 31, 2009.

25 The department of revenue may promulgate such rules, pursuant to
26 chapter 34.05 RCW, as necessary to properly administer this section.

27 **Sec. 10.** RCW 82.29A.135 and 1985 c 371 s 3 are each amended to
28 read as follows:

29 (1) For the purposes of this section((τ)):

30 (a) "Alcohol fuel" means any alcohol made from a product other than
31 petroleum or natural gas, which is used alone or in combination with
32 gasoline or other petroleum products for use as a fuel for motor
33 vehicles, farm implements, and machines or implements of husbandry.

34 (b) "Wood biomass fuel" means a pyrolytic liquid fuel or synthesis
35 gas-derived liquid fuel, used in internal combustion engines, and
36 produced from wood, forest, or field residue, or dedicated energy crops

1 that do not include wood pieces that have been treated with chemical
2 preservatives such as creosote, pentachlorophenol, or copper-chroma-
3 arsenic.

4 (2)(a) All leasehold interests in buildings, machinery, equipment,
5 and other personal property which is used primarily for the
6 manufacturing of alcohol fuel, wood biomass fuel, the land upon which
7 ~~((such))~~ this property is located, and land that is reasonably
8 necessary in the manufacturing of alcohol fuel, wood biomass fuel, but
9 not land necessary for growing of crops, which together comprise a new
10 ~~((alcohol))~~ manufacturing facility or an addition to an existing
11 ~~((alcohol))~~ manufacturing facility, are exempt from leasehold taxes for
12 a period of six years from the date on which the facility or the
13 addition to the existing facility becomes operational.

14 (b) For ~~((alcohol))~~ manufacturing facilities which produce
15 ~~((alcohol for use as))~~ products in addition to alcohol fuel ~~((and~~
16 ~~alcohol used for other purposes))~~, wood biomass fuel, the amount of the
17 leasehold tax exemption shall be based upon ~~((an annually determined~~
18 ~~percentage of the total gallons of alcohol produced that is sold and~~
19 ~~used as alcohol fuel))~~ the annual percentage of the total value of all
20 products manufactured that is the value of the alcohol fuel or wood
21 biomass fuel manufactured.

22 (3) Claims for exemptions authorized by this section shall be filed
23 with the department of revenue on forms prescribed by the department of
24 revenue and furnished by the department of revenue. Once filed, the
25 exemption is valid for six years and shall not be renewed. The
26 department of revenue shall verify and approve ~~((such))~~ claims as the
27 department of revenue determines to be justified and in accordance with
28 this section. No claims may be filed after December 31, ~~((1992))~~ 2009.

29 The department of revenue may promulgate such rules, pursuant to
30 chapter 34.05 RCW, as are necessary to properly administer this
31 section.

32 **Sec. 11.** RCW 82.04.260 and 2001 2nd sp.s. c 25 s 2 are each
33 amended to read as follows:

34 (1) Upon every person engaging within this state in the business of
35 manufacturing:

1 (a) Wheat into flour, barley into pearl barley, soybeans into
2 soybean oil, canola into canola oil, canola meal, or canola byproducts,
3 or sunflower seeds into sunflower oil; as to such persons the amount of
4 tax with respect to such business shall be equal to the value of the
5 flour, pearl barley, oil, canola meal, or canola byproduct
6 manufactured, multiplied by the rate of 0.138 percent;

7 (b) Seafood products which remain in a raw, raw frozen, or raw
8 salted state at the completion of the manufacturing by that person; as
9 to such persons the amount of tax with respect to such business shall
10 be equal to the value of the products manufactured, multiplied by the
11 rate of 0.138 percent;

12 (c) By canning, preserving, freezing, processing, or dehydrating
13 fresh fruits and vegetables, or selling at wholesale fresh fruits and
14 vegetables canned, preserved, frozen, processed, or dehydrated by the
15 seller and sold to purchasers who transport in the ordinary course of
16 business the goods out of this state; as to such persons the amount of
17 tax with respect to such business shall be equal to the value of the
18 products canned, preserved, frozen, processed, or dehydrated multiplied
19 by the rate of 0.138 percent. As proof of sale to a person who
20 transports in the ordinary course of business goods out of this state,
21 the seller shall annually provide a statement in a form prescribed by
22 the department and retain the statement as a business record; (~~and~~)

23 (d) Dairy products that as of September 20, 2001, are identified in
24 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts
25 from the manufacturing of the dairy products such as whey and casein;
26 or selling the same to purchasers who transport in the ordinary course
27 of business the goods out of state; as to such persons the tax imposed
28 shall be equal to the value of the products manufactured multiplied by
29 the rate of 0.138 percent. As proof of sale to a person who transports
30 in the ordinary course of business goods out of this state, the seller
31 shall annually provide a statement in a form prescribed by the
32 department and retain the statement as a business record; and

33 (e) Alcohol fuel or wood biomass fuel, as those terms are defined
34 in RCW 82.29A.135; as to such persons the amount of tax with respect to
35 the business shall be equal to the value of alcohol fuel or wood
36 biomass fuel manufactured, multiplied by the rate of 0.138 percent.

1 (2) Upon every person engaging within this state in the business of
2 splitting or processing dried peas; as to such persons the amount of
3 tax with respect to such business shall be equal to the value of the
4 peas split or processed, multiplied by the rate of 0.138 percent.

5 (3) Upon every nonprofit corporation and nonprofit association
6 engaging within this state in research and development, as to such
7 corporations and associations, the amount of tax with respect to such
8 activities shall be equal to the gross income derived from such
9 activities multiplied by the rate of 0.484 percent.

10 (4) Upon every person engaging within this state in the business of
11 slaughtering, breaking and/or processing perishable meat products
12 and/or selling the same at wholesale only and not at retail; as to such
13 persons the tax imposed shall be equal to the gross proceeds derived
14 from such sales multiplied by the rate of 0.138 percent.

15 (5) Upon every person engaging within this state in the business of
16 making sales, at retail or wholesale, of nuclear fuel assemblies
17 manufactured by that person, as to such persons the amount of tax with
18 respect to such business shall be equal to the gross proceeds of sales
19 of the assemblies multiplied by the rate of 0.275 percent.

20 (6) Upon every person engaging within this state in the business of
21 manufacturing nuclear fuel assemblies, as to such persons the amount of
22 tax with respect to such business shall be equal to the value of the
23 products manufactured multiplied by the rate of 0.275 percent.

24 (7) Upon every person engaging within this state in the business of
25 acting as a travel agent or tour operator; as to such persons the
26 amount of the tax with respect to such activities shall be equal to the
27 gross income derived from such activities multiplied by the rate of
28 0.275 percent.

29 (8) Upon every person engaging within this state in business as an
30 international steamship agent, international customs house broker,
31 international freight forwarder, vessel and/or cargo charter broker in
32 foreign commerce, and/or international air cargo agent; as to such
33 persons the amount of the tax with respect to only international
34 activities shall be equal to the gross income derived from such
35 activities multiplied by the rate of 0.275 percent.

36 (9) Upon every person engaging within this state in the business of
37 stevedoring and associated activities pertinent to the movement of

1 goods and commodities in waterborne interstate or foreign commerce; as
2 to such persons the amount of tax with respect to such business shall
3 be equal to the gross proceeds derived from such activities multiplied
4 by the rate of 0.275 percent. Persons subject to taxation under this
5 subsection shall be exempt from payment of taxes imposed by chapter
6 82.16 RCW for that portion of their business subject to taxation under
7 this subsection. Stevedoring and associated activities pertinent to
8 the conduct of goods and commodities in waterborne interstate or
9 foreign commerce are defined as all activities of a labor, service or
10 transportation nature whereby cargo may be loaded or unloaded to or
11 from vessels or barges, passing over, onto or under a wharf, pier, or
12 similar structure; cargo may be moved to a warehouse or similar holding
13 or storage yard or area to await further movement in import or export
14 or may move to a consolidation freight station and be stuffed,
15 unstuffed, containerized, separated or otherwise segregated or
16 aggregated for delivery or loaded on any mode of transportation for
17 delivery to its consignee. Specific activities included in this
18 definition are: Wharfage, handling, loading, unloading, moving of
19 cargo to a convenient place of delivery to the consignee or a
20 convenient place for further movement to export mode; documentation
21 services in connection with the receipt, delivery, checking, care,
22 custody and control of cargo required in the transfer of cargo;
23 imported automobile handling prior to delivery to consignee; terminal
24 stevedoring and incidental vessel services, including but not limited
25 to plugging and unplugging refrigerator service to containers,
26 trailers, and other refrigerated cargo receptacles, and securing ship
27 hatch covers.

28 (10) Upon every person engaging within this state in the business
29 of disposing of low-level waste, as defined in RCW 43.145.010; as to
30 such persons the amount of the tax with respect to such business shall
31 be equal to the gross income of the business, excluding any fees
32 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
33 percent.

34 If the gross income of the taxpayer is attributable to activities
35 both within and without this state, the gross income attributable to
36 this state shall be determined in accordance with the methods of
37 apportionment required under RCW 82.04.460.

1 (11) Upon every person engaging within this state as an insurance
2 agent, insurance broker, or insurance solicitor licensed under chapter
3 48.17 RCW; as to such persons, the amount of the tax with respect to
4 such licensed activities shall be equal to the gross income of such
5 business multiplied by the rate of 0.484 percent.

6 (12) Upon every person engaging within this state in business as a
7 hospital, as defined in chapter 70.41 RCW, that is operated as a
8 nonprofit corporation or by the state or any of its political
9 subdivisions, as to such persons, the amount of tax with respect to
10 such activities shall be equal to the gross income of the business
11 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
12 percent thereafter. The moneys collected under this subsection shall
13 be deposited in the health services account created under RCW
14 43.72.900.

15 NEW SECTION. **Sec. 12.** A new section is added to chapter 82.04 RCW
16 to read as follows:

17 (1) In computing tax there may be deducted from the measure of tax
18 amounts received from the retail sale, or for the distribution, of wood
19 biomass fuel.

20 (2) For the purposes of this act, the following definitions apply:

21 (a) "Wood biomass fuel" means a pyrolytic liquid fuel or synthesis
22 gas-derived liquid fuel, used in internal combustion engines, and
23 produced from wood, forest, or field residue, or dedicated energy crops
24 that do not include wood pieces that have been treated with chemical
25 preservatives such as creosote, pentachlorophenol, or copper-chroma-
26 arsenic.

27 (b) "Distribution" means any of the actions specified in RCW
28 82.36.020(2).

29 (3) This section expires July 1, 2009.

30 NEW SECTION. **Sec. 13.** A new section is added to chapter 82.08 RCW
31 to read as follows:

32 (1) The tax levied by RCW 82.08.020 does not apply to sales of
33 machinery and equipment, or to services rendered in respect to
34 constructing structures, installing, constructing, repairing, cleaning,
35 decorating, altering, or improving of structures or machinery and

1 equipment, or to sales of tangible personal property that becomes an
2 ingredient or component of structures or machinery and equipment, if
3 the machinery, equipment, or structure is used directly for the retail
4 sale of a wood biomass fuel blend. Structures and machinery and
5 equipment that are used for the retail sale of a wood biomass fuel
6 blend and for other purposes are exempt only on the portion used
7 directly for the retail sale of a wood biomass fuel blend.

8 (2) The tax levied by RCW 82.08.020 does not apply to sales of fuel
9 delivery vehicles or to sales of or charges made for labor and services
10 rendered in respect to installing, repairing, cleaning, altering, or
11 improving the vehicles including repair parts and replacement parts if
12 at least seventy-five percent of the fuel distributed by the vehicles
13 is a wood biomass fuel blend.

14 (3) A person taking the exemption under this section must keep
15 records necessary for the department to verify eligibility under this
16 section. The exemption is available only when the buyer provides the
17 seller with an exemption certificate in a form and manner prescribed by
18 the department. The seller shall retain a copy of the certificate for
19 the seller's files.

20 (4) For the purposes of this section, the definitions in section 1
21 of this act and this subsection apply.

22 (a) "Wood biomass fuel blend" means fuel that contains at least
23 twenty percent wood biomass fuel by volume.

24 (b) "Machinery and equipment" means industrial fixtures, devices,
25 and support facilities and tangible personal property that becomes an
26 ingredient or component thereof, including repair parts and replacement
27 parts that are integral and necessary for the delivery of a wood
28 biomass fuel blend into the fuel tank of a motor vehicle.

29 (5) This section expires July 1, 2009.

30 NEW SECTION. **Sec. 14.** A new section is added to chapter 82.12 RCW
31 to read as follows:

32 (1) The provisions of this chapter do not apply in respect to the
33 use of machinery and equipment, or to services rendered in respect to
34 installing, repairing, cleaning, altering, or improving of eligible
35 machinery and equipment, or tangible personal property that becomes an

1 ingredient or component of machinery and equipment used directly for
2 the retail sale of a wood biomass fuel blend.

3 (2) The provisions of this chapter do not apply in respect to the
4 use of fuel delivery vehicles including repair parts and replacement
5 parts and to services rendered in respect to installing, repairing,
6 cleaning, altering, or improving the vehicles if at least seventy-five
7 percent of the fuel distributed by the vehicles is a wood biomass fuel
8 blend.

9 (3) For the purposes of this section, the definitions in section 13
10 of this act apply.

11 (4) This section expires July 1, 2009.

12 NEW SECTION. **Sec. 15.** Section 9 of this act applies to taxes
13 levied for collection in 2004 and thereafter.

14 NEW SECTION. **Sec. 16.** (1) Sections 9 through 15 of this act are
15 necessary for the immediate preservation of the public peace, health,
16 or safety, or support of the state government and its existing public
17 institutions, and take effect July 1, 2003.

18 (2) Sections 1 through 8 of this act take effect July 1, 2004.

19 NEW SECTION. **Sec. 17.** Sections 1 through 8 of this act are null
20 and void if the legislature passes and the governor signs any bill into
21 law before July 1, 2004, that extends the expiration date in RCW
22 82.60.050.

23 NEW SECTION. **Sec. 18.** Sections 1 through 8 of this act constitute
24 a new chapter in Title 82 RCW."

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By Committee on Natural Resources, Energy & Water

25 On page 1, line 2 of the title, after "sale;" strike the remainder
26 of the title and insert "amending RCW 82.29A.135 and 82.04.260; adding

1 a new section to chapter 84.36 RCW; adding a new section to chapter
2 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new
3 section to chapter 82.12 RCW; adding a new chapter to Title 82 RCW;
4 creating new sections; providing effective dates; providing expiration
5 dates; and declaring an emergency."

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