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SENATE BILL 5112

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State of Washington

64th Legislature

2015 Regular Session

By Senators Brown, Parlette, and Benton

Read first time 01/14/15. Referred to Committee on Trade & Economic Development.

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

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

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

15 (2)(a) This subsection is the tax preference performance  
16 statement for the sales tax deferral provided in section 4 of this  
17 act on the costs of qualified industrial facilities and equipment.  
18 This performance statement is only intended to be used for subsequent  
19 evaluation of the tax preference. It is not intended to create a  
20 private right of action by any party or be used to determine  
21 eligibility for preferential tax treatment.

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

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

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

27 NEW SECTION. **Sec. 2.** The definitions in this section apply  
28 throughout this chapter unless the context clearly requires  
29 otherwise.

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

32 (2) "Eligible investment project" means up to ten million dollars  
33 in construction costs on five manufacturing investment projects, at  
34 least two of which must be located east of the crest of the Cascade  
35 mountains.

36 (3) "Initiation of construction" has the same meaning as in RCW  
37 82.63.010.

38 (4) "Investment project" means an investment in qualified  
39 buildings or qualified machinery and equipment, including labor and

1 services rendered in the planning, installation, and construction of  
2 the project.

3 (5) "Manufacturing" has the same meaning as provided in RCW  
4 82.04.120.

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

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

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

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

31 (10) "Recipient" means a person receiving a tax deferral under  
32 this chapter.

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

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

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

1 (b) The lessee that receives the economic benefit of the deferral  
2 agrees in writing with the department to complete the annual survey  
3 required under RCW 82.60.070; and

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

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

21 NEW SECTION. **Sec. 5.** (1) The department must issue a sales and  
22 use tax deferral certificate for state and local sales and use taxes  
23 due under chapters 82.08, 82.12, and 82.14 RCW on each eligible  
24 investment project.

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

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

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

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

10 NEW SECTION. **Sec. 7.** (1) Taxes deferred and repaid under this  
11 chapter on an investment project must be deposited in the invest in  
12 Washington account created in this section. The invest in Washington  
13 account hereby created in the state treasury must be used exclusively  
14 by the state board for community and technical colleges for  
15 supporting customized training programs, job skills programs, job  
16 readiness training, workforce professional development, and to assist  
17 employers with state-approved apprenticeship programs for  
18 manufacturing and production occupations.

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

22 (3) By June 1, 2016, and by June 1st of every subsequent year,  
23 the department must notify the state treasurer of the amount of  
24 revenue under this section contributed to the invest in Washington  
25 account since the effective date of this section through May 15,  
26 2016, in the case of the first notification under this subsection  
27 (3), and since the previous May 15th for subsequent notifications  
28 under this subsection (3). The department may make adjustments to the  
29 annual notification under this subsection (3) as may be necessary to  
30 correct errors in the previous notification or offset previous  
31 contributions of amounts that did not qualify for credit under this  
32 section.

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

1        NEW SECTION.    **Sec. 8.**    This act may be known and cited as the  
2 invest in Washington act.

3        NEW SECTION.    **Sec. 9.**    Sections 1 through 8 of this act  
4 constitute a new chapter in Title 82 RCW.

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