
SENATE BILL 5583

State of Washington 58th Legislature 2003 Regular Session

By Senators Haugen, Shin, T. Sheldon, Hale and Rasmussen

Read first time 01/31/2003. Referred to Committee on Economic Development.

1 AN ACT Relating to economic development; and amending RCW
2 82.04.4456, 82.04.4457, 82.16.0491, and 82.60.020.

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

4 **Sec. 1.** RCW 82.04.4456 and 2000 c 106 s 11 are each amended to
5 read as follows:

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

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

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

17 (b) If an activity is conducted both from a rural county and
18 outside of a rural county, the credit is available if at least ninety
19 percent of the qualifying activity is conducted within a rural county.

1 If the qualifying activity is a service taxable activity, the place
2 where the work is performed is the place at which the activity is
3 conducted.

4 (4)(a) The credit under this section shall equal one thousand
5 dollars for each qualified employment position created after July 1,
6 1999, in an eligible area. A credit is earned for the calendar year
7 the person is hired to fill the position. Additionally a credit is
8 earned for each year the position is maintained over the subsequent
9 consecutive years, up to four years. The county must meet the
10 definition of a rural county at the time the position is filled. If
11 the county does not have a rural county status the following year or
12 years, the position is still eligible for the remaining years if all
13 other conditions are met.

14 (b) Credit may not be taken for hiring of persons into positions
15 that exist before July 1, 1999. Credit is authorized for new employees
16 hired for new positions created on or after July 1, 1999. New
17 positions filled by existing employees are eligible for the credit
18 under this section only if the position vacated by the existing
19 employee is filled by a new hire. A business that is a sole
20 proprietorship without any employees is equivalent to one employee
21 position and this type of business is eligible to receive credit for
22 one position.

23 (c) If a position is filled before July 1st, this position is
24 eligible for the full yearly credit for that calendar year. If it is
25 filled after June 30th, this position is eligible for half of the
26 credit for that calendar year.

27 (d) A person that has engaged in qualifying activities in the rural
28 county before August 1, 1999, qualifies for the credit under this
29 section for positions created and filled after August 1, 1999.

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

36 (6) If at any time the department finds that a person is not
37 eligible for tax credit under this section, the amount of taxes for
38 which a credit has been claimed shall be immediately due. The

1 department shall assess interest, but not penalties, on the taxes for
2 which the person is not eligible. The interest shall be assessed at
3 the rate provided for delinquent excise taxes under chapter 82.32 RCW,
4 shall be assessed retroactively to the date the tax credit was taken,
5 and shall accrue until the taxes for which a credit has been used are
6 repaid.

7 (7) The credit under this section may be used against any tax due
8 under this chapter, but in no case may a credit earned during one
9 calendar year be carried over to be credited against taxes incurred in
10 a subsequent calendar year. A person is not eligible to receive a
11 credit under this section if the person is receiving credit for the
12 same position under chapter 82.62 RCW or RCW 82.04.44525 or is taking
13 the credit under RCW 82.04.4457. No refunds may be granted for credits
14 under this section.

15 (8) A person taking tax credits under this section shall make an
16 annual report to the department. The report shall be in a letter form
17 and shall include the following information: Number of positions for
18 which credit is being claimed, type of position for which credit is
19 being claimed, type of activity in which the person is engaged in the
20 county, how long the person has been located in the county, and
21 taxpayer name and registration number. The report must be filed by
22 January 30th of each year for which credit was claimed during the
23 previous year. Failure to file a report will not result in the loss of
24 eligibility under this section. However, the department, through its
25 research division, shall contact taxpayers who have not filed the
26 report and obtain the data from the taxpayer or assist the taxpayer in
27 the filing of the report, so that the data and information necessary to
28 measure the program's effectiveness is maintained.

29 (9) Transfer of ownership does not affect credit eligibility.
30 However, the successive credits are available to the successor for
31 remaining periods in the five years only if the eligibility conditions
32 of this section are met.

33 (10) As used in this section:

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

37 (b) "Programming" means the activities that involve the creation or

1 modification of software, as that term is defined in this chapter, and
2 that are taxable as a service under RCW 82.04.290(2) or as a retail
3 sale under RCW 82.04.050.

4 (c) "Qualifying activity" means manufacturing of software or
5 programming.

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

14 (e) "Rural county" (~~means a county with a population density of~~
15 ~~less than one hundred persons per square mile as determined by the~~
16 ~~office of financial management and published each year by the~~
17 ~~department for the period July 1st to June 30th~~) has the same meaning
18 as provided in RCW 82.14.370.

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

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

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

23 **Sec. 2.** RCW 82.04.4457 and 2000 c 106 s 12 are each amended to
24 read as follows:

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

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

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

1 county at the time the person begins to conduct qualifying business in
2 the county.

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

7 (5) 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 used is immediately due. The department shall
10 assess interest, but not penalties, on the credited taxes for which the
11 person is not eligible. The interest shall be assessed at the rate
12 provided for delinquent excise taxes under chapter 82.32 RCW, shall be
13 assessed retroactively to the date the tax credit was taken, and shall
14 accrue until the taxes for which a credit has been used are repaid.

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

20 (7) A person taking tax credits under this section shall make an
21 annual report to the department. The report shall be in a letter form
22 and shall include the following information: Type of activity in which
23 the person is engaged in the county, number of employees in the rural
24 county, how long the person has been located in the county, and
25 taxpayer name and registration number. The report must be filed by
26 January 30th of each year for which credit was claimed during the
27 previous year. Failure to file a report will not result in the loss of
28 eligibility under this section. However, the department, through its
29 research division, shall contact taxpayers who have not filed the
30 report and obtain the data from the taxpayer or assist the taxpayer in
31 the filing of the report, so that the data and information necessary to
32 measure the program's effectiveness is maintained.

33 (8) Transfer of ownership does not affect credit eligibility.
34 However, the credit is available to the successor only if the
35 eligibility conditions of this section are met.

36 (9) As used in this section:

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

- 1 (i) Software and hardware maintenance;
- 2 (ii) Software and hardware diagnostics and troubleshooting;
- 3 (iii) Software and hardware installation;
- 4 (iv) Software and hardware repair;
- 5 (v) Software and hardware information and training; and
- 6 (vi) Software and hardware upgrade.

7 (b) "Rural county" (~~means a county with a population density of~~
8 ~~less than one hundred persons per square mile, as determined by the~~
9 ~~office of financial management and published each year by the~~
10 ~~department for the period July 1st to June 30th~~) has the same meaning
11 as provided in RCW 82.14.370.

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

13 **Sec. 3.** RCW 82.16.0491 and 1999 c 311 s 402 are each amended to
14 read as follows:

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

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

22 (b) "Qualifying rural area" means:

23 (i) A rural county(~~, which is a county with a population density~~
24 ~~of less than one hundred persons per square mile as determined by the~~
25 ~~office of financial management and published each year by the~~
26 ~~department for the period July 1st to June 30th~~) as defined in RCW
27 82.14.370; or

28 (ii) Any geographic area in the state that receives electricity
29 from a light and power business with twelve thousand or fewer customers
30 and with fewer than twenty-six meters per mile of distribution line as
31 determined and published by the department of revenue effective July
32 1st of each year. The department shall use current data provided by
33 the electricity industry.

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

1 (d) "Local board" is a board of directors with at least, but not
2 limited to, three members representing local businesses and community
3 groups who have been appointed by the sponsoring electric utility to
4 oversee and direct the activities of the electric utility rural
5 economic development revolving fund.

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

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

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

28 (5) Any funds repaid to the electric utility rural economic
29 development (~~(revolving)~~) revolving fund by recipients shall be made
30 available for additional qualifying projects.

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

35 (7) The total amount of credits that may be used in any fiscal year
36 shall not exceed three hundred fifty thousand dollars in any fiscal
37 year. The department shall allow the use of earned credits on a first-

1 come, first-served basis. Unused earned credits may be carried over to
2 subsequent years.

3 **Sec. 4.** RCW 82.60.020 and 1999 sp.s. c 9 s 2 are each amended to
4 read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

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

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

10 (3) "Eligible area" means a (~~county with fewer than one hundred~~
11 ~~persons per square mile as determined annually by the office of~~
12 ~~financial management and published by the department of revenue~~
13 ~~effective for the period July 1st through June 30th~~) rural county as
14 defined in RCW 82.14.370.

15 (4)(a) "Eligible investment project" means an investment project in
16 an eligible area as defined in subsection (3) of this section.

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

22 (c) "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), other than that portion of a cogeneration
25 project that is used to generate power for consumption within the
26 manufacturing site of which the cogeneration project is an integral
27 part, or investment projects which have already received deferrals
28 under this chapter.

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

33 (6) "Manufacturing" means the same as defined in RCW 82.04.120.
34 "Manufacturing" also includes computer programming, the production of
35 computer software, and other computer-related services, and the
36 activities performed by research and development laboratories and
37 commercial testing laboratories.

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

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

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

22 (10) "Recipient" means a person receiving a tax deferral under this
23 chapter.

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

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