
HOUSE BILL 2689

State of Washington

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By Representatives Eickmeyer, Buck, Miloscia, Schoesler, Hatfield, Armstrong, Haigh, Skinner, Kessler, Orcutt, Grant, Pearson, Ruderman, Campbell, Blake, Fromhold, Kenney, Woods, Linville and Rockefeller; by request of Governor Locke

Read first time 01/19/2004. Referred to Committee on Finance.

1 AN ACT Relating to extending tax incentives in rural counties
2 expiring in 2003 or 2004; amending RCW 82.60.040 and 82.60.050; adding
3 new sections to chapter 82.04 RCW; providing an effective date;
4 providing expiration dates; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW
7 to read as follows:

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

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

18 (3)(a) To qualify for the credit, the qualifying activity of the

1 person must be conducted in a rural county and the new qualified
2 employment position must be located in the rural county.

3 (b) If an activity is conducted both from a rural county and
4 outside of a rural county, the credit is available if at least ninety
5 percent of the qualifying activity is conducted within a rural county.
6 If the qualifying activity is a service taxable activity, the place
7 where the work is performed is the place at which the activity is
8 conducted.

9 (4)(a) The credit under this section shall equal one thousand
10 dollars for each new qualified employment position created after
11 January 1, 2004, in an eligible area. A credit is earned for the
12 calendar year the person is hired to fill the position. Additionally
13 a credit is earned for each year the position is maintained over the
14 subsequent consecutive years, up to four years. The county must meet
15 the definition of a rural county at the time the position is filled.
16 If the county does not have a rural county status the following year or
17 years, the position is still eligible for the remaining years if all
18 other conditions are met.

19 (b) Participants who claimed credit under RCW 82.04.4456 for
20 qualified employment positions created before December 31, 2003, are
21 eligible to earn credit for each year the position is maintained over
22 the subsequent consecutive years, for up to four years, which four
23 years include any years claimed under RCW 82.04.4456 Those persons who
24 did not receive a credit under RCW 82.04.4456 before December 31, 2003,
25 are not eligible to earn credit for qualified employment positions
26 created before December 31, 2003.

27 (c) Credit is authorized for new employees hired for new qualified
28 employment positions created on or after January 1, 2004. New
29 qualified employment positions filled by existing employees are
30 eligible for the credit under this section only if the position vacated
31 by the existing employee is filled by a new hire. A business that is
32 a sole proprietorship without any employees is equivalent to one
33 employee position and this type of business is eligible to receive
34 credit for one position.

35 (d) If a position is filled before July 1st, the position is
36 eligible for the full yearly credit for that calendar year. If it is
37 filled after June 30th, the position is eligible for half of the credit
38 for that calendar year.

1 (5) No application is necessary for the tax credit. The person
2 must keep records necessary for the department to verify eligibility
3 under this section. This information includes information relating to
4 description of qualifying activity conducted in the rural county and
5 outside the rural county by the person as well as detailed records on
6 positions and employees.

7 (6) If at any time the department finds that a person is not
8 eligible for tax credit under this section, the amount of taxes for
9 which a credit has been claimed shall be immediately due. The
10 department shall assess interest, but not penalties, on the taxes for
11 which the person is not eligible. The interest shall be assessed at
12 the rate provided for delinquent excise taxes under chapter 82.32 RCW,
13 shall be assessed retroactively to the date the tax credit was taken,
14 and shall accrue until the taxes for which a credit has been used are
15 repaid.

16 (7) The credit under this section may be used against any tax due
17 under this chapter, but in no case may a credit earned during one
18 calendar year be carried over to be credited against taxes incurred in
19 a subsequent calendar year. A person is not eligible to receive a
20 credit under this section if the person is receiving credit for the
21 same position under chapter 82.62 RCW or RCW 82.04.44525 or is taking
22 a credit under this chapter for information technology help desk
23 services conducted from a rural county. No refunds may be granted for
24 credits under this section.

25 (8) Transfer of ownership does not affect credit eligibility.
26 However, the successive credits are available to the successor for
27 remaining periods in the five years only if the eligibility conditions
28 of this section are met.

29 (9) As used in this section:

30 (a) "Computer software" has the meaning as defined in RCW 82.04.215
31 after June 30, 2004, and includes "software" as defined in RCW
32 82.04.215 before July 1, 2004.

33 (b) "Manufacturing" means the same as "to manufacture" under RCW
34 82.04.120. Manufacturing includes the activities of both manufacturers
35 and processors for hire.

36 (c) "Programming" means the activities that involve the creation or
37 modification of computer software, as that term is defined in this

1 chapter, and that are taxable as a service under RCW 82.04.290(2) or as
2 a retail sale under RCW 82.04.050.

3 (d) "Qualifying activity" means manufacturing of computer software
4 or programming.

5 (e) "Qualified employment position" means a permanent full-time
6 position doing programming of computer software or manufacturing of
7 computer software. This excludes administrative, professional,
8 service, executive, and other similar positions. If an employee is
9 either voluntarily or involuntarily separated from employment, the
10 employment position is considered filled on a full-time basis if the
11 employer is either training or actively recruiting a replacement
12 employee. Full-time means a position for at least thirty-five hours a
13 week.

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

18 (10) No credit may be taken or accrued under this section on or
19 after January 1, 2011.

20 (11) This section expires January 1, 2011.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW
22 to read as follows:

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

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

29 (3) The amount of the tax credit for persons engaged in the
30 activity of providing information technology help desk services in
31 rural counties shall be equal to one hundred percent of the amount of
32 tax due under this chapter that is attributable to providing the
33 services from the rural county. In order to qualify for the credit
34 under this subsection, the county must meet the definition of rural
35 county at the time the person begins to conduct qualifying business in
36 the county.

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

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

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

18 (7) Transfer of ownership does not affect credit eligibility.
19 However, the credit is available to the successor only if the
20 eligibility conditions of this section are met.

21 (8) As used in this section:

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

- 24 (i) Software and hardware maintenance;
- 25 (ii) Software and hardware diagnostics and troubleshooting;
- 26 (iii) Software and hardware installation;
- 27 (iv) Software and hardware repair;
- 28 (v) Software and hardware information and training; and
- 29 (vi) Software and hardware upgrade.

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

34 (9) This section expires January 1, 2011.

35 **Sec. 3.** RCW 82.60.040 and 1999 c 164 s 302 are each amended to
36 read as follows:

37 (1) The department shall issue a sales and use tax deferral

1 certificate for state and local sales and use taxes due under chapters
2 82.08, 82.12, and 82.14 RCW on each eligible investment project that is
3 located in an eligible area as defined in RCW 82.60.020.

4 (2) The department shall keep a running total of all deferrals
5 granted under this chapter during each fiscal biennium.

6 (3) This section expires July 1, (~~2004~~) 2010.

7 **Sec. 4.** RCW 82.60.050 and 1994 sp.s. c 1 s 7 are each amended to
8 read as follows:

9 RCW 82.60.030 and 82.60.040 shall expire July 1, (~~2004~~) 2010.

10 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and takes effect
13 April 1, 2004.

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