
SUBSTITUTE SENATE BILL 6240

State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators T. Sheldon, Zarelli, Benton, Hale, McAuliffe, Prentice, Rasmussen, Murray and Haugen; by request of Governor Locke)

READ FIRST TIME 01/23/04.

1 AN ACT Relating to tax incentives in rural counties; amending RCW
2 82.16.0491, 82.60.020, 82.60.040, and 82.60.050; adding new sections to
3 chapter 82.04 RCW; providing an effective date; providing expiration
4 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 as defined in RCW 82.14.370.

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

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

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

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

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

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

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

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

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

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

17 (8) As used in this section:

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

- 20 (i) Software and hardware maintenance;
- 21 (ii) Software and hardware diagnostics and troubleshooting;
- 22 (iii) Software and hardware installation;
- 23 (iv) Software and hardware repair;
- 24 (v) Software and hardware information and training; and
- 25 (vi) Software and hardware upgrade.

26 (b) "Rural county" means a county as defined in RCW 82.14.370.

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

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

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

31 (a) "Qualifying project" means a project designed to achieve job
32 creation or business retention, to add or upgrade nonelectrical
33 infrastructure, to add or upgrade health and safety facilities, to
34 accomplish energy and water use efficiency improvements, including
35 renewable energy development, or to add or upgrade emergency services
36 in any designated qualifying rural area.

37 (b) "Qualifying rural area" means:

1 (i) A rural county(~~(, which is a county with a population density~~
2 ~~of less than one hundred persons per square mile as determined by the~~
3 ~~office of financial management and published each year by the~~
4 ~~department for the period July 1st to June 30th)) as defined in RCW
5 82.14.370; or~~

6 (ii) Any geographic area in the state that receives electricity
7 from a light and power business with twelve thousand or fewer customers
8 and with fewer than twenty-six meters per mile of distribution line as
9 determined and published by the department of revenue effective July
10 1st of each year. The department shall use current data provided by
11 the electricity industry.

12 (c) "Electric utility rural economic development revolving fund"
13 means a fund devoted exclusively to funding qualifying projects in
14 qualifying rural areas.

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

20 (2) A light and power business with fewer than twenty-six active
21 meters per mile of distribution line in any geographic area in the
22 state shall be allowed a credit against taxes due under this chapter in
23 an amount equal to fifty percent of contributions made in any calendar
24 year directly to an electric utility rural economic development
25 revolving fund. The credit shall be taken in a form and manner as
26 required by the department. The credit under this section shall not
27 exceed twenty-five thousand dollars per calendar year per light and
28 power business. The credit may not exceed the tax that would otherwise
29 be due under this chapter. Refunds shall not be granted in the place
30 of credits. Expenditures not used to earn a credit in one calendar
31 year may not be used to earn a credit in subsequent years.

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

34 (4) To qualify for the credit in subsection (2) of this section,
35 the light and power business shall establish an electric utility rural
36 economic development revolving fund which is governed by a local board
37 whose members shall reside in the qualifying rural area served by the
38 light and power business. The local board shall have authority to

1 determine all criteria and conditions for the expenditure of funds from
2 the electric utility rural economic development (~~(revolving)~~)
3 revolving fund, and for the terms and conditions of repayment.

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

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

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

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

18 Unless the context clearly requires otherwise, the definitions in
19 this section apply throughout this chapter.

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

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

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

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

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

35 (c) "Eligible investment project" does not include any portion of
36 an investment project undertaken by a light and power business as
37 defined in RCW 82.16.010(5), other than that portion of a cogeneration

1 project that is used to generate power for consumption within the
2 manufacturing site of which the cogeneration project is an integral
3 part, or investment projects which have already received deferrals
4 under this chapter.

5 (5) "Investment project" means an investment in qualified buildings
6 or qualified machinery and equipment, including labor and services
7 rendered in the planning, installation, and construction of the
8 project.

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

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

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

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

35 (10) "Recipient" means a person receiving a tax deferral under this
36 chapter.

37 (11) "Research and development" means the development, refinement,
38 testing, marketing, and commercialization of a product, service, or

1 process before commercial sales have begun. As used in this
2 subsection, "commercial sales" excludes sales of prototypes or sales
3 for market testing if the total gross receipts from such sales of the
4 product, service, or process do not exceed one million dollars.

5 **Sec. 5.** RCW 82.60.040 and 1999 c 164 s 302 are each amended to
6 read as follows:

7 (1) The department shall issue a sales and use tax deferral
8 certificate for state and local sales and use taxes due under chapters
9 82.08, 82.12, and 82.14 RCW on each eligible investment project that is
10 located in an eligible area as defined in RCW 82.60.020.

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

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

14 **Sec. 6.** RCW 82.60.050 and 1994 sp.s. c 1 s 7 are each amended to
15 read as follows:

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

17 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and takes effect
20 April 1, 2004.

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