
SENATE BILL 5204

State of Washington

65th Legislature

2017 Regular Session

By Senator Fain

1 AN ACT Relating to modifying a property tax exemption for
2 industrial and manufacturing industries in targeted areas; and
3 amending RCW 84.25.010, 84.25.020, 84.25.030, 84.25.040, 84.25.050,
4 84.25.060, 84.25.070, 84.25.080, 84.25.090, 84.25.100, 84.25.110,
5 84.25.120, and 84.25.130.

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

7 **Sec. 1.** RCW 84.25.010 and 2015 1st sp.s. c 9 s 1 are each
8 amended to read as follows:

9 The legislature finds that:

10 (1) Many cities and counties have planned under the growth
11 management act, chapter 36.70A RCW, and designated and zoned lands
12 for industrial and manufacturing use;

13 (2) The industrial and manufacturing industries provide family
14 living wage jobs;

15 (3) In the current economic climate the creation of additional
16 family living wage jobs is essential;

17 (4) It is critical that Washington state promote its continued
18 strength in the fields of aerospace, technology, biomedical, and
19 other industries that will provide family wage job growth; and

20 (5) Planning for industrial and manufacturing use is inadequate
21 to attract new industry and manufacturing and an incentive should be

1 created to stimulate the development of new industrial and
2 manufacturing uses in the existing inventory of lands zoned for
3 industrial and manufacturing use in targeted urban areas through a
4 tax incentive as provided by this chapter.

5 **Sec. 2.** RCW 84.25.020 and 2015 1st sp.s. c 9 s 2 are each
6 amended to read as follows:

7 It is the purpose of this chapter to encourage new manufacturing
8 and industrial uses on undeveloped or underutilized lands zoned for
9 industrial and manufacturing uses in targeted urban areas, thereby
10 increasing employment opportunities for family living wage jobs.
11 Cities and counties that plan under the growth management act meeting
12 the criteria of this chapter where the governing authority of the
13 affected city or county has found there is insufficient family living
14 wage jobs for its wage earning population may designate a portion of
15 the city's or county's industrial and manufacturing zoned and
16 undeveloped land to receive an ad valorem tax exemption for the value
17 of new construction or renovation of industrial/manufacturing
18 facilities within the designated area.

19 **Sec. 3.** RCW 84.25.030 and 2015 1st sp.s. c 9 s 3 are each
20 amended to read as follows:

21 The definitions in this section apply throughout this chapter
22 unless the context clearly requires otherwise.

23 ~~(1) ("City" means any city that: (a) Has a population of at
24 least eighteen thousand; and (b) is north or east of the largest city
25 in the county in which the city is located and such county has a
26 population of at least seven hundred thousand, but less than eight
27 hundred thousand.~~

28 ~~(2))~~ "Family living wage job" means a job with a wage that is
29 sufficient for raising a family. A family living wage job must have
30 an average wage of eighteen dollars an hour or more, working two
31 thousand eighty hours per year on the subject site, as adjusted
32 annually for inflation by the consumer price index. The family living
33 wage may be increased by the local authority based on regional
34 factors and wage conditions.

35 ~~((3))~~ (2) "Governing authority" means the local legislative
36 authority of a city or county having jurisdiction over the property
37 for which an exemption may be applied for under this chapter.

38 ~~((4))~~ (3) "Growth management act" means chapter 36.70A RCW.

1 ~~((+5))~~ (4) "Industrial/manufacturing facilities" means building
2 improvements ~~((that are ten thousand))~~ or renovations that are two
3 thousand five hundred square feet or larger, representing a minimum
4 improvement valuation of eight hundred thousand dollars for uses
5 categorized as "division D: manufacturing" by the United States
6 department of labor in the occupation safety and health
7 administration's standard industrial classification manual.

8 ~~((+6))~~ (5) "Lands zoned for industrial and manufacturing uses"
9 means lands in a city or county urban growth area zoned as of
10 December 31, 2014, for an industrial or manufacturing use consistent
11 with the city's or county's comprehensive plan where the lands are
12 designated for industry.

13 ~~((+7))~~ (6) "Owner" means the property owner of record.

14 (7) "Renovation" means modifications or repurposing of an
15 existing building that is two thousand five hundred square feet or
16 larger. The exemption provided in this section does not apply to the
17 value of improvements constructed prior to the submission of the
18 application required under this chapter.

19 (8) "Targeted area" means an area of undeveloped or underutilized
20 lands zoned for industrial and manufacturing uses in the city or
21 county that is located within or contiguous to an innovation
22 partnership zone, foreign trade zone, or EB-5 regional center, and
23 designated for possible exemption under the provisions of this
24 chapter.

25 (9) "Undeveloped ~~((or underutilized))~~" means that there are no
26 existing building improvements on the property or portions of the
27 property targeted for new or expanded industrial or manufacturing
28 uses.

29 (10) "Underutilized" means the land contains existing buildings
30 that are vacant or in use but capable of being repurposed or land
31 that will be redeveloped in order to increase property values and to
32 increase the number of family wage jobs.

33 **Sec. 4.** RCW 84.25.040 and 2015 1st sp.s. c 9 s 4 are each
34 amended to read as follows:

35 (1)(a) The value of new construction or renovation of industrial/
36 manufacturing facilities qualifying under this chapter is exempt from
37 property taxation under this title, as provided in this section. The
38 value of new construction or renovation of industrial/manufacturing
39 facilities is exempt from taxation for properties for which an

1 application for a certificate of tax exemption is submitted under
2 this chapter before December 31, 2022. The value is exempt under this
3 section for ten successive years beginning January 1st of the year
4 immediately following the calendar year of issuance of the
5 certificate.

6 (b) The exemption provided in this section does not include the
7 value of land or nonindustrial/manufacturing-related improvements not
8 qualifying under this chapter.

9 (2) The exemption provided in this section is in addition to any
10 other exemptions, deferrals, credits, grants, or other tax incentives
11 provided by law.

12 (3) This chapter does not apply to state levies or increases in
13 assessed valuation made by the assessor on nonqualifying portions of
14 buildings and value of land nor to increases made by lawful order of
15 a county board of equalization, the department of revenue, or a
16 county, to a class of property throughout the county or specific area
17 of the county to achieve the uniformity of assessment or appraisal
18 required by law.

19 (4) This exemption does not apply to any county property taxes
20 unless the governing body of the county adopts a resolution and
21 notifies the governing authority of its intent to allow the property
22 to be exempted from county property taxes.

23 (5) At the conclusion of the exemption period, the new
24 industrial/manufacturing facilities cost must be considered as new
25 construction for the purposes of chapter 84.55 RCW.

26 **Sec. 5.** RCW 84.25.050 and 2015 1st sp.s. c 9 s 5 are each
27 amended to read as follows:

28 An owner of property making application under this chapter must
29 meet the following requirements:

30 (1) The new construction or renovation of industrial/
31 manufacturing facilities must be located on land zoned for industrial
32 and manufacturing uses, undeveloped or underutilized, and as provided
33 in RCW 84.25.060, designated by the ((city)) governing authority as a
34 targeted area;

35 (2) The new construction or renovation of industrial/
36 manufacturing facilities must meet all construction and development
37 regulations of the ((city)) governing authority;

1 (3) The new construction or renovation of industrial/
2 manufacturing facilities must be completed within three years from
3 the date of approval of the application; and

4 (4) The applicant must enter into a contract with the ((~~city~~
5 ~~approved by the~~)) governing authority, or an administrative official
6 or commission authorized by the governing authority, under which the
7 applicant has agreed to the implementation of the development on
8 terms and conditions satisfactory to the governing authority.

9 **Sec. 6.** RCW 84.25.060 and 2015 1st sp.s. c 9 s 6 are each
10 amended to read as follows:

11 (1) The following criteria must be met before an area may be
12 designated as a targeted area:

13 (a) The area must be lands zoned for industrial and manufacturing
14 uses; and

15 (b) The ((~~city~~)) governing authority must have determined that
16 the targeting of the area(~~(, as evaluated by the governing~~
17 ~~authority,)~~) will assist in the new construction of industrial/
18 manufacturing facilities that will provide employment for family
19 living wage jobs.

20 (2) For the purpose of designating a targeted area, the governing
21 authority may adopt a resolution of intention to so designate an area
22 as generally described in the resolution. The resolution must state
23 the time and place of a hearing to be held by the governing authority
24 to consider the designation of the area and may include such other
25 information pertaining to the designation of the area as the
26 governing authority determines to be appropriate to apprise the
27 public of the action intended.

28 (3) The governing authority must give notice of a hearing held
29 under this chapter by publication of the notice once each week for
30 two consecutive weeks, not less than seven days, nor more than thirty
31 days before the date of the hearing in a paper having a general
32 circulation in the city or county where the proposed targeted area is
33 located. The notice must state the time, date, place, and purpose of
34 the hearing and generally identify the area proposed to be designated
35 as a targeted area.

36 (4) Following the hearing or a continuance of the hearing, and
37 subject to the limit on targeted areas, the governing authority may
38 designate all or a portion of the area described in the resolution of

1 intent as a targeted area if it finds, in its sole discretion, that
2 the criteria in subsection (1) of this section have been met.

3 **Sec. 7.** RCW 84.25.070 and 2015 1st sp.s. c 9 s 7 are each
4 amended to read as follows:

5 An owner of property seeking an exemption under this chapter must
6 complete the following procedures:

7 (1) The owner must apply to the ((~~city~~)) governing authority on
8 forms adopted by the governing authority. The application must
9 contain the following:

10 (a) Information setting forth the grounds supporting the
11 requested exemption including information indicated on the
12 application form or in the guidelines;

13 (b) A description of the project and site plan, and other
14 information requested;

15 (c) A statement of the expected number of new family living wage
16 jobs to be created;

17 (d) A statement that the applicant is aware of the potential tax
18 liability involved when the property ceases to be eligible for the
19 incentive provided under this chapter; and

20 (e) A statement that the applicant would not have built or
21 renovated in this location but for the availability of the tax
22 exemption under this chapter;

23 (2) The applicant must verify the application by oath or
24 affirmation; and

25 (3) The application must be accompanied by the application fee,
26 if any, required under this chapter. The governing authority may
27 permit the applicant to revise an application before final action by
28 the governing authority.

29 **Sec. 8.** RCW 84.25.080 and 2015 1st sp.s. c 9 s 8 are each
30 amended to read as follows:

31 The duly authorized administrative official or committee of the
32 ((~~city~~)) governing authority may approve the application if it finds
33 that:

34 (1) A minimum of twenty-five new family living wage jobs will be
35 created on the subject site as a result of new construction or
36 renovation of ((~~manufacturing/industrial-[industrial/manufacturing]~~))
37 industrial/manufacturing facilities within one year of building
38 occupancy;

1 (2) The proposed project is, or will be, at the time of
2 completion, in conformance with all local plans and regulations that
3 apply at the time the application is approved; and

4 (3) The criteria of this chapter have been satisfied.

5 **Sec. 9.** RCW 84.25.090 and 2015 1st sp.s. c 9 s 9 are each
6 amended to read as follows:

7 (1) The ~~((city))~~ governing authority or its authorized
8 representative must approve or deny an application filed under this
9 chapter within ninety days after receipt of the application.

10 (2) If the application is approved, the ~~((city))~~ governing
11 authority must issue the owner of the property a conditional
12 certificate of acceptance of tax exemption. The certificate must
13 contain a statement by a duly authorized administrative official of
14 the governing authority that the property has complied with the
15 required criteria of this chapter.

16 (3) If the application is denied by the ~~((city))~~ governing
17 authority, the ~~((city))~~ governing authority must state in writing the
18 reasons for denial and send the notice to the applicant at the
19 applicant's last known address within ten days of the denial.

20 (4) Upon denial by the ~~((city))~~ governing authority, an applicant
21 may appeal the denial to the city's governing authority within thirty
22 days after receipt of the denial. The appeal before the ~~((city's))~~
23 governing authority must be based upon the record made before the
24 ~~((city))~~ governing authority with the burden of proof on the
25 applicant to show that there was no substantial evidence to support
26 the ~~((city's))~~ governing authority's decision. The decision of the
27 ~~((city))~~ governing authority in denying or approving the application
28 is final.

29 **Sec. 10.** RCW 84.25.100 and 2015 1st sp.s. c 9 s 10 are each
30 amended to read as follows:

31 The governing authority may establish an application fee. This
32 fee may not exceed an amount determined to be required to cover the
33 cost to be incurred by the governing authority and the assessor in
34 administering this chapter. The application fee must be paid at the
35 time the application for limited exemption is filed. If the
36 application is approved, the governing authority ~~((of the city))~~ must
37 pay the application fee to the county assessor for deposit in the
38 county current expense fund, after first deducting that portion of

1 the fee attributable to its own administrative costs in processing
2 the application. If the application is denied, the city's governing
3 authority may retain that portion of the application fee attributable
4 to its own administrative costs and refund the balance to the
5 applicant.

6 **Sec. 11.** RCW 84.25.110 and 2015 1st sp.s. c 9 s 11 are each
7 amended to read as follows:

8 (1) Upon completion of the new construction or renovation of ((a
9 ~~manufacturing/industrial~~ [industrial/manufacturing])) an industrial/
10 manufacturing facility for which an application for an exemption
11 under this chapter has been approved and issued a certificate of
12 occupancy, the owner must file with the ((city)) governing authority
13 the following:

14 (a) A description of the work that has been completed and a
15 statement that the new construction or renovation on the owner's
16 property qualify the property for a partial exemption under this
17 chapter;

18 (b) A statement of the new family living wage jobs to be offered
19 as a result of the new construction or renovation of ((~~manufacturing/~~
20 ~~industrial~~ [industrial/manufacturing])) industrial/manufacturing
21 facilities; and

22 (c) A statement that the work has been completed within three
23 years of the issuance of the conditional certificate of tax
24 exemption.

25 (2) Within thirty days after receipt of the statements required
26 under subsection (1) of this section, the ((city)) governing
27 authority must determine whether the work completed and the jobs to
28 be offered are consistent with the application and the contract
29 approved by the ((city)) governing authority and whether the
30 application is qualified for a tax exemption under this chapter.

31 (3) If the criteria of this chapter have been satisfied and the
32 owner's property is qualified for a tax exemption under this chapter,
33 the ((city)) governing authority must file the certificate of tax
34 exemption with the county assessor within ten days of the expiration
35 of the thirty-day period provided under subsection (2) of this
36 section.

37 (4) The ((city)) governing authority must notify the applicant
38 that a certificate of tax exemption is denied if the ((city))
39 governing authority determines that:

1 (a) The work was not completed within three years of the
2 application date;

3 (b) The work was not constructed consistent with the application
4 or other applicable requirements;

5 (c) The jobs to be offered are not consistent with the
6 application and criteria of this chapter; or

7 (d) The owner's property is otherwise not qualified for an
8 exemption under this chapter.

9 (5) If the ((city)) governing authority finds that the work was
10 not completed within the required time period due to circumstances
11 beyond the control of the owner and that the owner has been acting
12 and could reasonably be expected to act in good faith and with due
13 diligence, the governing authority or the ((city)) governing
14 authority official authorized by the governing authority may extend
15 the deadline for completion of the work for a period not to exceed
16 twenty-four consecutive months.

17 (6) The ((city's)) governing authority may enact an ordinance to
18 provide a process for an owner to appeal a decision by the ((city))
19 governing authority that the owner is not entitled to a certificate
20 of tax exemption to the city or county. The owner may appeal a
21 decision by the ((city)) governing authority to deny a certificate of
22 tax exemption in superior court under RCW 34.05.510 through
23 34.05.598, if the appeal is filed within thirty days of notification
24 by the ((city)) governing authority to the owner of the exemption
25 denial.

26 **Sec. 12.** RCW 84.25.120 and 2015 1st sp.s. c 5761 s 12 are each
27 amended to read as follows:

28 (1) Thirty days after the anniversary of the date of the
29 certificate of tax exemption and each year for the tax exemption
30 period, the owner of the new or renovated industrial/manufacturing
31 facilities must file with a designated authorized representative of
32 the ((city)) governing authority an annual report indicating the
33 following:

34 (a) A statement of the family living wage jobs at the facility as
35 of the anniversary date;

36 (b) A certification by the owner that the property has not
37 changed use;

38 (c) A description of changes or improvements constructed after
39 issuance of the certificate of tax exemption; and

1 (d) Any additional information requested by the ((city))
2 governing authority.

3 (2) A ((city)) governing authority that issues a certificate of
4 tax exemption under this chapter must report annually by December
5 31st of each year, beginning in 2013, to the department of commerce.
6 The report must include the following information:

7 (a) The number of tax exemption certificates granted;

8 (b) The total number and type of new ((~~manufacturing/industrial~~
9 [~~industrial/manufacturing~~])) or renovated industrial/manufacturing
10 facilities constructed or renovated;

11 (c) The number of family living wage jobs resulting from the new
12 ((~~manufacturing/industrial~~ [~~industrial/manufacturing~~])) or renovated
13 industrial/manufacturing facilities; and

14 (d) The value of the tax exemption for each project receiving a
15 tax exemption and the total value of tax exemptions granted.

16 **Sec. 13.** RCW 84.25.130 and 2015 1st sp.s. c 9 s 13 are each
17 amended to read as follows:

18 (1) If the value of improvements have been exempted under this
19 chapter, the improvements continue to be exempted for the applicable
20 period under this chapter so long as they are not converted to
21 another use and continue to satisfy all applicable conditions
22 including, but not limited to, zoning, land use, building, and family
23 wage job creation.

24 (2) If an owner voluntarily opts to discontinue compliance with
25 the requirements of this chapter, the owner must notify the assessor
26 within sixty days of the change in use or intended discontinuance.

27 (3) If, after a certificate of tax exemption has been filed with
28 the county assessor, the ((city)) governing authority discovers that
29 a portion of the property is changed or will be changed to disqualify
30 the owner for exemption eligibility under this chapter, the tax
31 exemption must be canceled and the following occurs:

32 (a) Additional real property tax must be imposed on the value of
33 the nonqualifying improvements in the amount that would be imposed if
34 an exemption had not been available under this chapter, plus a
35 penalty equal to twenty percent of the additional value. This
36 additional tax is calculated based upon the difference between the
37 property tax paid and the property tax that would have been paid if
38 it had included the value of the nonqualifying improvements dated

1 back to the date that the improvements were converted to a
2 nonqualifying use;

3 (b) The tax must include interest upon the amounts of the
4 additional tax at the same statutory rate charged on delinquent
5 property taxes from the dates on which the additional tax could have
6 been paid without penalty if the improvements had been assessed at a
7 value without regard to this chapter; and

8 (c) The additional tax owed together with interest and penalty
9 becomes a lien on the property and attaches at the time the property
10 or portion of the property is removed from the qualifying use under
11 this chapter or the amenities no longer meet the applicable
12 requirements for exemption under this chapter. A lien under this
13 section has priority to, and must be fully paid and satisfied before,
14 a recognizance, mortgage, judgment, debt, obligation, or
15 responsibility to or with which the property may become charged or
16 liable. The lien may be foreclosed upon expiration of the same period
17 after delinquency and in the same manner provided by law for
18 foreclosure of liens for delinquent real property taxes. An
19 additional tax unpaid on its due date is delinquent. From the date of
20 delinquency until paid, interest must be charged at the same rate
21 applied by law to delinquent property taxes.

22 (4) Upon a determination that a tax exemption is to be terminated
23 for a reason stated in this section, the city's governing authority
24 must notify the record owner of the property as shown by the tax
25 rolls by mail, return receipt requested, of the determination to
26 terminate the exemption. The owner may appeal the determination to
27 the ((city)) governing authority, within thirty days by filing a
28 notice of appeal with the ((city)) governing authority, which notice
29 must specify the factual and legal basis on which the determination
30 of termination is alleged to be erroneous. At an appeal hearing, all
31 affected parties may be heard and all competent evidence received.
32 After the hearing, the deciding body or officer must either affirm,
33 modify, or repeal the decision of termination of exemption based on
34 the evidence received. An aggrieved party may appeal the decision of
35 the deciding body or officer to the superior court as provided in RCW
36 34.05.510 through 34.05.598.

37 (5) Upon determination by the ((city)) governing authority to
38 terminate an exemption, the county officials having possession of the
39 assessment and tax rolls must correct the rolls in the manner
40 provided for omitted property under RCW 84.40.080. The county

1 assessor must make such a valuation of the property and improvements
2 as is necessary to permit the correction of the rolls. The value of
3 the new or renovated industrial/manufacturing facilities added to the
4 rolls is considered new construction for the purposes of chapter
5 84.40 RCW. The owner may appeal the valuation to the county board of
6 equalization as provided in chapter 84.40 RCW. If there has been a
7 failure to comply with this chapter, the property must be listed as
8 an omitted assessment for assessment years beginning January 1st of
9 the calendar year in which the noncompliance first occurred, but the
10 listing as an omitted assessment may not be for a period more than
11 three calendar years preceding the year in which the failure to
12 comply was discovered.

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