
SUBSTITUTE SENATE BILL 5112

State of Washington

64th Legislature

2015 Regular Session

By Senate Trade & Economic Development (originally sponsored by Senators Brown, Parlette, and Benton)

1 AN ACT Relating to a pilot program that provides incentives for
2 investments in Washington state job creation and economic
3 development; adding a new chapter to Title 82 RCW; and creating new
4 sections.

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

6 NEW SECTION. **Sec. 1.** (1) Businesses that invest capital create
7 jobs and generate economic activity that supports a healthy
8 Washington economy. The legislature finds that these investments
9 result in future revenues that support schools and our communities.
10 Therefore, the legislature finds that a pilot program must be
11 conducted to evaluate the effectiveness of a program that invests
12 business taxes from new investments into workforce training programs
13 that support manufacturing businesses in the state of Washington
14 thereby creating jobs and capital investments in the state for the
15 benefit of its citizens.

16 (2)(a) This subsection is the tax preference performance
17 statement for the sales and use tax deferral provided in section 4 of
18 this act on expenditures made to build or expand qualified
19 investment projects and purchases of machinery and equipment. This
20 performance statement is only intended to be used for subsequent
21 evaluation of the tax preference. It is not intended to create a

1 private right of action by any party or be used to determine
2 eligibility for preferential tax treatment.

3 (b) The legislature categorizes the tax preference as one
4 intended to create or retain jobs and to provide funding to support
5 job readiness training, professional development, or apprenticeship
6 programs in manufacturing or production occupations, as indicated in
7 RCW 82.32.808(2) (c) and (f).

8 (c) It is the legislature's specific public policy objective to
9 provide a pilot program that would provide a sales tax deferral on
10 the construction and expenditure costs of up to five new
11 manufacturing facilities, two of which must be located in eastern
12 Washington. When deferred taxes are repaid, the deferred taxes are
13 reinvested to support job readiness training, professional
14 development, or apprenticeship programs in manufacturing or
15 production occupations.

16 (d) To measure the effectiveness of the deferral provided in this
17 act in achieving the specific public policy objective described in
18 (c) of this subsection, the joint legislative audit and review
19 committee should refer to information available from the employment
20 security department and department of revenue. If a review finds that
21 each eligible investment project generated at least twenty full-time
22 jobs and increased training opportunities for manufacturing and
23 production jobs, then the legislature intends for the legislative
24 auditor to recommend extending the expiration date of the tax
25 preference. For purposes of this subsection (2)(d), full-time jobs
26 includes both temporary construction jobs and permanent full-time
27 employment positions created at the eligible investment project
28 within one year of the date that the facility became operationally
29 complete as determined by the department of revenue.

30 NEW SECTION. **Sec. 2.** The definitions in this section apply
31 throughout this chapter unless the context clearly requires
32 otherwise.

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

35 (2) "Eligible investment project" means an investment project
36 that incurs up to ten million dollars in sales or use tax on
37 construction costs on five new, renovated, or expanded manufacturing
38 operations, at least two of which must be located east of the crest
39 of the Cascade mountains.

1 (3) "Initiation of construction" has the same meaning as in RCW
2 82.63.010.

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

7 (5) "Manufacturing" has the same meaning as provided in RCW
8 82.04.120.

9 (6) "Person" has the same meaning as provided in RCW 82.04.030.

10 (7) "Qualified buildings" means construction of new structures,
11 and expansion or renovation of existing structures for the purpose of
12 increasing floor space or production capacity, used for
13 manufacturing, including plant offices and warehouses or other
14 buildings for the storage of raw material or finished goods if such
15 facilities are an essential or an integral part of a factory, mill,
16 plant, or laboratory used for manufacturing. If a qualified building
17 is used partly for manufacturing and partly for other purposes, the
18 applicable tax deferral must be determined by apportionment of the
19 costs of construction under rules adopted by the department.

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

28 (9) "Recipient" means a person receiving a tax deferral under
29 this chapter.

30 NEW SECTION. **Sec. 3.** The lessor or owner of a qualified
31 building is not eligible for a deferral unless:

32 (1) The underlying ownership of the building, machinery, and
33 equipment vests exclusively in the same person; or

34 (2)(a) The lessor by written contract agrees to pass the economic
35 benefit of the deferral to the lessee;

36 (b) The lessee that receives the economic benefit of the deferral
37 agrees in writing with the department to complete the annual survey
38 required under RCW 82.32.585; and

1 (c) The economic benefit of the deferral passed to the lessee is
2 no less than the amount of tax deferred by the lessor and is
3 evidenced by written documentation of any type of payment, credit, or
4 other financial arrangement between the lessor or owner of the
5 qualified building and the lessee.

6 NEW SECTION. **Sec. 4.** (1) Application for deferral of taxes
7 under this chapter must be made before initiation of the construction
8 of the investment project or acquisition of equipment or machinery.
9 The application must be made to the department in a form and manner
10 prescribed by the department. The deferrals are available on a first-
11 in-time basis. The application must contain information regarding the
12 location of the investment project, the applicant's average
13 employment in the state for the prior year, estimated or actual new
14 employment related to the project, estimated or actual wages of
15 employees related to the project, estimated or actual costs, time
16 schedules for completion and operation, and other information
17 required by the department. The department must rule on the
18 application within sixty days.

19 (2) The department may not approve applications for more than
20 five eligible investment projects.

21 NEW SECTION. **Sec. 5.** (1) Except as otherwise provided in
22 subsection (2) of this section, the department must issue a sales and
23 use tax deferral certificate for state and local sales and use taxes
24 due under chapters 82.08, 82.12, 82.14, and 81.104 RCW on each
25 eligible investment project.

26 (2) No certificate may be issued for an investment project that
27 has already received a deferral under this act or chapter 82.60 RCW.

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

30 NEW SECTION. **Sec. 6.** (1) The recipient must begin paying the
31 deferred taxes in the fifth year after the date certified by the
32 department as the date on which the investment project has been
33 operationally completed. The first payment of ten percent of the
34 deferred taxes will be due on December 31st of the fifth calendar
35 year after such certified date, with subsequent annual payments of
36 ten percent of the deferred taxes due on December 31st for each of
37 the following nine years.

1 (2) The department may authorize an accelerated repayment
2 schedule upon request of the recipient.

3 (3) Interest may not be charged on any taxes deferred under this
4 chapter for the period of deferral, although all other penalties and
5 interest applicable to delinquent excise taxes may be assessed and
6 imposed for delinquent payments under this chapter. The debt for
7 deferred taxes will not be extinguished by insolvency or other
8 failure of the recipient. Transfer of ownership does not terminate
9 the deferral. The deferral is transferred, subject to the successor
10 meeting the eligibility requirements of this chapter, for the
11 remaining periods of the deferral.

12 NEW SECTION. **Sec. 7.** (1) State taxes deferred and repaid under
13 this chapter, including any interest or penalties on such amounts,
14 must be deposited in the invest in Washington account created in this
15 section. The invest in Washington account is hereby created in the
16 state treasury must be used exclusively by the state board for
17 community and technical colleges for supporting customized training
18 programs, job skills programs, job readiness training, workforce
19 professional development, and to assist employers with state-approved
20 apprenticeship programs for manufacturing and production occupations.

21 (2) Revenues to the invest in Washington account consist of
22 amounts transferred by the state treasurer as provided in subsection
23 (3) of this section.

24 (3) By June 1, 2016, and by June 1st of every subsequent year,
25 the department must notify the state treasurer of the amount of tax,
26 interest, and penalties collected under this section since the
27 effective date of this chapter through May 1, 2016, in the case of
28 the first notification under this subsection (3), and since the
29 previous May 1st for subsequent notifications under this subsection
30 (3). The department may make adjustments to the annual notification
31 under this subsection (3) as may be necessary to correct errors in
32 the previous notification or offset previous amounts that did not
33 qualify for deferral under this section.

34 (4) By July 1, 2016, and by July 1st of every subsequent year,
35 the state treasurer must transfer the amount included in the
36 department's most recent notification under subsection (3) of this
37 section from the general fund to the invest in Washington
38 account. Money in the account may only be appropriated for the
39 purposes specified in subsection (1) of this section.

1 NEW SECTION. **Sec. 8.** (1) Each recipient of a deferral of taxes
2 granted under this chapter must file a complete annual survey with
3 the department under RCW 82.32.585. If the economic benefits of the
4 deferral are passed to a lessee as provided in section 3 of this act,
5 the lessee must file a complete annual survey, and the applicant is
6 not required to file a complete annual survey.

7 (2) If, on the basis of a survey under RCW 82.32.585 or other
8 information, the department finds that an investment project is not
9 eligible for tax deferral under this chapter due to the fact the
10 investment project is no longer used for qualified activities, the
11 amount of deferred taxes outstanding for the investment project is
12 immediately due and payable.

13 (3) If the economic benefits of a tax deferral under this chapter
14 are passed to a lessee as provided in section 3 of this act, the
15 lessee is responsible for payment to the extent the lessee has
16 received the economic benefit.

17 NEW SECTION. **Sec. 9.** This act may be known and cited as the
18 invest in Washington act.

19 NEW SECTION. **Sec. 10.** Sections 1 through 8 of this act
20 constitute a new chapter in Title 82 RCW.

21 NEW SECTION. **Sec. 11.** The expiration provisions of RCW
22 82.32.805(1)(a) do not apply to sections 6 through 9 of this act.

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