

# SENATE BILL REPORT

## SB 5029

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As of January 25, 2021

**Title:** An act relating to tax deferrals for investment projects in high unemployment counties.

**Brief Description:** Concerning tax deferrals for investment projects in high unemployment counties.

**Sponsors:** Senators Honeyford and Short.

**Brief History:**

**Committee Activity:** Business, Financial Services & Trade: 1/26/21.

**Brief Summary of Bill**

- Creates a rural county sales and use tax deferral program from July 1, 2021, to June 30, 2031, in high unemployment counties.

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### SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

**Staff:** Clinton McCarthy (786-7319)

**Background:** The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. Sales tax is paid by the purchaser and collected by the seller. The use tax is imposed on items used in the state that were not subject to the retail sales tax and includes purchases made in other states and from sellers who do not collect Washington sales tax.

In 2010, the Legislature extended the rural county sales and use tax deferral program from July 1, 2010, to July 1, 2020. Counties with an unemployment rate which is at least 20 percent above the state average for three years and Community Empowerment Zones (CEZs) were made eligible under the program. For the purpose of hiring in CEZs, residents include people living within a county in which the zone is located.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

The Department of Revenue (DOR) was directed to establish a list of qualifying counties by July 1, 2010, and update the list every two years based on Employment Security Department data.

The definition of manufacturing was retroactively clarified to include computer programming and other related services only if the service provides a new, different, or useful substance or article of tangible personal property for sale. Computer programming and other computer related services are eliminated from the definition of manufacturing beginning July 1, 2010.

Tax deferrals remained in place for up to two years during periods of temporary shutdowns in counties with a population of less than 20,000 people. To qualify for relief from paying deferred taxes during a temporary shutdown, the remaining labor force must be greater than 10 percent of the recipient's labor force at the time the deferral was approved by DOR. If the number of employment positions falls below the 10 percent threshold during the two year period, the amount of deferred taxes outstanding is due immediately. Recipients seeking relief from paying deferred taxes must apply to and be approved by DOR. A recipient is entitled to this relief only once.

The rural county sales and use tax deferral program expired on July 1, 2020.

**Summary of Bill:** The rural county sales and use tax deferral program is created for a period from July 1, 2021, to June 30, 2031. Counties with an unemployment rate which is at least 20 percent above the state average for three years and community empowerment zones (CEZ) are eligible under the program. For the purpose of hiring in CEZs, residents include people living within a county in which the zone is located.

Applying for a Tax Deferral. DOR is directed to issue a sales and use tax deferral certificate for state and local sales and use taxes on each eligible investment project. DOR has the authority to develop the application. Applications to defer must be made before the initiation of construction, and DOR must rule on the application within 60 days. DOR may not accept applications for deferral after June 30, 2031.

Revocation of a Tax Deferral from a Recipient. Recipients for a deferral certificate must begin meaningful construction on an eligible investment project within two years of receiving a deferral certificate, unless there was a delay due to circumstances unrelated to funding beyond the applicant's control. If meaningful construction does not begin within two years of receiving a deferral certificate, the deferral certificate that has been issued is invalid and taxes deferred are due immediately.

If the investment project is not operationally complete within five years from the issuance of the tax deferral certificate, or DOR finds an investment project is used for purposes other than a qualified manufacturing or research and development operation, a portion of the

taxes is immediately due according to a schedule. If the economic benefits of the deferral are passed to a lessee, the lessee is responsible for payment to the extent the lessee has received the benefit. DOR must assess interest at the rate provided for delinquent taxes, but not penalties, retroactively to the date of deferral for a recipient who must repay deferred taxes.

Changes in Definitions. The definition of manufacturing under the program is more narrowly defined to include only activities performed by research and development laboratories and commercial testing laboratories. Computer programming and other related activities are removed from the definition. The term "meaningful construction" means an active construction site where tangible signs of construction are taking place that show a progression in the construction process at the location designated by the taxpayer in the application for deferral.

Qualified Counties. DOR, with the assistance of the Employment Security Department, must establish a list of qualifying counties effective July 1, 2021, and update the list every two years on July 1st.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill takes effect on July 1, 2021.