

(2) "Health care assistant" means an unlicensed person who assists a licensed health care practitioner in providing health care to patients pursuant to this chapter.

(3) "Health care practitioner" means:

(a) A physician licensed under chapter 18.71 RCW((;));

(b) An osteopathic physician or surgeon licensed under chapter 18.57 RCW((;)); or((;))

(c) Acting within the scope of their respective licensures, a podiatrist licensed under chapter 18.22 RCW or a registered nurse licensed under chapter 18.88 RCW.

(4) "Supervision" means supervision of procedures permitted pursuant to this chapter by a health care practitioner who is physically present and is immediately available in the facility during the administration of injections, as defined in this chapter, but need not be present during procedures to withdraw blood.

(5) "Health care facility" means any hospital, hospice care center, licensed or certified health care facility, health maintenance organization regulated under chapter 48.46 RCW, federally qualified health maintenance organization, renal dialysis center or facility federally approved under 42 C.F.R. 405.2100, ((σ)) blood bank federally licensed under 21 C.F.R. 607, or clinical laboratory certified under 20 C.F.R. 405.1301-16.

(6) "Delegation" means direct authorization granted by a licensed health care practitioner to a health care assistant to perform the functions authorized in this chapter which fall within the scope of practice of the delegator and which are not within the scope of practice of the delegatee.

Passed the House March 8, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor March 21, 1986.

Filed in Office of Secretary of State March 21, 1986.

CHAPTER 116

[Engrossed Substitute House Bill No. 1754]

ECONOMIC DEVELOPMENT—FIRST SOURCE CONTRACTS—TAX DEFERRALS FOR ELIGIBLE INVESTMENT PROJECTS—TAX CREDITS FOR ELIGIBLE BUSINESS PROJECTS

AN ACT Relating to economic development; amending RCW 82.61.010, 82.61.040, 82.61.070, 82.60.020, and 82.60.040; adding a new chapter to Title 50 RCW; adding a new section to chapter 82.60 RCW; adding a new chapter to Title 82 RCW; providing expiration dates; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature recognizes that the essential purpose of state economic development programs is to encourage the hiring of the unemployed. It is of even greater benefit to the state if those hired

were drawing unemployment benefits or public assistance and the benefits terminate when employment is secured. A targeted program that encourages employers to make a good faith effort to hire public assistance recipients and the unemployed will provide benefits to the state of Washington.

NEW SECTION. Sec. 2. (1) "Department" means the employment security department.

(2) "First source contract" means an agreement by an employer to screen applicants from a pool of qualified individuals, if any, submitted to the employer by the department and to consider hiring from that pool.

NEW SECTION. Sec. 3. The department shall encourage the use of first source contracts with employers looking to locate or expand in the state. The department shall make every effort to guarantee easy access by employers to qualified workers. The commissioner may delegate duties under this chapter to a local organization.

NEW SECTION. Sec. 4. The department may provide specific financial incentives to employers who sign first source agreements if state funds are appropriated or if federal funds are made available for that purpose. The incentives may include but shall not be limited to providing an employer with up to fifty percent of a trainee's wages during the first ten weeks of employment and on-the-job training.

NEW SECTION. Sec. 5. An employer and a prospective employee to be hired from the pool may agree to a thirty-day training period, at the end of which time the employer shall make a decision whether to hire the individual. The individual may continue to draw unemployment or public assistance, or both during the thirty-day training period.

NEW SECTION. Sec. 6. The funds specified in section 4 of this act shall be available during the thirty-day training period.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act shall constitute a new chapter in Title 50 RCW.

NEW SECTION. Sec. 8. Sections 1 through 6 of this act shall expire December 31, 1989.

*Sec. 9. Section 1, chapter 2, Laws of 1985 ex. sess. and RCW 82.61-.010 are each amended to read as follows:

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: (a) 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~~) 1988; or (b) acquisition prior to December 31, 1988, of machinery and equipment to be used for either manufacturing or research and development if the machinery and equipment is housed in a new leased structure: PROVIDED, That the lessor/owner of the structure is not eligible for a deferral unless the underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person.

In addition to the requirements of this section, a project must create at least one new full-time qualified employment position for each three hundred thousand dollars of investment on which a deferral is requested.

(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) "Qualified employment position" means a permanent full-time employee employed in the eligible investment project during the entire tax year.

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

~~((+0))~~ (11) "Certificate holder" means an applicant to whom a tax deferral certificate has been issued.

~~((+1))~~ (12) "Operationally complete" means constructed or improved to the point of being functionally useable for the intended purpose.

~~((+2))~~ (13) "Initiation of construction" means that date upon which on-site construction commences.

*Sec. 9 was partially vetoed, see message at end of chapter.

Sec. 10. Section 8, chapter 2, Laws of 1985 ex. sess. and RCW 82.61-.040 are each amended to read as follows:

RCW 82.61.020 and 82.61.030 shall expire July 1, ~~((+1986))~~ 1988.

Sec. 11. Section 6, chapter 2, Laws of 1985 ex. sess. and RCW 82.61-.070 are each amended to read as follows:

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))~~ of each year through 1989.

Sec. 12. Section 2, chapter 232, Laws of 1985 and RCW 82.60.020 are each amended to read as follows:

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) "Department" means the department of revenue.

(3) "Eligible area" means a county in which the average level of unemployment for the three years before the year in which an application is filed under this chapter exceeds the average state unemployment for those years by twenty percent.

(4)(a) "Eligible investment project" means that portion of an investment project which:

(i) Is directly utilized to create at least one new full-time qualified employment position for each ~~((two))~~ three hundred thousand dollars of investment on which a deferral is requested; and

(ii) Either initiates a new operation, or expands or diversifies a current operation by expanding or renovating an existing building with costs in excess of twenty-five percent of the true and fair value of the plant complex prior to improvement; ~~((and))~~ or

(iii) ~~((Does not exceed twenty million dollars in value))~~ Acquires machinery and equipment to be used for either manufacturing or research and development if the machinery and equipment is housed in a new leased structure: PROVIDED, That the lessor/owner of the structure is not eligible for a deferral unless the underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person.

(b) "Eligible investment project" does not include any portion of an investment project undertaken by a light and power business as defined in RCW 82.16.010(5) or investment projects which have already received deferrals under this chapter.

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

(6) "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 shall include the production or fabrication of specially made or custom made articles. "Manufacturing" also includes computer programming, the production of computer software, and other computer-related services, and the activities performed by research and development laboratories and commercial testing laboratories.

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

(8) "Qualified buildings" means new structures used for manufacturing and research and development activities, including plant offices and warehouses or other facilities for the storage of raw material 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. 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.

(9) "Qualified employment position" means a permanent full-time employee employed in the eligible investment project during the entire tax year.

(10) "Qualified 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.

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

(12) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

Sec. 13. Section 4, chapter 232, Laws of 1985 and RCW 82.60.040 are each amended to read as follows:

(1) 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 located in an eligible area.

(2) The department shall keep a running total of all deferrals granted under this chapter during each fiscal biennium. ~~((The department shall not allow any deferrals which would cause the tabulation for a biennium to exceed twenty million dollars. If all or part of an application for deferral is disallowed under this subsection, the disallowed portion shall be carried over for approval the next biennium. However, the applicant's carryover into the next biennium is only permitted if the tabulation for the next biennium does not exceed twenty million dollars as of the date on which the department has disallowed the application.))~~

NEW SECTION. Sec. 14. A new section is added to chapter 82.60 RCW to read as follows:

Notwithstanding any other provision of this chapter, taxes deferred under this chapter on the sale or use of labor that is directly used in the construction of an investment project for which a deferral has been granted under this chapter after the effective date of this act need not be repaid.

NEW SECTION. Sec. 15. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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

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

(3) "Eligible area" means a county in which the average level of unemployment for the three years before the year in which an application is filed under this chapter exceeds the average state unemployment for those years by twenty percent.

(4)(a) "Eligible business project" means manufacturing or research and development activities which are conducted by an applicant in an eligible area at a specific facility: PROVIDED, That the applicant's average full-time qualified employment positions at the specific facility will be at least fifteen percent greater in the year for which the credit is being sought than the applicant's average full-time qualified employment positions at the same facility in the immediately preceding year.

(b) "Eligible business project" does not include any portion of a business project undertaken by a light and power business as defined in RCW 82.16.010(5) or that portion of a business project creating qualified full-time employment positions outside an eligible area or those recipients of a sales tax deferral under chapter 82.61 RCW.

(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 shall include the production or fabrication of specially made or custom made articles. "Manufacturing" also includes computer programming, the production of computer software, and other computer-related services, and the activities performed by research and development laboratories and commercial testing laboratories.

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

(7) "Qualified employment position" means a permanent full-time employee employed in the eligible business project during the entire tax year.

(8) "Tax year" means the calendar year in which taxes are due.

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

(10) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

NEW SECTION. Sec. 16. Application for tax credits under this chapter must be made before the actual hiring of qualified employment positions. 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 business project, the applicant's average employment, if any, at the facility for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the 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.

NEW SECTION. Sec. 17. (1) A person shall be allowed a credit against the tax due under chapter 82.04 RCW of an amount equal to one thousand dollars for each qualified employment position directly created in an eligible business project.

(2) The department shall keep a running total of all credits granted under this chapter during each fiscal biennium. The department shall not allow any credits which would cause the tabulation for a biennium to exceed fifteen million dollars. If all or part of an application for credit is disallowed under this subsection, the disallowed portion shall be carried over for approval the next biennium. However, the applicant's carryover into the next biennium is only permitted if the tabulation for the next biennium does not exceed fifteen million dollars as of the date on which the department has disallowed the application.

(3) No recipient is eligible for tax credits in excess of three hundred thousand dollars.

(4) No recipient may use the tax credits to decertify a union or to displace existing jobs in any community in the state.

(5) No recipient may receive a tax credit on taxes which have not been paid during the taxable year.

NEW SECTION. Sec. 18. (1) Each recipient shall submit a report to the department on December 31st of each year. The report shall contain information, as required by the department, from which the department may determine whether the recipient is meeting the requirements of this chapter. If the recipient fails to submit a report or submits an inadequate report, the department may declare the amount of taxes for which a credit has been used to be immediately assessed and payable.

(2) If, on the basis of a report under this section or other information, the department finds that a business project is not eligible for tax credit under this chapter for reasons other than failure to create the required number of qualified employment positions, the amount of taxes for which a credit has been used for the project shall be immediately due.

(3) If, on the basis of a report under this section or other information, the department finds that a business project has failed to create the specified number of qualified employment positions, the department shall assess interest, but not penalties, on the credited taxes for which a credit has been used for the project. The interest shall be assessed at the rate provided for delinquent excise taxes, shall be assessed retroactively to the date of the tax credit, and shall accrue until the taxes for which a credit has been used are repaid.

NEW SECTION. Sec. 19. The employment security department shall make, and certify to the department of revenue, all determinations of employment and wages required under this chapter.

NEW SECTION. Sec. 20. Chapter 82.32 RCW applies to the administration of this chapter.

NEW SECTION. Sec. 21. Sections 15 through 20 of this act shall constitute a new chapter in Title 82 RCW.

NEW SECTION. Sec. 22. Sections 16 and 17 of this act shall expire July 1, 1988.

NEW SECTION. Sec. 23. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 24. Sections 15 through 20 of this act are 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 April 1, 1986.

Passed the House March 11, 1986.

Passed the Senate March 11, 1986.

Approved by the Governor March 22, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 22, 1986.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to one provision, Substitute House Bill No. 1754, entitled:

"AN ACT Relating to economic development."

I strongly support this bill's intent to strengthen the State's commitment to stimulating employment and job-creating private investment, particularly in economically distressed areas, as well as to encourage companies that receive State economic development assistance to hire job applicants from among the unemployed and welfare recipients.

This bill makes certain needed changes in existing legislation which provides for the deferral of sales tax on eligible investments in manufacturing facilities and equipment. The majority of these changes are reasonable and are supported by our experience to date with these programs.

However, I am vetoing that portion of Section 9(4) that would limit the sales tax deferral granted to firms making eligible investments in the state for the first time to a total amount not exceeding \$300,000 per new full-time employment position created. This proposed limitation is not a part of the existing sales tax deferral statute for eligible first-time investments by manufacturing and research and development firms. Although I believe that creating new jobs is one important policy objective for the State's sales tax deferral programs, I am concerned, that enactment of this particular limitation would conflict with another important program objective—namely, to enhance the Washington's competitiveness with other states in attracting certain industries for which this state possesses distinct strategic advantages. Washington is one of the few states that taxes capital expenditures and thereby significantly increases entry costs here compared to other states with whom this State competes for new investment.

Our experience with the program thus far has demonstrated that the limitation proposed in this bill would significantly reduce the number of industries that Washington could pursue to strategically diversify and expand our economic base. In

particular, this limitation would make it more difficult to attract the more capital intensive, higher value-added, industries that tend to provide higher wage employment. Industries of this type are critical to raising Washington incomes and stimulating spin-off employment and growth in new industries.

Therefore, with the exception of that portion of Section 9(4) which I have vetoed, Substitute House Bill No. 1754 is approved."

CHAPTER 117

[Senate Bill No. 4490]

CORPORATIONS

AN ACT Relating to corporations; amending RCW 23A.04.010, 23A.08.070, 23A.08-.080, 23A.08.110, 23A.08.120, 23A.08.150, 23A.08.250, 23A.08.260, 23A.08.270, 23A.08.305, 23A.08.380, 23A.08.390, 23A.08.400, 23A.08.450, 23A.16.020, 23A.16.075, 23A.32.050, 23A.32.090, 23A.32.100, 23A.32.130, 23A.32.160, 23A.32.170, and 23A.40.020; repealing RCW 23A.32.110 and 23A.32.120; adding new sections to chapter 23A.32 RCW; and declaring an emergency.

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

Sec. 1. Section 3, chapter 53, Laws of 1965 as last amended by section 1, chapter 75, Laws of 1984 and RCW 23A.04.010 are each amended to read as follows:

As used in this title, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a corporation for profit subject to the provisions of this title, except a foreign corporation.

(2) "Foreign corporation" means a corporation for profit organized under laws other than the laws of this state for a purpose or purposes for which a corporation may be organized under this title.

(3) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto including articles of merger.

(4) "Shares" means the units into which the proprietary interests in a corporation are divided.

(5) "Subscriber" means one who subscribes for one or more shares in a corporation, whether before or after incorporation.

(6) "Shareholder" means one who is a holder of record of one or more shares in a corporation. If the articles of incorporation or the bylaws so provide, the board of directors may adopt by resolution a procedure whereby a shareholder of the corporation may certify in writing to the corporation that all or a portion of the shares registered in the name of such shareholder are held for the account of a specified person or persons. The resolution shall set forth:

(a) The classification of shareholder who may certify;

(b) The purpose or purposes for which the certification may be made;

(c) The form of certification and information to be contained therein;