

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5761

Chapter 9, Laws of 2015

64th Legislature
2015 1st Special Session

PROPERTY TAXES--EXEMPTION--TARGETED URBAN AREAS

EFFECTIVE DATE: 8/27/2015

Passed by the Senate May 28, 2015
Yeas 47 Nays 0

BRAD OWEN

President of the Senate

Passed by the House May 28, 2015
Yeas 74 Nays 18

FRANK CHOPP

Speaker of the House of Representatives

Approved June 10, 2015 2:50 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5761** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

June 10, 2015

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5761

Passed Legislature - 2015 1st Special Session

State of Washington 64th Legislature 2015 Regular Session

By Senators Pearson, Hobbs, McCoy, Bailey, and Benton

Read first time 02/02/15. Referred to Committee on Trade & Economic Development.

1 AN ACT Relating to providing for property tax exemption for the
2 value of new construction of industrial/manufacturing facilities in
3 targeted urban areas; and adding a new chapter to Title 84 RCW.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) Many cities have planned under the growth management act,
7 chapter 36.70A RCW, and designated and zoned lands for industrial and
8 manufacturing use;

9 (2) The industrial and manufacturing industries provide family
10 living wage jobs;

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

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

16 (5) Planning for industrial and manufacturing use is inadequate
17 to attract new industry and manufacturing and an incentive should be
18 created to stimulate the development of new industrial and
19 manufacturing uses in the existing inventory of lands zoned for
20 industrial and manufacturing use in targeted urban areas through a
21 tax incentive as provided by this chapter.

1 NEW SECTION. **Sec. 2.** It is the purpose of this chapter to
2 encourage new manufacturing and industrial uses on undeveloped or
3 underutilized lands zoned for industrial and manufacturing uses in
4 targeted urban areas, thereby increasing employment opportunities for
5 family living wage jobs. Cities that plan under the growth management
6 act meeting the criteria of this chapter where the governing
7 authority of the affected city has found there is insufficient family
8 living wage jobs for its wage earning population may designate a
9 portion of the city's industrial and manufacturing zoned and
10 undeveloped land to receive an ad valorem tax exemption for the value
11 of new construction of industrial/manufacturing facilities within the
12 designated area.

13 NEW SECTION. **Sec. 3.** The definitions in this section apply
14 throughout this chapter unless the context clearly requires
15 otherwise.

16 (1) "City" means any city that: (a) Has a population of at least
17 eighteen thousand; and (b) is north or east of the largest city in
18 the county in which the city is located and such county has a
19 population of at least seven hundred thousand, but less than eight
20 hundred thousand.

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

28 (3) "Governing authority" means the local legislative authority
29 of a city having jurisdiction over the property for which an
30 exemption may be applied for under this chapter.

31 (4) "Growth management act" means chapter 36.70A RCW.

32 (5) "Industrial/manufacturing facilities" means building
33 improvements that are ten thousand square feet or larger,
34 representing a minimum improvement valuation of eight hundred
35 thousand dollars for uses categorized as "division D: manufacturing"
36 by the United States department of labor in the occupation safety and
37 health administration's standard industrial classification manual.

38 (6) "Lands zoned for industrial and manufacturing uses" means
39 lands in a city zoned as of December 31, 2014, for an industrial or

1 manufacturing use consistent with the city's comprehensive plan where
2 the lands are designated for industry.

3 (7) "Owner" means the property owner of record.

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

9 (9) "Undeveloped or underutilized" means that there are no
10 existing building improvements on the property or portions of the
11 property targeted for new or expanded industrial or manufacturing
12 uses.

13 NEW SECTION. **Sec. 4.** (1)(a) The value of new construction of
14 industrial/manufacturing facilities qualifying under this chapter is
15 exempt from property taxation under this title, as provided in this
16 section. The value of new construction of industrial/manufacturing
17 facilities is exempt from taxation for properties for which an
18 application for a certificate of tax exemption is submitted under
19 this chapter before December 31, 2022. The value is exempt under this
20 section for ten successive years beginning January 1st of the year
21 immediately following the calendar year of issuance of the
22 certificate.

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

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

29 (3) This chapter does not apply to state levies or increases in
30 assessed valuation made by the assessor on nonqualifying portions of
31 buildings and value of land nor to increases made by lawful order of
32 a county board of equalization, the department of revenue, or a
33 county, to a class of property throughout the county or specific area
34 of the county to achieve the uniformity of assessment or appraisal
35 required by law.

36 (4) This exemption does not apply to any county property taxes
37 unless the governing body of the county adopts a resolution and
38 notifies the governing authority of its intent to allow the property
39 to be exempted from county property taxes.

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

4 NEW SECTION. **Sec. 5.** An owner of property making application
5 under this chapter must meet the following requirements:

6 (1) The new construction of industrial/manufacturing facilities
7 must be located on land zoned for industrial and manufacturing uses,
8 undeveloped or underutilized, and as provided in section 6 of this
9 act, designated by the city as a targeted area;

10 (2) The new construction of industrial/manufacturing facilities
11 must meet all construction and development regulations of the city;

12 (3) The new construction of industrial/manufacturing facilities
13 must be completed within three years from the date of approval of the
14 application; and

15 (4) The applicant must enter into a contract with the city
16 approved by the governing authority, or an administrative official or
17 commission authorized by the governing authority, under which the
18 applicant has agreed to the implementation of the development on
19 terms and conditions satisfactory to the governing authority.

20 NEW SECTION. **Sec. 6.** (1) The following criteria must be met
21 before an area may be designated as a targeted area:

22 (a) The area must be lands zoned for industrial and manufacturing
23 uses; and

24 (b) The city must have determined that the targeting of the area,
25 as evaluated by the governing authority, will assist in the new
26 construction of industrial/manufacturing facilities that will provide
27 employment for family living wage jobs.

28 (2) For the purpose of designating a targeted area, the governing
29 authority may adopt a resolution of intention to so designate an area
30 as generally described in the resolution. The resolution must state
31 the time and place of a hearing to be held by the governing authority
32 to consider the designation of the area and may include such other
33 information pertaining to the designation of the area as the
34 governing authority determines to be appropriate to apprise the
35 public of the action intended.

36 (3) The governing authority must give notice of a hearing held
37 under this chapter by publication of the notice once each week for
38 two consecutive weeks, not less than seven days, nor more than thirty

1 days before the date of the hearing in a paper having a general
2 circulation in the city where the proposed targeted area is located.
3 The notice must state the time, date, place, and purpose of the
4 hearing and generally identify the area proposed to be designated as
5 a targeted area.

6 (4) Following the hearing or a continuance of the hearing, and
7 subject to the limit on targeted areas, the governing authority may
8 designate all or a portion of the area described in the resolution of
9 intent as a targeted area if it finds, in its sole discretion, that
10 the criteria in subsection (1) of this section have been met.

11 NEW SECTION. **Sec. 7.** An owner of property seeking an exemption
12 under this chapter must complete the following procedures:

13 (1) The owner must apply to the city on forms adopted by the
14 governing authority. The application must contain the following:

15 (a) Information setting forth the grounds supporting the
16 requested exemption including information indicated on the
17 application form or in the guidelines;

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

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

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

25 (e) A statement that the applicant would not have built in this
26 location but for the availability of the tax exemption under this
27 chapter;

28 (2) The applicant must verify the application by oath or
29 affirmation; and

30 (3) The application must be accompanied by the application fee,
31 if any, required under this chapter. The governing authority may
32 permit the applicant to revise an application before final action by
33 the governing authority.

34 NEW SECTION. **Sec. 8.** The duly authorized administrative
35 official or committee of the city may approve the application if it
36 finds that:

37 (1) A minimum of twenty-five new family living wage jobs will be
38 created on the subject site as a result of new construction of

1 manufacturing/industrial facilities within one year of building
2 occupancy;

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

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

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

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

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

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

27 NEW SECTION. **Sec. 10.** The governing authority may establish an
28 application fee. This fee may not exceed an amount determined to be
29 required to cover the cost to be incurred by the governing authority
30 and the assessor in administering this chapter. The application fee
31 must be paid at the time the application for limited exemption is
32 filed. If the application is approved, the governing authority of the
33 city must pay the application fee to the county assessor for deposit
34 in the county current expense fund, after first deducting that
35 portion of the fee attributable to its own administrative costs in
36 processing the application. If the application is denied, the city's
37 governing authority may retain that portion of the application fee

1 attributable to its own administrative costs and refund the balance
2 to the applicant.

3 NEW SECTION. **Sec. 11.** (1) Upon completion of the new
4 construction of a manufacturing/industrial facility for which an
5 application for an exemption under this chapter has been approved and
6 issued a certificate of occupancy, the owner must file with the city
7 the following:

8 (a) A description of the work that has been completed and a
9 statement that the new construction on the owner's property qualify
10 the property for a partial exemption under this chapter;

11 (b) A statement of the new family living wage jobs to be offered
12 as a result of the new construction of manufacturing/industrial
13 facilities; and

14 (c) A statement that the work has been completed within three
15 years of the issuance of the conditional certificate of tax
16 exemption.

17 (2) Within thirty days after receipt of the statements required
18 under subsection (1) of this section, the city must determine whether
19 the work completed and the jobs to be offered are consistent with the
20 application and the contract approved by the city and whether the
21 application is qualified for a tax exemption under this chapter.

22 (3) If the criteria of this chapter have been satisfied and the
23 owner's property is qualified for a tax exemption under this chapter,
24 the city must file the certificate of tax exemption with the county
25 assessor within ten days of the expiration of the thirty-day period
26 provided under subsection (2) of this section.

27 (4) The city must notify the applicant that a certificate of tax
28 exemption is denied if the city determines that:

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

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

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

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

37 (5) If the city finds that the work was not completed within the
38 required time period due to circumstances beyond the control of the
39 owner and that the owner has been acting and could reasonably be

1 expected to act in good faith and with due diligence, the governing
2 authority or the city official authorized by the governing authority
3 may extend the deadline for completion of the work for a period not
4 to exceed twenty-four consecutive months.

5 (6) The city's governing authority may enact an ordinance to
6 provide a process for an owner to appeal a decision by the city that
7 the owner is not entitled to a certificate of tax exemption to the
8 city. The owner may appeal a decision by the city to deny a
9 certificate of tax exemption in superior court under RCW 34.05.510
10 through 34.05.598, if the appeal is filed within thirty days of
11 notification by the city to the owner of the exemption denial.

12 NEW SECTION. **Sec. 12.** (1) Thirty days after the anniversary of
13 the date of the certificate of tax exemption and each year for the
14 tax exemption period, the owner of the new industrial/manufacturing
15 facilities must file with a designated authorized representative of
16 the city an annual report indicating the following:

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

19 (b) A certification by the owner that the property has not
20 changed use;

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

23 (d) Any additional information requested by the city.

24 (2) A city that issues a certificate of tax exemption under this
25 chapter must report annually by December 31st of each year, beginning
26 in 2013, to the department of commerce. The report must include the
27 following information:

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

29 (b) The total number and type of new manufacturing/industrial
30 facilities constructed;

31 (c) The number of family living wage jobs resulting from the new
32 manufacturing/industrial facilities; and

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

35 NEW SECTION. **Sec. 13.** (1) If the value of improvements have
36 been exempted under this chapter, the improvements continue to be
37 exempted for the applicable period under this chapter so long as they
38 are not converted to another use and continue to satisfy all

1 applicable conditions including, but not limited to, zoning, land
2 use, building, and family wage job creation.

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

6 (3) If, after a certificate of tax exemption has been filed with
7 the county assessor, the city discovers that a portion of the
8 property is changed or will be changed to disqualify the owner for
9 exemption eligibility under this chapter, the tax exemption must be
10 canceled and the following occurs:

11 (a) Additional real property tax must be imposed on the value of
12 the nonqualifying improvements in the amount that would be imposed if
13 an exemption had not been available under this chapter, plus a
14 penalty equal to twenty percent of the additional value. This
15 additional tax is calculated based upon the difference between the
16 property tax paid and the property tax that would have been paid if
17 it had included the value of the nonqualifying improvements dated
18 back to the date that the improvements were converted to a
19 nonqualifying use;

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

25 (c) The additional tax owed together with interest and penalty
26 becomes a lien on the property and attaches at the time the property
27 or portion of the property is removed from the qualifying use under
28 this chapter or the amenities no longer meet the applicable
29 requirements for exemption under this chapter. A lien under this
30 section has priority to, and must be fully paid and satisfied before,
31 a recognizance, mortgage, judgment, debt, obligation, or
32 responsibility to or with which the property may become charged or
33 liable. The lien may be foreclosed upon expiration of the same period
34 after delinquency and in the same manner provided by law for
35 foreclosure of liens for delinquent real property taxes. An
36 additional tax unpaid on its due date is delinquent. From the date of
37 delinquency until paid, interest must be charged at the same rate
38 applied by law to delinquent property taxes.

39 (4) Upon a determination that a tax exemption is to be terminated
40 for a reason stated in this section, the city's governing authority

1 must notify the record owner of the property as shown by the tax
2 rolls by mail, return receipt requested, of the determination to
3 terminate the exemption. The owner may appeal the determination to
4 the city, within thirty days by filing a notice of appeal with the
5 city, which notice must specify the factual and legal basis on which
6 the determination of termination is alleged to be erroneous. At an
7 appeal hearing, all affected parties may be heard and all competent
8 evidence received. After the hearing, the deciding body or officer
9 must either affirm, modify, or repeal the decision of termination of
10 exemption based on the evidence received. An aggrieved party may
11 appeal the decision of the deciding body or officer to the superior
12 court as provided in RCW 34.05.510 through 34.05.598.

13 (5) Upon determination by the city to terminate an exemption, the
14 county officials having possession of the assessment and tax rolls
15 must correct the rolls in the manner provided for omitted property
16 under RCW 84.40.080. The county assessor must make such a valuation
17 of the property and improvements as is necessary to permit the
18 correction of the rolls. The value of the new industrial/
19 manufacturing facilities added to the rolls is considered new
20 construction for the purposes of chapter 84.40 RCW. The owner may
21 appeal the valuation to the county board of equalization as provided
22 in chapter 84.40 RCW. If there has been a failure to comply with this
23 chapter, the property must be listed as an omitted assessment for
24 assessment years beginning January 1st of the calendar year in which
25 the noncompliance first occurred, but the listing as an omitted
26 assessment may not be for a period more than three calendar years
27 preceding the year in which the failure to comply was discovered.

28 NEW SECTION. **Sec. 14.** This act applies to taxes levied for
29 collection in 2016 and thereafter.

30 NEW SECTION. **Sec. 15.** Sections 1 through 14 of this act
31 constitute a new chapter in Title 84 RCW.

32 NEW SECTION. **Sec. 16.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

Passed by the Senate May 28, 2015.
Passed by the House May 28, 2015.

Approved by the Governor June 10, 2015.
Filed in Office of Secretary of State June 10, 2015.