
SENATE BILL 6757

State of Washington

61st Legislature

2010 Regular Session

By Senators Fraser, Kastama, Kilmer, Shin, and McAuliffe; by request of Governor Gregoire

Read first time 01/25/10. Referred to Committee on Economic Development, Trade & Innovation.

1 AN ACT Relating to the designation and support of projects of
2 statewide significance; amending RCW 43.157.005, 43.157.020,
3 43.157.030, 82.32.600, and 82.32.650; reenacting and amending RCW
4 43.157.010; adding a new section to chapter 43.157 RCW; adding a new
5 chapter to Title 82 RCW; providing an effective date; providing
6 contingent effective dates; and declaring an emergency.

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

8 **Sec. 1.** RCW 43.157.005 and 2009 c 421 s 1 are each amended to read
9 as follows:

10 The legislature declares that certain private investments(~~(, such~~
11 ~~as investments for industrial development, environmental improvement,~~
12 ~~and innovation activities,)) merit special designation and treatment by
13 governmental bodies when they are proposed. Such investments bolster
14 the economies of their locale by creating jobs and (~~(impact))~~ improve
15 the economy of the state as a whole. It is the intention of the
16 legislature to recognize projects of statewide significance and to
17 encourage local governments and state agencies to expedite their
18 completion.~~

1 **Sec. 2.** RCW 43.157.010 and 2009 c 565 s 34 and 2009 c 421 s 2 are
2 each reenacted and amended to read as follows:

3 (1) For purposes of this chapter ~~((and))~~, RCW 28A.525.166,
4 ~~((28B.76.210, 28C.18.080,))~~ 43.21A.350, and 90.58.100, the following
5 definition applies unless the context clearly requires otherwise:

6 ~~((1)(a) A))~~ Project of statewide significance ~~((is:~~

7 ~~(i) A border crossing project that involves both private and public~~
8 ~~investments carried out in conjunction with adjacent states or~~
9 ~~provinces;~~

10 ~~(ii) A development project that will provide a net environmental~~
11 ~~benefit;~~

12 ~~(iii) A development project in furtherance of the commercialization~~
13 ~~of innovations; or~~

14 ~~(iv) A private industrial development with private capital~~
15 ~~investment in manufacturing or research and development.~~

16 ~~(b) To qualify for designation under RCW 43.157.030 as a project of~~
17 ~~statewide significance:~~

18 ~~(i) The project must be completed after January 1, 2009;~~

19 ~~(ii) The applicant must submit an application to the department for~~
20 ~~designation as a project of statewide significance to the department of~~
21 ~~commerce; and~~

22 ~~(iii) The project must have:~~

23 ~~(A) In counties with a population less than or equal to twenty~~
24 ~~thousand, a capital investment of five million dollars;~~

25 ~~(B) In counties with a population greater than twenty thousand but~~
26 ~~no more than fifty thousand, a capital investment of ten million~~
27 ~~dollars;~~

28 ~~(C) In counties with a population greater than fifty thousand but~~
29 ~~no more than one hundred thousand, a capital investment of fifteen~~
30 ~~million dollars;~~

31 ~~(D) In counties with a population greater than one hundred thousand~~
32 ~~but no more than two hundred thousand, a capital investment of twenty~~
33 ~~million dollars;~~

34 ~~(E) In counties with a population greater than two hundred thousand~~
35 ~~but no more than four hundred thousand, a capital investment of thirty~~
36 ~~million dollars;~~

37 ~~(F) In counties with a population greater than four hundred~~

1 thousand but no more than one million, a capital investment of forty
2 million dollars;

3 (G) In counties with a population greater than one million, a
4 capital investment of fifty million dollars;

5 (H) In rural counties as defined by RCW 82.14.370, projected full-
6 time employment positions after completion of construction of fifty or
7 greater;

8 (I) In counties other than rural counties as defined by RCW
9 82.14.370, projected full-time employment positions after completion of
10 construction of one hundred or greater; or

11 (J) Been qualified by the director of the department as a project
12 of statewide significance either because:

13 (I) The economic circumstances of the county merit the additional
14 assistance such designation will bring;

15 (II) The impact on a region due to the size and complexity of the
16 project merits such designation;

17 (III) The project resulted from or is in furtherance of innovation
18 activities at a public research institution in the state or is in or
19 resulted from innovation activities within an innovation partnership
20 zone; or

21 (IV) The project will provide a net environmental benefit as
22 evidenced by plans for design and construction under green building
23 standards or for the creation of renewable energy technology or
24 components or under other environmental criteria established by the
25 director in consultation with the director of the department of
26 ecology.

27 A project may be qualified under this subsection (1)(b)(iii)(J)
28 only after consultation on the availability of staff resources of the
29 office of regulatory assistance) means a project designated by the
30 department under this chapter as a project of statewide significance.

31 (2) For the purposes of this chapter the following definitions
32 apply, unless the context clearly requires otherwise.

33 (a) "Department" means the department of ((community, trade, and
34 economic development)) commerce.

35 ((3) "Manufacturing" shall have the meaning assigned it in RCW
36 82.62.010.

37 (4) "Research and development" shall have the meaning assigned it
38 in RCW 82.62.010.

1 ~~(5) "Applicant" means a person applying to the department for~~
2 ~~designation of a development project as a project of statewide~~
3 ~~significance.)~~ (b) "Person" has the same meaning as provided in RCW
4 82.04.030.

5 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.157 RCW
6 to read as follows:

7 (1) A person must apply to the department for a proposed
8 development project to receive designation as a project of statewide
9 significance.

10 (2) A project of statewide significance must be completed after
11 January 1, 2010.

12 (3) A project of statewide significance must be a private
13 development with private capital investment in:

14 (a) Manufacturing;

15 (b) Research and development;

16 (c) A computer data center;

17 (d) Renewable energy generation; or

18 (e) Facilities to store and handle goods moved through Washington
19 ports including but not limited to grain elevators, cranes, and cargo
20 handling facilities.

21 (4) A project of statewide significance must meet the following
22 investment criteria:

23 (a) In counties with a population less than or equal to twenty
24 thousand, a private capital investment of five million dollars;

25 (b) In counties with a population greater than twenty thousand but
26 no more than fifty thousand, a private capital investment of ten
27 million dollars;

28 (c) In counties with a population greater than fifty thousand but
29 no more than one hundred thousand, a private capital investment of
30 fifteen million dollars;

31 (d) In counties with a population greater than one hundred thousand
32 but no more than two hundred thousand, a private capital investment of
33 twenty million dollars;

34 (e) In counties with a population greater than two hundred thousand
35 but no more than four hundred thousand, a private capital investment of
36 thirty million dollars;

1 (f) In counties with a population greater than four hundred
2 thousand but no more than one million, a private capital investment of
3 forty million dollars;

4 (g) In counties with a population greater than one million, a
5 private capital investment of fifty million dollars.

6 (5) A project of statewide significance must meet the following
7 employment criteria:

8 (a) In a rural county, have projected full-time employment
9 positions after construction of fifty or greater.

10 (b) In a county that is not rural, have projected full-time
11 employment positions after construction of one hundred or greater.

12 (6) The department will develop application materials and other
13 forms to administer this chapter.

14 (7) If the department determines that a project meets the
15 requirements in this chapter, the department will approve the
16 application and designate the project as a project of statewide
17 significance.

18 (8) For purposes of this section, the following definitions apply:

19 (a)(i) "Computer data center" means a facility comprised of one or
20 more buildings constructed or refurbished specifically, and used
21 primarily, to house working servers, where the facility has the
22 following characteristics: (A) Uninterruptible power supplies,
23 generator backup power, or both; (B) sophisticated fire suppression and
24 prevention systems; and (C) enhanced physical security, such as:
25 Restricted access to the facility to selected personnel; permanent
26 security guards; video camera surveillance; an electronic system
27 requiring passcodes, keycards, or biometric scans, such as hand scans
28 and retinal or fingerprint recognition; or similar security features.

29 (ii) For purposes of this subsection (8)(a), "server" includes
30 blade and rack-mount servers used in a computer data center exclusively
31 to provide data processing and storage services for internal use by the
32 owner or lessee of the computer data center, for clients of the owner
33 or lessee of the computer data center, or both. "Servers" do not
34 include personal computers. "Data processing and storage services"
35 means providing data storage and backup, providing computer processing
36 power, and hosting enterprise software applications. The term also
37 includes hosting web sites.

1 (b) "Manufacturing" and "research and development" have the same
2 meaning as provided in RCW 82.62.010.

3 (c) "Renewable energy generation" means the type of energy
4 generation described in RCW 82.08.962(1)(a).

5 (d) "Rural county" has the same meaning as provided in RCW
6 82.14.370.

7 (e) "Project" means private investment in facilities and equipment
8 that occur within a single area within a five-mile radius.

9 **Sec. 4.** RCW 43.157.020 and 2009 c 421 s 3 are each amended to read
10 as follows:

11 ~~((Counties and cities with development projects designated as
12 projects of statewide significance within their jurisdictions shall
13 enter into an agreement with the office of regulatory assistance and
14 the project managers of projects of statewide significance for
15 expediting the completion of projects of statewide significance. The
16 agreement shall require:~~

17 ~~(1) Expedited permit processing for the design and construction of
18 the project;~~

19 ~~(2) Expedited environmental review processing;~~

20 ~~(3) Expedited processing of requests for street, right-of-way, or
21 easement vacations necessary for the construction of the project;~~

22 ~~(4) Participation of local officials on the team assembled under
23 the requirements of RCW 43.157.030(2)(b); and~~

24 ~~(5) Such other actions or items as are deemed necessary by the
25 office of regulatory assistance for the design and construction of the
26 project.))~~

27 (1) The office of regulatory assistance must assign a
regional assistance lead to each project of statewide significance to:

28 (a) Lead the state permit scoping and coordinating functions
29 provided for in chapter 43.42 RCW;

30 (b) Assemble a team of local, state, and when possible, federal
31 agency representatives to work with the project proponents to help meet
32 the planning, permitting, and development needs of the project. The
33 team must include those responsible for planning, permitting and
34 licensing, infrastructure development, workforce development services,
35 transportation services, and the provision of utilities; and

36 (c) Work with each team member as they may request to help expedite
37 decision making.

1 state's comprehensive plan for economic development under RCW
2 43.162.020, and, by its designation, the project will not prevent equal
3 consideration of all categories of proposals under RCW 43.157.010; and

4 (ii) The development project meets or will meet the requirements of
5 RCW 43.157.010 regarding designation as a project of statewide
6 significance.

7 (2) The office of regulatory assistance shall assign a project
8 facilitator or coordinator to each project of statewide significance
9 to:

10 (a) Assist in the scoping and coordinating functions provided for
11 in chapter 43.42 RCW;

12 (b) Assemble a team of state and local government and private
13 officials to help meet the planning, permitting, and development needs
14 of each project, which team shall include those responsible for
15 planning, permitting and licensing, infrastructure development,
16 workforce development services including higher education,
17 transportation services, and the provision of utilities; and

18 (c) Work with each team member to expedite their actions in
19 furtherance of the project)) local decision-making processes. The
20 letter from the local jurisdiction must not provide or represent a
21 guarantee of project approval and must reserve to the jurisdiction
22 authority to deny or require modification to proposed projects of
23 statewide significance. The letter from the local jurisdiction must
24 also include agreement to work with the office of regulatory assistance
25 on the team assembled pursuant to RCW 43.157.020 to help expedite
26 decision making for the project.

27 (2) For purposes of this section, "local jurisdiction" means a city
28 or county.

29 NEW SECTION. Sec. 6. (1) Subject to the requirements and limits
30 in this section, a person that invests in a qualifying project may
31 claim a credit against the tax imposed in chapter 82.04 or 82.16 RCW
32 equal to five percent of the lesser of the projected or actual
33 qualified initial capital costs of the qualifying project.

34 (2)(a) A person seeking the credit under this section must apply to
35 the department of commerce for approval to claim the credit in
36 conjunction with seeking designation of a project as a project of
37 statewide significance under chapter 43.157 RCW.

1 (b) The department of commerce must notify the department of each
2 application approved under (a) of this subsection. The notification
3 must include the projected qualified initial capital costs, the
4 estimated credit amount, the projected date for initiation of
5 construction of the qualifying project, the number of full-time
6 employees employed by the person in this state, and other information
7 as the department may require.

8 (c) The credit will apply only to projects for which the initiation
9 of construction commences after February 28, 2010, and before January
10 1, 2012.

11 (d) No credit may be claimed against taxes accrued under chapter
12 82.04 or 82.16 RCW before July 1, 2011.

13 (e) The credit must be claimed on a return filed electronically
14 with the department using the department's online tax filing service,
15 unless the department grants a waiver for good cause shown. For
16 purposes of this subsection (2)(e), "good cause" has the same meaning
17 as in RCW 82.32.080(8)(a)(i), (ii), (iii), and (vi), and (b).

18 (f) The total credit allowed under this section for a person may
19 not exceed twenty-five million dollars.

20 (g) No more than twenty percent of the credit earned by a person
21 may be claimed in any fiscal year.

22 (h) Unused credit may be carried forward until used. Refunds may
23 not be granted in the place of a credit.

24 (3)(a) Credits are available on a first-in-time basis based on the
25 time the application for credit was received by the department of
26 commerce.

27 (b) The department must approve the amount of credit available for
28 each person whose application for credit is approved by the department
29 of commerce and notify such person of the amount of approved credit.

30 (c) The total amount of credit that may be approved by the
31 department may not exceed one hundred million dollars. If this
32 limitation is reached, the department must notify the department of
33 commerce that the credit provided by this section is no longer
34 available.

35 (4)(a) Approved credit may not be claimed before the qualifying
36 project is certified by the department as being operationally complete.

37 (b) If the qualifying project is not operationally complete by
38 December 31, 2014, the approved credit lapses and may not be claimed.

1 (5) Before approved credit may be claimed, a person approved for
2 the credit must have:

3 (a) Met the applicable investment criterion in section 3(4) of this
4 act, with respect to the qualifying project;

5 (b) Filled at least one hundred full-time employment positions at
6 the qualifying project or at least fifty full-time employment positions
7 at the qualifying project if the qualifying project is located in a
8 rural county; and

9 (c) Increased the number of full-time employees employed by the
10 person in this state by at least one hundred full-time employees or at
11 least fifty full-time employees if the qualifying project is located in
12 a rural county. In determining whether the person increased employment
13 in this state by the requisite number of employees, current employment
14 is measured against the number of full-time employees employed by the
15 person in this state at the time the qualifying business applied to the
16 department of commerce for approval to claim the credit under this
17 section.

18 (6) If a person fails to maintain the employment levels required in
19 subsection (5)(b) and (c) of this section for the entire calendar year
20 in which the person claims approved credit under this section, the
21 person must repay the amount of credit claimed for that year.
22 Interest, but not penalties, applies to taxes that must be repaid under
23 this subsection. Interest is imposed at the rate provided for
24 delinquent excise taxes under chapter 82.32 RCW, retroactively to the
25 date the credit was claimed, and accrues until the taxes against which
26 the credit was claimed are repaid.

27 (7) Credit may not be claimed for expenditures for which a credit
28 is claimed under any other provision of this title.

29 (8) No credit may be claimed against the taxes imposed in chapters
30 82.04 and 82.16 RCW for the same qualified initial capital costs.

31 (9) The definitions in this subsection apply throughout this
32 section unless the context clearly requires otherwise.

33 (a) "Department" means the department of revenue.

34 (b) "Full time" means a normal work week of at least thirty-five
35 hours.

36 (c) "Initiation of construction" means the date that a building
37 permit is issued under the building code adopted under RCW 19.27.031
38 for construction of any part of the qualifying project. "Initiation of

1 construction" does not include soil testing, site clearing and grading,
2 site preparation, or any other related activities that are initiated
3 before the issuance of a building permit for the construction of the
4 foundation of any building that is part of the qualifying project.

5 (d) "Operationally complete" means the date the qualifying project
6 is constructed or improved to the point of being functionally useable
7 for all of its intended purposes.

8 (e) "Qualified initial capital costs" means the cost of property
9 deductible under 26 U.S.C. Secs. 167 or 179 of the federal internal
10 revenue code of 1986 as amended or renumbered as of July 1, 2010,
11 including the labor and services rendered in the planning,
12 installation, and construction of the property, and purchased before
13 the project is operationally complete. With respect to lessees,
14 "qualified initial capital costs" also includes, for a capital lease,
15 the amount recorded as an asset and an obligation by the lessee.
16 "Qualified initial capital costs" do not include the cost of land.

17 (f) "Qualifying project" means a project that has been designated
18 as a project of statewide significance by the department of commerce
19 under chapter 43.157 RCW.

20 NEW SECTION. **Sec. 7.** (1) A person claiming the credit under
21 section 6 of this act must report as required under section 102,
22 chapter . . ., Laws of 2010 (Substitute House Bill No. 1597) and
23 provide such additional information as the department may require to
24 determine whether the person was eligible to claim the credit.

25 (2) If a person is required to repay credited taxes under section
26 6(6) of this act, the person is not required to file an annual survey
27 as provided in subsection (1) of this section for the calendar year for
28 which the person is required to repay such taxes.

29 NEW SECTION. **Sec. 8.** (1) A person claiming the credit under
30 section 6 of this act must report as required under RCW 82.32.650 and
31 provide such additional information as the department may require to
32 determine whether the person was eligible to claim the credit.

33 (2) If a person is required to repay credited taxes under section
34 6(6) of this act, the person is not required to file an annual survey
35 as provided in subsection (1) of this section for the calendar year for
36 which the person is required to repay such taxes.

1 **Sec. 9.** RCW 82.32.600 and 2009 c 461 s 8 are each amended to read
2 as follows:

3 (1) Persons required to file annual surveys or annual reports under
4 RCW 82.04.4452, 82.32.5351, 82.32.545, 82.32.610, 82.32.630, 82.32.650,
5 82.82.020, 82.32.632, or 82.74.040 must electronically file with the
6 department all surveys, reports, returns, and any other forms or
7 information the department requires in an electronic format as provided
8 or approved by the department. As used in this section, "returns" has
9 the same meaning as "return" in RCW 82.32.050.

10 (2) Any survey, report, return, or any other form or information
11 required to be filed in an electronic format under subsection (1) of
12 this section is not filed until received by the department in an
13 electronic format.

14 (3) The department may waive the electronic filing requirement in
15 subsection (1) of this section for good cause shown.

16 **Sec. 10.** RCW 82.32.650 and 2006 c 112 s 6 are each amended to read
17 as follows:

18 (1) The legislature finds that accountability and effectiveness are
19 important aspects of setting tax policy. In order to make policy
20 choices regarding the best use of limited state resources the
21 legislature needs information on how a tax incentive is used.

22 (2)(a) Each person claiming a tax credit under RCW 82.04.449
23 (~~shall~~) or section 6 of this act must report information to the
24 department by filing a complete annual survey. The survey is due by
25 March 31st of the year following any calendar year in which a tax
26 credit under RCW 82.04.449 or section 6 of this act is taken. The
27 department may extend the due date for timely filing of annual surveys
28 under this section as provided in RCW 82.32.590.

29 (b) The survey (~~shall~~) must include the amount of tax credit
30 taken. The survey (~~shall~~) must also include the following
31 information for employment positions in Washington:

32 (~~a~~) (i) The number of total employment positions;

33 (~~b~~) (ii) Full-time, part-time, and temporary employment
34 positions as a percent of total employment;

35 (~~c~~) (iii) The number of employment positions according to the
36 following wage bands: Less than thirty thousand dollars; thirty

1 thousand dollars or greater, but less than sixty thousand dollars; and
2 sixty thousand dollars or greater. A wage band containing fewer than
3 three individuals may be combined with another wage band; and

4 ~~((d))~~ (iv) The number of employment positions that have
5 employer-provided medical, dental, and retirement benefits, by each of
6 the wage bands.

7 (c) The first survey filed under this subsection shall also include
8 information for the twelve-month period immediately before first use of
9 a ~~((tax incentive))~~ credit under RCW 82.04.449 or section 6 of this
10 act.

11 (3) The department may request additional information necessary to
12 measure the results of the credit programs, to be submitted at the same
13 time as the survey.

14 (4) All information collected under this section, except the amount
15 of the tax credit taken, is deemed taxpayer information under RCW
16 82.32.330. Information on the amount of tax credit taken is not
17 subject to the confidentiality provisions of RCW 82.32.330.

18 (5) If a person fails to submit an annual survey under subsection
19 (2) of this section by the due date of the report or any extension
20 under RCW 82.32.590, the department ~~((shall))~~ must declare the amount
21 of taxes credited for the previous calendar year to be immediately due
22 and payable. The department ~~((shall))~~ must assess interest, but not
23 penalties, on the amounts due under this section. The interest ~~((shall~~
24 ~~be))~~ is assessed at the rate provided for delinquent taxes under this
25 chapter, retroactively to the date the credit was claimed, and
26 ~~((shall))~~ accrues until the taxes for which the credit was claimed are
27 repaid. This information is not subject to the confidentiality
28 provisions of RCW 82.32.330.

29 (6) The department ~~((shall))~~ must use the information from this
30 section to prepare summary descriptive statistics by category. No
31 fewer than three taxpayers ~~((shall))~~ may be included in any category.
32 The department ~~((shall))~~ must report these statistics to the
33 legislature each year by September 1st.

34 (7) The department ~~((shall))~~ must study the tax credit authorized
35 in RCW 82.04.449. The department ~~((shall))~~ must submit a report to the
36 finance committee of the house of representatives and the ways and
37 means committee of the senate by December 1, 2011. The report
38 ~~((shall))~~ must measure the effect of the credit on job creation, job

1 retention, company growth, the movement of firms or the consolidation
2 of firms' operations into the state, and such other factors as the
3 department selects. No study by the department is required for the tax
4 credit authorized in section 6 of this act.

5 NEW SECTION. **Sec. 11.** The employment security department must
6 share, with the department, available information concerning the number
7 and location of employees employed by persons claiming the credit
8 provided in section 6 of this act.

9 NEW SECTION. **Sec. 12.** Chapter 82.32 RCW applies to the
10 administration of this chapter.

11 NEW SECTION. **Sec. 13.** Sections 6 through 8, 11, and 12 of this
12 act constitute a new chapter in Title 82 RCW.

13 NEW SECTION. **Sec. 14.** Section 7 of this act takes effect if
14 Substitute House Bill No. 1597 is enacted into law by July 1, 2010.

15 NEW SECTION. **Sec. 15.** Sections 8 through 10 of this act take
16 effect if Substitute House Bill No. 1597 is not enacted into law by
17 July 1, 2010.

18 NEW SECTION. **Sec. 16.** Sections 6 through 12 of this act take
19 effect July 1, 2010.

20 NEW SECTION. **Sec. 17.** Sections 1 through 5 of this act are
21 necessary for the immediate preservation of the public peace, health,
22 or safety, or support of the state government and its existing public
23 institutions, and take effect immediately.

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