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SENATE BILL 5825

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State of Washington

61st Legislature

2009 Regular Session

By Senators Brown, King, and Kilmer

Read first time 02/03/09. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to modifying the rural county tax credit provided  
2 in chapter 82.62 RCW; amending RCW 82.62.010, 82.62.045, and 82.62.050;  
3 creating a new section; and providing an effective date.

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

5 **Sec. 1.** RCW 82.62.010 and 2007 c 485 s 1 are each amended to read  
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

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

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

12 (3) "Eligible area" means an area as defined in RCW 82.60.020.

13 (4)(a) "Eligible business project" means manufacturing or research  
14 and development activities which are conducted by an applicant in an  
15 eligible area at a specific facility, provided the applicant's average  
16 qualified employment positions at the specific facility will be (~~at~~  
17 ~~least fifteen percent~~) greater in the four consecutive full calendar  
18 quarters after the calendar quarter during which the first qualified  
19 employment position is filled than the applicant's average qualified

1 employment positions at the same facility in the four consecutive full  
2 calendar quarters immediately preceding the calendar quarter during  
3 which the first qualified employment position is filled.

4 (b) "Eligible business project" does not include any portion of a  
5 business project undertaken by a light and power business as defined in  
6 RCW 82.16.010(5) or that portion of a business project creating  
7 qualified full-time employment positions outside an eligible area.

8 (5) "First qualified employment position" means the first qualified  
9 employment position filled for which a credit under this chapter is  
10 sought.

11 (6) "Manufacturing" means the same as defined in RCW 82.04.120.  
12 "Manufacturing" also includes computer programming, the production of  
13 computer software, and other computer-related services, and the  
14 activities performed by research and development laboratories and  
15 commercial testing laboratories.

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

17 (8)(a)(i) "Qualified employment position" means a permanent full-  
18 time employee employed in the eligible business project during four  
19 consecutive full calendar quarters.

20 (ii) For seasonal employers, "qualified employment position" also  
21 includes the equivalent of a full-time employee in work hours for four  
22 consecutive full calendar quarters.

23 (b) For purposes of this subsection, "full time" means a normal  
24 work week of at least thirty-five hours.

25 (c) Once a permanent, full-time employee has been employed, a  
26 position does not cease to be a qualified employment position solely  
27 due to periods in which the position goes vacant, as long as:

28 (i) The cumulative period of any vacancies in that position is not  
29 more than one hundred twenty days in the four-quarter period; and

30 (ii) During a vacancy, the employer is training or actively  
31 recruiting a replacement permanent, full-time employee for the  
32 position.

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

35 (10) "Research and development" means the development, refinement,  
36 testing, marketing, and commercialization of a product, service, or  
37 process before commercial sales have begun. As used in this

1 subsection, "commercial sales" excludes sales of prototypes or sales  
2 for market testing if the total gross receipts from such sales of the  
3 product, service, or process do not exceed one million dollars.

4 (11) "Seasonal employee" means an employee of a seasonal employer  
5 who works on a seasonal basis. For the purposes of this subsection and  
6 subsection (12) of this section, "seasonal basis" means a continuous  
7 employment period of less than twelve consecutive months.

8 (12) "Seasonal employer" means a person who regularly hires more  
9 than fifty percent of its employees to work on a seasonal basis.

10 **Sec. 2.** RCW 82.62.045 and 2007 c 485 s 4 are each amended to read  
11 as follows:

12 (1) For the purposes of this section "eligible area" also means a  
13 designated community empowerment zone approved under RCW 43.31C.020.

14 (2) An eligible business project located within an eligible area as  
15 defined in this section qualifies for a credit under this chapter for  
16 those employees who at the time of hire are residents of the community  
17 empowerment zone in which the project is located, if the (~~fifteen~~  
18 ~~percent—threshold~~) employment increase required under RCW  
19 82.62.010(4)(a) is met. As used in this subsection, "resident" means  
20 the person makes his or her home in the community empowerment zone. A  
21 mailing address alone is insufficient to establish that a person is a  
22 resident for the purposes of this section.

23 (3) All other provisions and eligibility requirements of this  
24 chapter apply to applicants eligible under this section.

25 **Sec. 3.** RCW 82.62.050 and 2007 c 485 s 5 are each amended to read  
26 as follows:

27 (1) Each recipient shall submit a report to the department by the  
28 last day of the month immediately following the end of the four  
29 consecutive full calendar quarter period for which a credit under this  
30 chapter is earned. The report shall contain information, as required  
31 by the department, from which the department may determine whether the  
32 recipient is meeting the requirements of this chapter. If the  
33 recipient fails to submit a report or submits an inadequate report, the  
34 department may declare the amount of taxes for which a credit has been  
35 used to be immediately assessed and payable. The recipient must keep

1 records, such as payroll records showing the date of hire and  
2 employment security reports, to verify eligibility under this section.

3 (2) If, on the basis of a report under this section or other  
4 information, the department finds that a (~~business project~~) recipient  
5 is not eligible for tax credit under this chapter for reasons other  
6 than failure to (~~create the required number of~~) increase the  
7 recipient's average qualified employment positions as required in RCW  
8 82.62.010(4)(a), the amount of taxes for which a credit has been used  
9 for the project shall be immediately due.

10 (3) If, on the basis of a report under this section or other  
11 information, the department finds that a (~~business project~~) recipient  
12 has failed to (~~create the specified number of~~) increase the  
13 recipient's average qualified employment positions as required in RCW  
14 82.62.010(4)(a), the department shall assess interest, but not  
15 penalties, on the credited taxes for which a credit has been used for  
16 the project. The interest shall be assessed at the rate provided for  
17 delinquent excise taxes, shall be assessed retroactively to the date of  
18 the tax credit, and shall accrue until the taxes for which a credit has  
19 been used are repaid.

20 NEW SECTION. **Sec. 4.** This act applies with respect to  
21 applications for credit under chapter 82.62 RCW received by the  
22 department of revenue on or after January 1, 2010.

23 NEW SECTION. **Sec. 5.** This act takes effect January 1, 2010.

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