

2 **2SSB 6027** - S AMD 151

3 By Senators Morton, T. Sheldon and Hale

4 WITHDRAWN 03/14/01

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** (1) The legislature finds that:

8 (a) A sufficient and reliable supply of energy is critically  
9 important to the health and welfare of the citizens of the state and to  
10 the prosperity of the state and region;

11 (b) The cyclical nature of wholesale markets has affected the  
12 ability of independent energy producers to forecast long-term prices  
13 sufficient to ensure recovery of their investments. Low wholesale  
14 prices in the region for nearly a decade have curtailed the development  
15 of generation resources by independent power producers that could have  
16 addressed the region's growing electricity deficit, which was predicted  
17 as early as 1993 and acknowledged in the Washington state energy  
18 strategy. The prospect of potential new regulations over the wholesale  
19 electricity market, and concerns about the ability of utilities and  
20 energy marketers to recover their costs, have further undermined  
21 confidence in financial markets. Without greater regulatory  
22 incentives, needed investments in new resource and system upgrades by  
23 electrical companies may not be realized;

24 (c) Energy supply, generation, and distribution systems and  
25 technologies have changed greatly since the original enactment of the  
26 state's energy facility siting laws thirty years ago. Experience  
27 during this time has demonstrated that a state council with the primary  
28 responsibility for energy facility siting approval is warranted, but  
29 that its procedures and authorities can be improved to enhance energy  
30 supplies;

31 (d) The state enjoys an abundance of hydroelectric capacity.  
32 Additional generation can be achieved without increasing the amount of  
33 water used and without adversely impacting fish and wildlife;

34 (e) Domestic industries have become innovators in clean, new energy  
35 generation, and demand-management technologies. Those technologies  
36 could be marketed internationally to promote the economic development

1 of the state, and further advance the reputation of the state as a  
2 technological leader; and

3 (f) The current energy situation requires that the state undertake  
4 economic and policy decisions to effectuate both short-term and long-  
5 term solutions. Actions and incentives by the state to promote the  
6 expansion of generation capacity and the development and application of  
7 clean, new energy technologies would be of great benefit to the  
8 citizens of the state.

9 (2) The legislature intends this act to:

10 (a) Modify the statutory procedures and authorities of the energy  
11 facility siting evaluation council for a limited time to encourage  
12 generators to operate their facilities to their fullest capacity;

13 (b) Provide a regulatory incentive for electrical companies to  
14 invest in demand-management systems, promote distributive generation  
15 technologies, upgrade hydroelectric facilities, increase transmission  
16 and distribution efficiencies, and encourage certain renewable resource  
17 projects; and

18 (c) Offer limited tax incentives to encourage:

19 (i) Installation of new air pollution control equipment at existing  
20 peaking plants to decrease certain toxic emissions and increase overall  
21 generation output;

22 (ii) Upgrades of existing hydroelectric facilities to increase  
23 efficiency and generation capacity;

24 (iii) Development of cogeneration facilities to maximize the  
25 efficient use of gas while increasing electricity supply nearer the  
26 load;

27 (iv) Research, development, and manufacture of innovative energy  
28 technologies and demand-management technologies; and

29 (v) Deployment of demand-management systems.

30 **I. PROMOTING ADDITIONAL GENERATION CAPACITY**  
31 **AT EXISTING PLANTS AND FACILITIES**

32 **Sec. 101.** RCW 80.50.020 and 1995 c 69 s 1 are each amended to read  
33 as follows:

34 The definitions in this section apply throughout this chapter  
35 unless the context clearly requires otherwise.

36 (1) "Applicant" means any person who makes application for a site  
37 certification pursuant to the provisions of this chapter((+)).

1 (2) "Application" means any request for approval of a particular  
2 site or sites filed in accordance with the procedures established  
3 pursuant to this chapter, unless the context otherwise requires((+)).

4 (3) "Person" means an individual, partnership, joint venture,  
5 private or public corporation, association, firm, public service  
6 company, political subdivision, municipal corporation, government  
7 agency, public utility district, or any other entity, public or  
8 private, however organized((+)).

9 (4) "Site" means any proposed or approved location of an energy  
10 facility((+)).

11 (5) "Certification" means a binding agreement between an applicant  
12 and the state which shall embody compliance to the siting guidelines,  
13 in effect as of the date of certification, which have been adopted  
14 pursuant to RCW 80.50.040 as now or hereafter amended as conditions to  
15 be met prior to or concurrent with the construction or operation of any  
16 energy facility((+)).

17 (6) "Associated facilities" means storage, transmission, handling,  
18 or other related and supporting facilities connecting an energy plant  
19 with the existing energy supply, processing, or distribution system,  
20 including, but not limited to, communications, controls, mobilizing or  
21 maintenance equipment, instrumentation, and other types of ancillary  
22 transmission equipment, off-line storage or venting required for  
23 efficient operation or safety of the transmission system and overhead,  
24 and surface or subsurface lines of physical access for the inspection,  
25 maintenance, and safe operations of the transmission facility and new  
26 transmission lines constructed to operate at nominal voltages in excess  
27 of 200,000 volts to connect a thermal power plant to the northwest  
28 power grid: PROVIDED, That common carrier railroads or motor vehicles  
29 shall not be included((+)).

30 (7) "Transmission facility" means any of the following together  
31 with their associated facilities:

32 (a) Crude or refined petroleum or liquid petroleum product  
33 transmission pipeline of the following dimensions: A pipeline larger  
34 than six inches minimum inside diameter between valves for the  
35 transmission of these products with a total length of at least fifteen  
36 miles;

37 (b) Natural gas, synthetic fuel gas, or liquified petroleum gas  
38 transmission pipeline of the following dimensions: A pipeline larger  
39 than fourteen inches minimum inside diameter between valves, for the

1 transmission of these products, with a total length of at least fifteen  
2 miles for the purpose of delivering gas to a distribution facility,  
3 except an interstate natural gas pipeline regulated by the United  
4 States federal power commission((?)).

5 (8) "Independent consultants" means those persons who have no  
6 financial interest in the applicant's proposals and who are retained by  
7 the council to evaluate the applicant's proposals, supporting studies,  
8 or to conduct additional studies((?)).

9 (9) "Thermal power plant" means, for the purpose of certification,  
10 any electrical generating facility using any fuel, including nuclear  
11 materials, for distribution of electricity by electric utilities((?)).

12 (10) "Energy facility" means an energy plant or transmission  
13 facilities: PROVIDED, That the following are excluded from the  
14 provisions of this chapter:

15 (a) Facilities for the extraction, conversion, transmission or  
16 storage of water, other than water specifically consumed or discharged  
17 by energy production or conversion for energy purposes; and

18 (b) Facilities operated by and for the armed services for military  
19 purposes or by other federal authority for the national defense((?)).

20 (11) "Council" means the energy facility site evaluation council  
21 created by RCW 80.50.030((?)).

22 (12) "Counsel for the environment" means an assistant attorney  
23 general or a special assistant attorney general who shall represent the  
24 public in accordance with RCW 80.50.080((?)).

25 (13) "Construction" means on-site improvements, excluding  
26 exploratory work, which cost in excess of two hundred fifty thousand  
27 dollars((?)).

28 (14) "Energy plant" means the following facilities together with  
29 their associated facilities:

30 (a) Any stationary thermal power plant with generating capacity of  
31 ((two)) three hundred fifty thousand kilowatts or more, measured using  
32 maximum continuous electric generating capacity, less minimum auxiliary  
33 load, at average ambient temperature and pressure, and floating thermal  
34 power plants of fifty thousand kilowatts or more, including associated  
35 facilities;

36 (b) Facilities which will have the capacity to receive liquified  
37 natural gas in the equivalent of more than one hundred million standard  
38 cubic feet of natural gas per day, which has been transported over  
39 marine waters;

1 (c) Facilities which will have the capacity to receive more than an  
2 average of fifty thousand barrels per day of crude or refined petroleum  
3 or liquified petroleum gas which has been or will be transported over  
4 marine waters, except that the provisions of this chapter shall not  
5 apply to storage facilities unless occasioned by such new facility  
6 construction;

7 (d) Any underground reservoir for receipt and storage of natural  
8 gas as defined in RCW 80.40.010 capable of delivering an average of  
9 more than one hundred million standard cubic feet of natural gas per  
10 day; and

11 (e) Facilities capable of processing more than twenty-five thousand  
12 barrels per day of petroleum into refined products((+)).

13 (15) "Land use plan" means a comprehensive plan or land use element  
14 thereof adopted by a unit of local government pursuant to chapters  
15 35.63, 35A.63, or 36.70 RCW((+)).

16 (16) "Zoning ordinance" means an ordinance of a unit of local  
17 government regulating the use of land and adopted pursuant to chapters  
18 35.63, 35A.63, or 36.70 RCW or Article XI of the state Constitution.

19 NEW SECTION. **Sec. 102.** A new section is added to chapter 80.50  
20 RCW to read as follows:

21 The council shall actively seek to implement the intent of this  
22 chapter as set forth in RCW 80.50.010 by diligently and expediently  
23 facilitating the siting of energy facilities to meet present and  
24 emergent energy supply needs.

25 NEW SECTION. **Sec. 103.** A new section is added to chapter 80.50  
26 RCW to read as follows:

27 The council may only develop rules, policies, procedures,  
28 guidelines, or operating protocols that are based directly on, and no  
29 more stringent than federal or state statutory or administrative code  
30 authority, and the standards and criteria set forth therein. A site  
31 certification agreement may not require compliance with air quality,  
32 water quality, or health protection measures unless such compliance is  
33 based on and no more stringent than standards adopted into federal or  
34 state statute or administrative code authority.

35 **Sec. 104.** RCW 80.50.060 and 1977 ex.s. c 371 s 5 are each amended  
36 to read as follows:

1 (1) The provisions of this chapter shall apply to the construction  
2 of energy facilities which includes the new construction of energy  
3 facilities and the reconstruction or enlargement of existing energy  
4 facilities where the net increase in physical capacity or dimensions  
5 resulting from such reconstruction or enlargement meets or exceeds  
6 those capacities or dimensions set forth in RCW 80.50.020 (7) and  
7 (~~(17)~~) (14), as now or hereafter amended. No construction of such  
8 energy facilities may be undertaken, except as otherwise provided in  
9 this chapter, after July 15, 1977, without first obtaining  
10 certification in the manner provided in this chapter.

11 (2) The provisions of this chapter apply to the construction of any  
12 new energy facility or the reconstruction or enlargement of any  
13 existing energy facility that chooses to utilize the process  
14 established in this chapter, regardless of the generating capacity of  
15 the project.

16 (3) The provisions of this chapter shall not apply to normal  
17 maintenance and repairs which do not increase the capacity or  
18 dimensions beyond those set forth in RCW 80.50.020 (7) and (~~(17)~~)  
19 (14), as now or hereafter amended.

20 (~~(3)~~) (4) Applications for certification of energy facilities  
21 made prior to July 15, 1977, shall continue to be governed by the  
22 applicable provisions of law in effect on the day immediately preceding  
23 July 15, 1977, with the exceptions of RCW 80.50.190 and 80.50.071 which  
24 shall apply to such prior applications and to site certifications  
25 prospectively from July 15, 1977.

26 (~~(4)~~) (5) Applications for certification shall be upon forms  
27 prescribed by the council and shall be supported by such information  
28 and technical studies as the council may require.

29 **Sec. 105.** RCW 80.50.100 and 1989 c 175 s 174 are each amended to  
30 read as follows:

31 (1) The council shall report to the governor its recommendations as  
32 to the approval or rejection of an application for certification within  
33 (~~twelve~~) six months of receipt by the council of such an application,  
34 or such later time as is mutually agreed by the council and the  
35 applicant. If the council recommends approval of an application for  
36 certification, it shall also submit a draft certification agreement  
37 with the report. The council shall include conditions in the draft  
38 certification agreement to implement the provisions of this chapter,

1 including, but not limited to, conditions to protect state or local  
2 governmental or community interests affected by the construction or  
3 operation of the energy facility, and conditions designed to recognize  
4 the purpose of laws or ordinances, or rules or regulations promulgated  
5 thereunder, that are preempted or superseded pursuant to RCW 80.50.110  
6 as now or hereafter amended.

7 (2) Within ((~~sixty~~)) thirty days of receipt of the council's report  
8 the governor shall take one of the following actions:

9 (a) Approve the application and execute the draft certification  
10 agreement; or

11 (b) Reject the application; or

12 (c) Direct the council to reconsider certain aspects of the draft  
13 certification agreement.

14 The council shall reconsider such aspects of the draft  
15 certification agreement by reviewing the existing record of the  
16 application or, as necessary, by reopening the adjudicative proceeding  
17 for the purposes of receiving additional evidence. Such  
18 reconsideration shall be conducted expeditiously. The council shall  
19 resubmit the draft certification to the governor incorporating any  
20 amendments deemed necessary upon reconsideration within ninety days of  
21 receipt of such direction for reconsideration. Within ((~~sixty~~))  
22 fifteen days of receipt of such draft certification agreement, the  
23 governor shall either approve the application and execute the  
24 certification agreement or reject the application. The certification  
25 agreement shall be binding upon execution by the governor and the  
26 applicant.

27 (3) The rejection of an application for certification by the  
28 governor shall be final as to that application but shall not preclude  
29 submission of a subsequent application for the same site on the basis  
30 of changed conditions or new information.

31 **II. MAXIMIZING EFFICIENT GENERATION CAPACITY**

32 NEW SECTION. **Sec. 201.** A new section is added to chapter 82.34  
33 RCW to read as follows:

34 (1) The definitions in this subsection apply throughout this  
35 section unless the context clearly requires otherwise.

36 (a) "Qualifying facility" means an air pollution control facility  
37 as that term is defined in RCW 82.34.010(1)(a) to be installed or

1 acquired for a thermal electric peaking plant and which is approved  
2 under the Washington clean air act, chapter 70.94 RCW.

3 (b) "Thermal electric peaking plant" means a natural gas-fired  
4 thermal electric generating facility operated by a light and power  
5 business and placed into service between January 1, 1978, and December  
6 31, 1984, and that is registered for the calendar year 2000 pursuant to  
7 RCW 70.94.151.

8 (c) "Light and power business" has the same meaning as that term is  
9 defined in RCW 82.16.010.

10 (2) The department shall, upon written request of a light and power  
11 business to which the approval issued under chapter 70.94 RCW is  
12 attached, make a determination as to whether a plant is a thermal  
13 electric peaking plant acquiring or installing a qualifying facility  
14 eligible under this section. The department shall consult with the  
15 department of community, trade, and economic development and the  
16 department of ecology in making the determination. If the  
17 determination is in the affirmative, the department shall issue the  
18 light and power business a sales and use tax exemption certificate in  
19 a form and manner as deemed appropriate by the department.

20 (3) The charges for installation or acquisition of a qualifying  
21 facility by the holder of the certificate are exempt from sales tax  
22 imposed under chapter 82.08 RCW and use tax imposed under chapter 82.12  
23 RCW. The purchaser must provide the seller with a copy of the sales  
24 and use tax exemption certificate. The seller shall retain a copy of  
25 the certificate for the seller's files.

26 (4) The exemption in this section is limited to the installation or  
27 acquisition of a qualifying facility and does not apply to servicing,  
28 maintenance, operation, or repairs of a thermal electric peaking plant  
29 or of an air pollution control facility.

30 NEW SECTION. **Sec. 202.** A new section is added to chapter 82.08  
31 RCW to read as follows:

32 (1) The tax levied by RCW 82.08.020 does not apply to:

33 (a) Sales of tangible personal property to an electric utility for  
34 improving the output or efficiency of hydroelectric generating  
35 facilities in existence on the effective date of this section; or

36 (b) Sales of or charges made for labor and services performed in  
37 respect to improving the output or efficiency of hydroelectric

1 generating facilities in existence on the effective date of this  
2 section.

3 (2) The following definitions apply to this section unless the  
4 context clearly requires otherwise.

5 (a) "Electric utility" has the same meaning as provided under RCW  
6 19.29A.010.

7 (b) "Hydroelectric generating facilities" means any machinery,  
8 equipment, structure, property, property improvement, or accessory  
9 installed, built, or acquired for the purpose of producing or  
10 generating electrical energy from falling water.

11 (3) The purchaser must provide the seller with an exemption  
12 certificate in a form and manner prescribed by the department. The  
13 seller must retain a copy of the certificate for the seller's files.

14 NEW SECTION. **Sec. 203.** A new section is added to chapter 82.12  
15 RCW to read as follows:

16 (1) The tax levied by RCW 82.12.020 does not apply to the use of  
17 tangible personal property by an electric utility for improving the  
18 output or efficiency of hydroelectric generating facilities in  
19 existence on the effective date of this section.

20 (2) The following definitions apply to this section unless the  
21 context clearly requires otherwise.

22 (a) "Electric utility" has the same meaning as provided under RCW  
23 19.29A.010.

24 (b) "Hydroelectric generating facilities" means any machinery,  
25 equipment, structure, property, property improvement, or accessory  
26 installed, built, or acquired for the purpose of producing or  
27 generating electrical energy from falling water.

28 (3) The purchaser must provide the seller with an exemption  
29 certificate in a form and manner prescribed by the department. The  
30 seller must retain a copy of the certificate for the seller's files.

31 **Sec. 204.** RCW 82.16.055 and 1980 c 149 s 3 are each amended to  
32 read as follows:

33 (1) In computing tax under this chapter there shall be deducted  
34 from the gross income:

35 (a) An amount equal to the cost of production at the plant for  
36 consumption within the state of Washington of:

1 (i) Electrical energy produced or generated from cogeneration as  
2 defined in RCW 82.35.020; and

3 (ii) Electrical energy or gas produced or generated from renewable  
4 energy resources such as solar energy, wind energy, hydroelectric  
5 energy, geothermal energy, wood, wood wastes, municipal wastes,  
6 agricultural products and wastes, and end-use waste heat; and

7 (b) Those amounts expended to improve consumers' efficiency of  
8 energy end use or to otherwise reduce the use of electrical energy or  
9 gas by the consumer.

10 (2) This section applies (~~only~~) to new facilities for the  
11 production or generation of energy from cogeneration or renewable  
12 energy resources or measures to improve the efficiency of energy end  
13 use on which construction or installation is begun after June 12, 1980,  
14 and before January 1, 1990.

15 (3)(a) In addition, this section applies to new or expanded  
16 cogeneration from a facility on which construction or installation is  
17 begun after June 30, 2001, and before January 1, 2011.

18 (b) For purposes of this subsection, the following definitions  
19 apply:

20 (i) "Cogeneration facility" means any machinery, equipment,  
21 structure, process, or property, or any part thereof, installed or  
22 acquired by a person or corporation for the purpose of the sequential  
23 generation, in either order, of electrical energy and useful thermal  
24 energy, such as heat or steam, from the same primary energy source or  
25 fuel in which the useful thermal energy is used:

26 (A) For a manufacturing process;

27 (B) To improve the operating efficiency of a facility that produces  
28 electrical energy through biomass generation as defined in RCW  
29 19.29A.010; or

30 (C) In space heating or cooling.

31 (ii) "Expanded cogeneration" means the amount of electrical energy  
32 produced for sale at a facility that exceeds the amount of electrical  
33 energy sold on an average annual basis in the three years prior to June  
34 30, 2001.

35 (c) This subsection does not apply to:

36 (i) A cogeneration facility fueled by diesel; or

37 (ii) A cogeneration facility that has a combined fuel conversion  
38 efficiency of less than sixty percent, unless the cogeneration facility  
39 is used to improve the operating efficiency of a facility that produces

1 electrical energy through biomass generation as defined in RCW  
2 19.29A.010, in which case this subsection shall apply unless the  
3 cogeneration facility has a combined fuel conversion efficiency of less  
4 than forty percent.

5 (d) By August 25th of each fiscal year in which a taxpayer intends  
6 to claim the deduction under this subsection, the taxpayer shall file  
7 with the department, on a form and in a manner prescribed by the  
8 department, the following information concerning production at the  
9 cogeneration facility during the previous twelve months:

10 (i) The amount of fuel consumed;

11 (ii) The energy content of the fuel measured in British thermal  
12 units per unit of fuel;

13 (iii) The amount of electricity produced measured in kilowatt  
14 hours;

15 (iv) The gallons of hot water or pounds of steam produced;

16 (v) The temperature of the hot water, or temperature and pressure  
17 of the steam, produced; and

18 (vi) The temperature of the hot water or condensate returned to the  
19 boiler.

20 (e) The department may disclose information received under (d)(i)  
21 through (vi) of this subsection to energy policy staff of the  
22 department of community, trade, and economic development or the  
23 Washington State University cooperative extension solely for the  
24 purpose of determining a taxpayer's eligibility for a deduction under  
25 this subsection. In addition, prior to the time a cogeneration  
26 facility has operated for a full fiscal year, the department may  
27 require such information that it finds necessary to determining a  
28 taxpayer's eligibility under this subsection, and may disclose the  
29 information received to energy policy staff of the department of  
30 community, trade, and economic development or the Washington State  
31 University cooperative extension solely for the purpose of determining  
32 the taxpayer's eligibility for a deduction under this subsection.

33 (4) Deductions under subsection (1)(a) of this section shall be  
34 allowed for a period not to exceed thirty years after the project is  
35 placed in operation.

36 ((+4)) (5) Measures or projects encouraged under this section  
37 shall at the time they are placed in service be reasonably expected to  
38 save, produce, or generate energy at a total incremental system cost  
39 per unit of energy delivered to end use which is less than or equal to

1 the incremental system cost per unit of energy delivered to end use  
2 from similarly available conventional energy resources which utilize  
3 nuclear energy or fossil fuels and which the gas or electric utility  
4 could acquire to meet energy demand in the same time period.

5 ~~((+5))~~ (6) The department of revenue, after consultation with the  
6 utilities and transportation commission in the case of investor-owned  
7 utilities and the governing bodies of locally regulated utilities,  
8 shall determine the eligibility of individual projects and measures for  
9 deductions under this section.

10 **III. PROMOTING NEW CLEAN TECHNOLOGIES FOR ENERGY**  
11 **PRODUCTION AND DEMAND MANAGEMENT**

12 NEW SECTION. **Sec. 301.** A new section is added to chapter 19.29A  
13 RCW to read as follows:

14 (1) Beginning January 1, 2002, each electric utility must provide  
15 to its retail electricity customers a voluntary option to purchase  
16 qualified renewable energy resources in accordance with this section.

17 (2) Each electric utility must include on its retail electric  
18 customer's regular billing statements a voluntary option to purchase  
19 qualified renewable energy resources. The option may allow customers  
20 to purchase qualified renewable energy resources at fixed or variable  
21 rates and for fixed or variable periods of time. A utility may provide  
22 qualified renewable energy resource options through either: (a)  
23 Resources it owns or contracts for; or (b) the purchase of credits  
24 issued by a clearinghouse or other system by which the utility may  
25 secure, for trade or other consideration, verifiable evidence that a  
26 second party has developed a qualified renewable energy resource and  
27 that the second party agrees to transfer such evidence exclusively to  
28 the credit of the utility.

29 (3) For the purposes of this section, a "qualified renewable energy  
30 resource" means the electricity produced from generation facilities  
31 initiating operations after January 1, 2001, that are fueled by: (a)  
32 Wind; (b) solar energy; (c) geothermal energy; (d) landfill gas; (e)  
33 wave or tidal action; (f) gas produced during the treatment of  
34 wastewater; (g) environmentally qualified hydropower, as that term is  
35 defined in RCW 82.08.02567; or (h) biomass energy based on solid  
36 organic fuels from wood, forest, or field residues, or dedicated energy  
37 crops that do not include wood pieces that have been treated with

1 chemical preservatives such as creosote, pentachlorophenol, or  
2 copper-chrome-arsenic.

3 (4) The rates, terms, conditions, and customer notification of each  
4 utility's option or options offered in accordance with this section  
5 must be approved by the governing body of the consumer-owned utility or  
6 by the commission for investor-owned utilities.

7 (5) Each consumer-owned utility must report to the department and  
8 each investor-owned utility must report annually to the commission  
9 beginning October 1, 2002, until October 1, 2012, describing the option  
10 or options it is offering its customers under the requirements of this  
11 section, the rate of customer participation, the amount of qualified  
12 renewable energy resources purchased by customers, and the amount of  
13 utility investments in qualified renewable energy resources. The  
14 department and the commission together shall report annually to the  
15 legislature, beginning December 1, 2002, until December 1, 2012, with  
16 the results of the utility reports.

17 **Sec. 302.** RCW 19.29A.040 and 1998 c 300 s 6 are each amended to  
18 read as follows:

19 The provisions of RCW 19.29A.020, 19.29A.030, (~~and~~) section 5,  
20 chapter 300, Laws of 1998, and section 301 of this act do not apply to  
21 a small utility. However, nothing in this section prohibits the  
22 governing body of a small utility from determining the utility should  
23 comply with any or all of the provisions of RCW 19.29A.020, 19.29A.030,  
24 (~~and~~) section 5, chapter 300, Laws of 1998, and section 301 of this  
25 act, which governing bodies are encouraged to do.

26 **Sec. 303.** RCW 82.08.02567 and 1999 c 358 s 4 are each amended to  
27 read as follows:

28 (1) The tax levied by RCW 82.08.020 shall not apply to sales of  
29 machinery and equipment used directly in generating electricity using  
30 fuel cells, environmentally qualified hydropower, wind, sun, or  
31 landfill gas as the principal source of power, or to sales of or  
32 charges made for labor and services rendered in respect to installing  
33 such machinery and equipment, but only if the purchaser develops with  
34 such machinery, equipment, and labor a facility capable of generating  
35 not less than two hundred (~~kilowatts~~) watts of electricity and  
36 provides the seller with an exemption certificate in a form and manner

1 prescribed by the department (~~by rule~~). The seller shall retain a  
2 copy of the certificate for the seller's files.

3 (2) For purposes of this section and RCW 82.12.02567:

4 (a) "Landfill gas" means biomass fuel of the type qualified for  
5 federal tax credits under 26 U.S.C. Sec. 29 collected from a landfill.  
6 "Landfill" means a landfill as defined under RCW 70.95.030;

7 (b) "Machinery and equipment" means industrial fixtures, devices,  
8 and support facilities that are integral and necessary to the  
9 generation of electricity using wind, sun, environmentally qualified  
10 hydropower, or landfill gas as the principal source of power;

11 (c) "Machinery and equipment" does not include: (i) Hand-powered  
12 tools; (ii) property with a useful life of less than one year; (iii)  
13 repair parts required to restore machinery and equipment to normal  
14 working order; (iv) replacement parts that do not increase  
15 productivity, improve efficiency, or extend the useful life of  
16 machinery and equipment; (v) buildings; or (vi) building fixtures that  
17 are not integral and necessary to the generation of electricity that  
18 are permanently affixed to and become a physical part of a building;

19 (d) Machinery and equipment is "used directly" in generating  
20 electricity with fuel cells or by wind energy, environmentally  
21 qualified hydropower, solar energy, or landfill gas power if it  
22 provides any part of the process that captures the energy of the wind,  
23 sun, or landfill gas, converts that energy to electricity, and stores,  
24 transforms, or transmits that electricity for entry into or operation  
25 with electric transmission and distribution systems;

26 (e) "Fuel cell" means a technology involving an electrochemical  
27 reaction that generates electricity by combining atoms of hydrogen and  
28 oxygen in the presence of a catalyst;

29 (f) "Environmentally qualified hydropower" means (i) the additional  
30 energy produced by existing hydropower facilities that have been  
31 modernized or upgraded after June 1, 1998, to increase capacity or  
32 efficiency; or (ii) energy produced by run-of-the-river or run-of-the-  
33 canal hydropower facilities that are not responsible for obstructing  
34 the passage of anadromous fish.

35 (3) This section expires June 30, (~~(2005)~~) 2009.

36 **Sec. 304.** RCW 82.12.02567 and 1999 c 358 s 10 are each amended to  
37 read as follows:

1 (1) The provisions of this chapter shall not apply with respect to  
2 machinery and equipment used directly in generating not less than two  
3 hundred (~~kilowatts~~) watts of electricity using wind, sun, or landfill  
4 gas as the principal source of power.

5 (2) The definitions in RCW 82.08.02567 apply to this section.

6 (3) This section expires June 30, (~~2005~~) 2009.

7 NEW SECTION. **Sec. 305.** A new section is added to chapter 82.08  
8 RCW to read as follows:

9 The tax levied by RCW 82.08.020 does not apply to sales of smart  
10 metering technology purchased after July 1, 2003, by an electric  
11 utility as defined in RCW 80.60.010, up to a selling price of fifty  
12 dollars per utility customer to be served by the technology. For the  
13 purposes of this section, "smart metering technology" means equipment,  
14 including specialized meters, that provide two-way electronic  
15 communication between the utility and a residential customer's electric  
16 meter or electric appliances, and that will enable the utility to  
17 charge different rates during different times of the day to encourage  
18 a shifting of residential customers' demand in order to minimize peak  
19 demand. By December 1, 2001, the utilities and transportation  
20 commission shall provide information to the department and to the  
21 electric utility in regard to how many residential customers are being  
22 served by smart metering technology on June 30, 2001, and how many  
23 additional residential customers will be served by application of the  
24 smart metering technology after July 1, 2001.

25 This section expires June 30, 2007.

26 NEW SECTION. **Sec. 306.** A new section is added to chapter 82.12  
27 RCW to read as follows:

28 This chapter does not apply in respect to smart metering technology  
29 purchased after July 1, 2003, by an electric utility as defined in RCW  
30 80.60.010, up to a selling price of fifty dollars per utility customer  
31 to be served by the technology. For the purposes of this section,  
32 "smart metering technology" means equipment, including specialized  
33 meters, that provide two-way electronic communication between the  
34 utility and a residential customer's electric meter or electric  
35 appliances, and that will enable the utility to charge different rates  
36 during different times of the day to encourage a shifting of  
37 residential customers' demand in order to minimize peak demand.

1 This section expires June 30, 2007.

2 **IV. MISCELLANEOUS**

3 NEW SECTION. **Sec. 401.** Part headings used in this act are not any  
4 part of the law.

5 NEW SECTION. **Sec. 402.** If any provision of this act or its  
6 application to any person or circumstance is held invalid, the  
7 remainder of the act or the application of the provision to other  
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 403.** This act is necessary for the immediate  
10 preservation of the public peace, health, or safety, or support of the  
11 state government and its existing public institutions, and takes effect  
12 immediately."

13 **2SSB 6027** - S AMD 151

14 By Senators Morton, T. Sheldon and Hale

15 WITHDRAWN 03/14/01

16 On page 1, line 2 of the title, after "management;" strike the  
17 remainder of the title and insert "amending RCW 80.50.020, 80.50.060,  
18 80.50.100, 82.16.055, 19.29A.040, 82.08.02567, and 82.12.02567; adding  
19 new sections to chapter 80.50 RCW; adding a new section to chapter  
20 82.34 RCW; adding new sections to chapter 82.08 RCW; adding new  
21 sections to chapter 82.12 RCW; adding a new section to chapter 19.29A  
22 RCW; creating new sections; providing expiration dates; and declaring  
23 an emergency."

--- END ---