

CHAPTER 2

[House Bill No. 1326]

SALES AND USE TAX DEFERRAL FOR MANUFACTURING OR RESEARCH AND DEVELOPMENT INVESTMENT PROJECTS

AN ACT Relating to sales and use tax deferrals for manufacturing or research and development investment projects for persons not currently engaged in manufacturing or research and development in Washington state and upon which construction is commenced prior to December 31, 1986; adding a new chapter to Title 82 RCW; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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

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

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

(4) "Eligible investment project" means construction of new buildings and the acquisition of related machinery and equipment when the buildings, machinery, and equipment are to be used for either manufacturing or research and development activities, which construction is commenced prior to December 31, 1986.

(5) "Manufacturing" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different, or useful substance or article of tangible personal property is produced for sale or commercial or industrial use and includes the production or fabrication of specially made or custom-made articles.

(6) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun.

(7) "Buildings" means only those new structures used for either manufacturing or research and development activities, including plant offices and warehouses or other facilities for the storage of raw materials or finished goods if such facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing or research and development purposes. If a building is used partly for manufacturing or research and development and partly for other purposes, the applicable tax deferral shall be determined by apportionment of the costs of construction under rules adopted by the department.

(8) "Machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing or research and development operation. "Qualified machinery and equipment" includes computers; software; data processing

equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery. For purposes of this definition, new machinery and equipment means either new to the taxing jurisdiction of the state or new to the certificate holder. Used machinery and equipment are eligible for deferral if the certificate holder either brings the machinery and equipment into Washington or makes a retail purchase of the machinery and equipment in Washington or elsewhere.

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

(10) "Certificate holder" means an applicant to whom a tax deferral certificate has been issued.

(11) "Operationally complete" means constructed or improved to the point of being functionally useable for the intended purpose.

(12) "Initiation of construction" means that date upon which on-site construction commences.

NEW SECTION. Sec. 2. Application for deferral of taxes under this chapter shall be made before initiation of the construction of the investment project or acquisition of equipment or machinery. The application shall be made to the department in a form and manner prescribed by the department. The application shall contain information regarding the location of the investment project, estimated or actual costs, time schedules for completion and operation, and other information required by the department. The department shall rule on the application within sixty days. A certificate holder shall initiate construction of the investment project within one hundred eighty days of receiving approval from the department and issuance of the tax deferral certificate.

NEW SECTION. Sec. 3. A tax deferral certificate shall only be issued to persons who, on the effective date of this act, are not engaged in manufacturing or research and development activities within this state. For purposes of this section, a person shall not be considered to be engaged in manufacturing or research and development activities where the only activities performed by such person in this state are sales, installation, repair, or promotional activities in respect to products manufactured outside this state. Any person who has succeeded by merger, consolidation, incorporation or any other form or change of identity to the business of a person engaged in manufacturing or research and development activities in this state on the effective date of this act and any person who is a subsidiary of a person engaged in manufacturing or research and development activities in this state on the effective date of this act shall also be ineligible to receive a tax deferral certificate.

NEW SECTION. Sec. 4. The department shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under

chapters 82.08, 82.12, and 82.14 RCW on each eligible investment project. The use of the certificate shall be governed by rules established by the department.

NEW SECTION, Sec. 5. (1) The recipient shall begin paying the deferred taxes in the third year after the date certified by the department as the date on which the construction project is operationally complete. The first payment will be due on December 31st of the third calendar year after such certified date, with subsequent annual payments due on December 31st of the following four years with amounts of payment scheduled as follows:

Repayment Year	% of Deferred Tax Repaid
1	10%
2	15%
3	20%
4	25%
5	30%

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

(3) Interest shall not be charged on any taxes deferred under this chapter for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this chapter. The debt for deferred taxes is not extinguished by insolvency or other failure of the recipient.

NEW SECTION, Sec. 6. The department and the department of trade and economic development shall jointly report to the legislature about the effects of this chapter on new manufacturing and research and development activities in this state. The report shall contain information concerning the number of deferral certificates granted, the amount of sales tax deferred, the number of jobs created and other information useful in measuring such effects. Reports shall be submitted by January 1, 1986, and by January 1, 1987.

NEW SECTION, Sec. 7. Chapter 82.32 RCW applies to the administration of this chapter.

NEW SECTION, Sec. 8. Sections 2 and 3 of this act shall expire July 1, 1986.

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

NEW SECTION, Sec. 10. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the House June 10, 1985.

Passed the Senate June 11, 1985.

Approved by the Governor June 14, 1985.

Filed in Office of Secretary of State June 14, 1985.

CHAPTER 3

[House Bill No. 1327]

BONDS FOR COMMON SCHOOL CAPITAL PROJECTS

AN ACT Relating to common school capital projects; amending RCW 28A.47.841 and 28A.47.844; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 266, Laws of 1984 and RCW 28A.47.841 are each amended to read as follows:

For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, and to provide for the state administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of credit enhancement agreements, and other expenses incidental to the administration of capital projects, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of forty million one hundred seventy thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto.

Bonds authorized in this section may be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. ~~((Section 887, chapter 57, Laws of 1983 1st ex. sess. is appropriation authority for the bonds authorized in this section, and no further appropriation authority of the net proceeds of the sale of such bonds is necessary for the bonds authorized in this section.))~~ No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance or letters of credit and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate.