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**SENATE BILL 5792**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senator Warnick; by request of Department of Commerce

1 AN ACT Relating to tax incentives; amending RCW 84.25.030,  
2 82.60.049, 82.04.294, 82.60.020, and 82.60.120; adding a new section  
3 to chapter 82.60 RCW; creating a new section; providing an effective  
4 date; and providing expiration dates.

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

6 **Sec. 1.** RCW 84.25.030 and 2021 c 218 s 1 are each amended to  
7 read as follows:

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

10 (1) "City" means any city or town.

11 (2) "Family living wage job" means a job that offers health care  
12 benefits with a wage that is sufficient for raising a family. A  
13 family living wage job must have an average wage of \$23 an hour or  
14 more, working 2,080 hours per year on the subject site, as adjusted  
15 annually for inflation by the consumer price index. The family living  
16 wage may be increased by the local authority based on regional  
17 factors and wage conditions.

18 (3) "Governing authority" means the local legislative authority  
19 of a city or county having jurisdiction over the property for which  
20 an exemption may be applied for under this chapter.

21 (4) "Growth management act" means chapter 36.70A RCW.

1 (5) "Industrial/manufacturing facilities" means building  
2 improvements that are 10,000 square feet or larger, representing a  
3 minimum improvement valuation of \$800,000 for uses categorized as  
4 "division D: manufacturing" or "division E: transportation (major  
5 groups 40-42, 45, or 47-48)" by the United States department of labor  
6 in the occupation safety and health administration's standard  
7 industrial classification manual, provided, a city may limit the tax  
8 exemption to manufacturing uses.

9 (6) "Lands zoned for industrial and manufacturing uses" means  
10 lands in a city zoned (~~as of December 31, 2014,~~) for an industrial  
11 or manufacturing use consistent with the city's comprehensive plan  
12 where the lands are designated for industry.

13 (7) "Owner" means the property owner of record.

14 (8) "Targeted area" means an area of undeveloped lands zoned for  
15 industrial and manufacturing uses in the city that is located within  
16 or contiguous to an innovation partnership zone, foreign trade zone,  
17 or EB-5 regional center, and designated for possible exemption under  
18 the provisions of this chapter.

19 (9) "Undeveloped or underutilized" means that there are no  
20 existing building improvements on the portions of the property  
21 targeted for new or expanded industrial or manufacturing uses.

22 **Sec. 2.** RCW 82.60.049 and 2010 1st sp.s. c 16 s 7 are each  
23 amended to read as follows:

24 (1) For the purposes of this section:

25 (a) "Eligible area" also means a designated community empowerment  
26 zone approved under RCW 43.31C.020.

27 (b) "Eligible investment project" also means an investment  
28 project in an eligible area as defined in this section.

29 (2) In addition to the provisions of (~~RCW 82.60.040~~) section 6  
30 of this act, the department shall issue a sales and use tax deferral  
31 certificate for state and local sales and use taxes due under  
32 chapters 82.08, 82.12, and 82.14 RCW, on each eligible investment  
33 project that is located in an eligible area, if the applicant  
34 establishes that at the time the project is operationally complete:

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

38 (b) The positions will be filled by persons who at the time of  
39 hire are residents of the community empowerment zone. As used in this

1 subsection, "resident" means the person makes his or her home in the  
2 community empowerment zone or the county in which the zone is  
3 located. A mailing address alone is insufficient to establish that a  
4 person is a resident for the purposes of this section. The persons  
5 must be hired after the date the application is filed with the  
6 department.

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

9 (4) The qualified employment position must be filled by the end  
10 of the calendar year following the year in which the project is  
11 certified as operationally complete. If a person does not meet the  
12 requirements for qualified employment positions by the end of the  
13 second calendar year following the year in which the project is  
14 certified as operationally complete, all deferred taxes are  
15 immediately due.

16 **Sec. 3.** RCW 82.04.294 and 2017 3rd sp.s. c 37 s 403 are each  
17 amended to read as follows:

18 (1) Upon every person engaging within this state in the business  
19 of manufacturing solar energy systems using photovoltaic modules or  
20 stirling converters, or of manufacturing solar grade silicon, silicon  
21 solar wafers, silicon solar cells, thin film solar devices, or  
22 compound semiconductor solar wafers to be used exclusively in  
23 components of such systems; as to such persons the amount of tax with  
24 respect to such business is, in the case of manufacturers, equal to  
25 the value of the product manufactured, or in the case of processors  
26 for hire, equal to the gross income of the business, multiplied by  
27 the rate of 0.275 percent.

28 (2) Upon every person engaging within this state in the business  
29 of making sales at wholesale of solar energy systems using  
30 photovoltaic modules or stirling converters, or of solar grade  
31 silicon, silicon solar wafers, silicon solar cells, thin film solar  
32 devices, or compound semiconductor solar wafers to be used  
33 exclusively in components of such systems, manufactured by that  
34 person; as to such persons the amount of tax with respect to such  
35 business is equal to the gross proceeds of sales of the solar energy  
36 systems using photovoltaic modules or stirling converters, or of the  
37 solar grade silicon to be used exclusively in components of such  
38 systems, multiplied by the rate of 0.275 percent.

1 (3) Silicon solar wafers, silicon solar cells, thin film solar  
2 devices, solar grade silicon, or compound semiconductor solar wafers  
3 are "semiconductor materials" for the purposes of RCW 82.08.9651 and  
4 82.12.9651.

5 (4) The definitions in this subsection apply throughout this  
6 section.

7 (a) "Compound semiconductor solar wafers" means a semiconductor  
8 solar wafer composed of elements from two or more different groups of  
9 the periodic table.

10 (b) "Module" means the smallest nondivisible self-contained  
11 physical structure housing interconnected photovoltaic cells and  
12 providing a single direct current electrical output.

13 (c) "Photovoltaic cell" means a device that converts light  
14 directly into electricity without moving parts.

15 (d) "Silicon solar cells" means a photovoltaic cell manufactured  
16 from a silicon solar wafer.

17 (e) "Silicon solar wafers" means a silicon wafer manufactured for  
18 solar conversion purposes.

19 (f) "Solar energy system" means any device or combination of  
20 devices or elements that rely upon direct sunlight as an energy  
21 source for use in the generation of electricity.

22 (g) "Solar grade silicon" means high-purity silicon used  
23 exclusively in components of solar energy systems using photovoltaic  
24 modules to capture direct sunlight. "Solar grade silicon" does not  
25 include silicon used in semiconductors.

26 (h) "Stirling converter" means a device that produces electricity  
27 by converting heat from a solar source utilizing a stirling engine.

28 (i) "Thin film solar devices" means a nonparticipating substrate  
29 on which various semiconducting materials are deposited to produce a  
30 photovoltaic cell that is used to generate electricity.

31 (5) A person reporting under the tax rate provided in this  
32 section must file a complete annual tax performance report with the  
33 department under RCW 82.32.534.

34 (6) This section expires July 1, (~~2027~~) 2032.

35 **Sec. 4.** RCW 82.60.020 and 2010 1st sp.s. c 16 s 2 are each  
36 amended to read as follows:

37 Unless the context clearly requires otherwise, the definitions in  
38 this section apply throughout this chapter.

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

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

4 (3) "Eligible area" means:

5 (a) Through June 30, 2010, a rural county as defined in RCW  
6 82.14.370; and

7 (b) Beginning July 1, 2010, a qualifying county.

8 (4) (a) "Eligible investment project" means an investment project  
9 that is located, as of the date the application required by ((RCW  
10 ~~82.60.030~~) section 6 of this act is received by the department, in  
11 an eligible area as defined in subsection (3) of this section.

12 (b) "Eligible investment project" does not include any portion of  
13 an investment project undertaken by a light and power business as  
14 defined in RCW 82.16.010(4), other than that portion of a  
15 cogeneration project that is used to generate power for consumption  
16 within the manufacturing site of which the cogeneration project is an  
17 integral part, or investment projects that have already received  
18 deferrals under this chapter.

19 (5) "Initiation of construction" has the same meaning as in RCW  
20 82.63.010.

21 (6) "Investment project" means an investment in qualified  
22 buildings or qualified machinery and equipment, including labor and  
23 services rendered in the planning, installation, and construction of  
24 the project.

25 (7) "Manufacturing" means the same as defined in RCW 82.04.120.  
26 "Manufacturing" also includes:

27 (a) Before July 1, 2010: (i) Computer programming, the production  
28 of computer software, and other computer-related services, but only  
29 when the computer programming, production of computer software, or  
30 other computer-related services are performed by a manufacturer as  
31 defined in RCW 82.04.110 and contribute to the production of a new,  
32 different, or useful substance or article of tangible personal  
33 property for sale; (ii) the activities performed by research and  
34 development laboratories and commercial testing laboratories; and  
35 (iii) the conditioning of vegetable seeds; and

36 (b) Beginning July 1, 2010: (i) The activities performed by  
37 research and development laboratories and commercial testing  
38 laboratories; and (ii) the conditioning of vegetable seeds.

39 (8) "Person" has the meaning given in RCW 82.04.030.

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

13 (10) "Qualified employment position" means a permanent full-time  
14 employee employed in the eligible investment project during the  
15 entire tax year. The term "entire tax year" means a full-time  
16 position that is filled for a period of twelve consecutive months.  
17 The term "full-time" means at least thirty-five hours a week, four  
18 hundred fifty-five hours a quarter, or one thousand eight hundred  
19 twenty hours a year.

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

28 (12) "Qualifying county" means a county that has an unemployment  
29 rate, as determined by the employment security department, which is  
30 at least twenty percent above the state average for the three  
31 calendar years immediately preceding the year in which the list of  
32 qualifying counties is established or updated, as the case may be, as  
33 provided in RCW 82.60.120.

34 (13) "Recipient" means a person receiving a tax deferral under  
35 this chapter.

36 (14) "Research and development" means the development,  
37 refinement, testing, marketing, and commercialization of a product,  
38 service, or process before commercial sales have begun, but only when  
39 such activities are intended to ultimately result in the production  
40 of a new, different, or useful substance or article of tangible

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

5 **Sec. 5.** RCW 82.60.120 and 2010 1st sp.s. c 16 s 3 are each  
6 amended to read as follows:

7 The department, with the assistance of the employment security  
8 department, must establish a list of qualifying counties effective  
9 July 1, 2010. The list of qualifying counties is effective for a  
10 twenty-four month period and must be updated (~~(by July 1st of the~~  
11 ~~year that is two calendar years after the list was established or~~  
12 ~~last updated, as the case may be)~~) every 24 months as long as  
13 applications are accepted under section 6 of this act.

14 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.60  
15 RCW to read as follows:

16 (1) Application for deferral of taxes under this chapter must be  
17 made before initiation of the construction of the investment project  
18 or acquisition of equipment or machinery. The application must be  
19 made to the department in a form and manner prescribed by the  
20 department. The application must contain information regarding the  
21 location of the investment project, the applicant's average  
22 employment in the state for the prior year, estimated or actual new  
23 employment related to the project, estimated or actual wages of  
24 employees related to the project, estimated or actual costs, time  
25 schedules for completion and operation, and other information  
26 required by the department. The department must rule on the  
27 application within 60 days.

28 (2) The department must issue a sales and use tax deferral  
29 certificate for state and local sales and use taxes due under  
30 chapters 82.08, 82.12, and 82.14 RCW on each eligible investment  
31 project.

32 (3) The department must keep a running total of all deferrals  
33 granted under this chapter during each fiscal biennium.

34 (4) This section expires July 1, 2032.

35 NEW SECTION. **Sec. 7.** (1) This section is the tax preference  
36 performance statement for the tax preference contained in section 3,  
37 chapter . . ., Laws of 2022 (section 3 of this act). This performance

1 statement is only intended to be used for subsequent evaluation of  
2 the tax preference. It is not intended to create a private right of  
3 action by any party or be used to determine eligibility for  
4 preferential tax treatment.

5 (2) The legislature categorizes this tax preference as one  
6 intended to improve industry competitiveness and to create and retain  
7 jobs as indicated in RCW 82.32.808(2) (b) and (c).

8 (3) It is the legislature's specific public policy objective to  
9 maintain and grow jobs in the solar silicon industry. Trade disputes  
10 currently threaten employment in this sector. It is the legislature's  
11 intent to extend by five years the preferential tax rates for  
12 manufacturers and wholesalers of specific solar energy material and  
13 parts in order to maintain and grow jobs in the solar silicon  
14 industry.

15 (4) If a review finds that the number of people employed by the  
16 solar silicon industry in Washington is the same or more than in  
17 2019, and that at least 60 percent of employees earn \$60,000 a year  
18 or more, then the legislature intends to extend the expiration date  
19 of the tax preference.

20 (5) In order to obtain the data necessary to perform the review  
21 in subsection (4) of this section, the joint legislative audit and  
22 review committee may refer to the department of revenue's annual  
23 survey data.

24 NEW SECTION. **Sec. 8.** This act takes effect July 1, 2022.

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