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HOUSE BILL 2204

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By Representatives Manweller, Haler, Buys, Chandler, Blake, Short, Pike, Hayes, Condotta, Vick, and Warnick

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1 AN ACT Relating to reestablishing the rural county sales and use  
2 tax exemption program; amending RCW 82.60.020, 82.60.030, and  
3 82.60.040; creating a new section; repealing RCW 82.60.010 and  
4 82.60.120; providing an effective date; providing expiration dates; and  
5 providing a contingent expiration date.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that the rural  
8 county sales tax program, a combination of tax incentives for  
9 manufacturing and research and development facilities, machinery and  
10 equipment, which was initially adopted in 1985 and extended to 2009,  
11 with periodic adjustments, was an effective tax incentive and should be  
12 reestablished. This finding is based in part on a December 2009 report  
13 by the department of revenue titled, "Analysis of Rural County Sales  
14 Tax Program," which found several positive indicators including, but  
15 not limited to, the following: (a) Thirty-one counties had qualified  
16 projects; (b) program participants had an increase in employment of 4.1  
17 percent, while nonparticipants in rural counties showed a decline in  
18 employment positions of 5.3 percent; (c) program participants  
19 outperformed Washington as a whole in increasing their share of United

1 States manufacturing employment; and (d) program participants  
2 experienced significantly larger increases in gross revenue when  
3 compared to nonparticipants.

4 (2)(a) This subsection is the tax preference performance statement  
5 for the sales and use tax deferral/exemption program provided in this  
6 act. The performance statement is only intended to be used for  
7 subsequent evaluation of the tax preference. It is not intended to  
8 create a private right of action by any party or be used to determine  
9 eligibility for preferential tax treatment.

10 (b) The legislature categorizes this tax preference as one intended  
11 to accomplish the general purpose indicated in RCW 82.32.808(2)(c).

12 (c) It is the legislature's specific public policy objective to  
13 incentivize private sector investment, diversify state employment  
14 opportunities, and create jobs in rural counties, by reinstating the  
15 rural sales tax program for a period of ten years.

16 (d) To measure the effectiveness of the tax incentive program in  
17 this act in achieving the specific public policy objective described in  
18 (c) of this subsection, the joint legislative audit and review  
19 committee must evaluate the following:

20 (i) Changes in employment and unemployment rates for participating  
21 counties in comparison with statewide amounts, and including the  
22 estimated change in employment for participating counties as a  
23 percentage of total statewide employment;

24 (ii) Total investment amounts in projects qualifying for the sales  
25 tax exemption/deferral under this act; and

26 (iii) The estimated increase in state and local property tax  
27 revenues from new construction associated with projects qualifying for  
28 the sales tax exemption/deferral under this act.

29 (e)(i) The following data sources are intended to provide the  
30 informational basis for the evaluation under (d) of this subsection:  
31 Employment data reported to the state employment security department;  
32 investment amounts reported on the annual survey required under RCW  
33 82.32.585; property tax data compiled by the department of revenue;  
34 data reported on the application filed under RCW 82.60.030; and any  
35 other data the committee deems appropriate.

36 (ii) In addition to the data sources provided under (e)(i) of this  
37 subsection, the joint legislative audit and review committee may use

1 any other data it deems necessary in performing the evaluation under  
2 (d) of this subsection.

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

5 Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

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

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

10 (3) "Eligible area" means((+)

11 ~~(a) Through June 30, 2010,~~) a rural county as defined in RCW  
12 82.14.370(~~(+and~~

13 ~~(b) Beginning July 1, 2010, a qualifying county)~~) beginning July 1,  
14 2014.

15 (4)(a) "Eligible investment project" means an investment project  
16 that is located, as of the date the application required by RCW  
17 82.60.030 is received by the department, in an eligible area as defined  
18 in subsection (3) of this section.

19 (b) "Eligible investment project" does not include any portion of  
20 an investment project undertaken by a light and power business as  
21 defined in RCW 82.16.010(4), other than that portion of a cogeneration  
22 project that is used to generate power for consumption within the  
23 manufacturing site of which the cogeneration project is an integral  
24 part, or investment projects that have already received deferrals under  
25 this chapter.

26 (5) "Initiation of construction" has the same meaning as in RCW  
27 82.63.010.

28 (6) "Investment project" means an investment in qualified buildings  
29 or qualified machinery and equipment, including labor and services  
30 rendered in the planning, installation, and construction of the  
31 project.

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

34 (a) (~~Before July 1, 2010:—(i)~~) Computer programming, the  
35 production of computer software, and other computer-related services,  
36 but only when the computer programming, production of computer  
37 software, or other computer-related services are performed by a

1 manufacturer as defined in RCW 82.04.110 and contribute to the  
2 production of a new, different, or useful substance or article of  
3 tangible personal property for sale;

4 ~~((+ii+))~~ (b) The activities performed by research and development  
5 laboratories and commercial testing laboratories; and

6 ~~((+iii+))~~ (c) The conditioning of vegetable seeds ~~(+and~~  
7 ~~(b) Beginning July 1, 2010: (i) The activities performed by~~  
8 ~~research and development laboratories and commercial testing~~  
9 ~~laboratories; and (ii) the conditioning of vegetable seeds)).~~

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

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

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

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

37 (12) ~~("Qualifying county" means a county that has an unemployment~~  
38 ~~rate, as determined by the employment security department, which is at~~

1 ~~least twenty percent above the state average for the three calendar~~  
2 ~~years immediately preceding the year in which the list of qualifying~~  
3 ~~counties is established or updated, as the case may be, as provided in~~  
4 ~~RCW 82.60.120.~~

5 ~~(13))~~ "Recipient" means a person receiving a tax deferral under  
6 this chapter.

7 ~~((14))~~ (13) "Research and development" means the development,  
8 refinement, testing, marketing, and commercialization of a product,  
9 service, or process before commercial sales have begun, but only when  
10 such activities are intended to ultimately result in the production of  
11 a new, different, or useful substance or article of tangible personal  
12 property for sale. As used in this subsection, "commercial sales"  
13 excludes sales of prototypes or sales for market testing if the total  
14 gross receipts from such sales of the product, service, or process do  
15 not exceed one million dollars.

16 **Sec. 3.** RCW 82.60.030 and 2010 1st sp.s. c 16 s 5 are each amended  
17 to read as follows:

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

29 (2) This section expires July 1, ~~((2020))~~ 2024.

30 **Sec. 4.** RCW 82.60.040 and 2010 1st sp.s. c 16 s 6 are each amended  
31 to read as follows:

32 (1) The department must issue a sales and use tax deferral  
33 certificate for state and local sales and use taxes due under chapters  
34 82.08, 82.12, and 82.14 RCW on each eligible investment project.

35 (2) The department must keep a running total of all deferrals  
36 granted under this chapter during each fiscal biennium.

1 (3) This section expires July 1, (~~2020~~) 2024.

2 NEW SECTION. **Sec. 5.** The following acts or parts of acts are each  
3 repealed:

4 (1) RCW 82.60.010 (Legislative findings and declaration) and 2010  
5 1st sp.s. c 16 s 1 & 1985 c 232 s 1; and

6 (2) RCW 82.60.120 (Qualifying county list--2010 1st sp.s. c 16) and  
7 2010 1st sp.s. c 16 s 3.

8 NEW SECTION. **Sec. 6.** This act takes effect July 1, 2014.

9 NEW SECTION. **Sec. 7.** (1) Chapter 82.60 RCW expires on the date  
10 that legislation enacting comprehensive business and occupation tax  
11 reform takes effect.

12 (2) The department of revenue must provide notice of the expiration  
13 date of this act to affected parties, the chief clerk of the house of  
14 representatives, the secretary of the senate, the office of the code  
15 reviser, and others as deemed appropriate by the department.

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