
SUBSTITUTE SENATE BILL 6132

State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Morton, Poulsen, Rasmussen, Kline, Mulliken, Winsley, Schmidt, Esser, Roach, Kohl-Welles and Benton)

READ FIRST TIME 01/23/04.

1 AN ACT Relating to providing incentives to support the renewable
2 energy industry in Washington state; adding new sections to chapter
3 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new
4 section to chapter 82.12 RCW; adding a new section to chapter 84.36
5 RCW; adding a new section to chapter 82.32 RCW; creating a new section;
6 providing an effective date; and providing expiration dates.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that the welfare of
9 the people of the state of Washington is positively impacted through
10 the encouragement and expansion of key growth industries in the state.
11 The legislature further finds that targeting tax incentives to focus on
12 key growth industries is an important strategy to enhance the state's
13 business climate.

14 A recent report by the Washington State University energy program
15 recognized the solar electric industry as one of the state's important
16 growth industries. It is of great concern that businesses in this
17 industry have been increasingly expanding and relocating their
18 operations elsewhere. The report indicates that additional incentives

1 for the solar electric industry are needed in recognition of the unique
2 forces and issues involved in business decisions in this industry.

3 Therefore, the legislature intends to enact comprehensive tax
4 incentives for the solar electric industry that address activities of
5 the manufacture of these products and to encourage these industries to
6 locate in counties with high unemployment. Tax incentives for the
7 solar electric industry are important in both retention and expansion
8 of existing business and attraction of new businesses, all of which
9 will strengthen this growth industry within our state, will create
10 jobs, and will bring many indirect benefits to the state.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW
12 to read as follows:

13 (1) The tax imposed by section 3 of this act does not apply to any
14 person who manufactures solar energy systems using photovoltaic
15 modules, if located in a county with an annual average unemployment
16 rate of greater than twelve percent in the calendar year prior to the
17 effective date of this act, as determined by the commissioner of the
18 employment security department.

19 (2) For the purposes of this section:

20 (a) "Module" means the smallest nondivisible self-contained
21 physical structure housing interconnected photovoltaic cells and
22 providing a single direct current electrical output.

23 (b) "Photovoltaic cell" means a device that converts light directly
24 into electricity without moving parts.

25 (c) "Solar energy system" means any device or combination of
26 devices or elements that rely upon direct sunlight as an energy source
27 for use in the generation of electricity.

28 (3) This section expires June 30, 2013.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04 RCW
30 to read as follows:

31 (1) Upon every person engaging within this state in the business of
32 manufacturing solar energy systems using photovoltaic modules, the
33 amount of the tax with respect to such business shall be equal to the
34 value of the products manufactured, multiplied by the rate of 0.275
35 percent. For the purposes of this section, "solar energy system" has
36 the same meaning as contained in section 2 of this act.

1 (2) This section expires June 30, 2013.

2 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.08 RCW
3 to read as follows:

4 (1) The tax levied by RCW 82.08.020 shall not apply to charges made
5 for labor and services rendered in respect to the constructing of new
6 buildings used for the manufacture of solar energy systems using
7 photovoltaic modules into a solar energy system located in a county
8 with an annual average unemployment rate of greater than twelve percent
9 in the calendar year prior to the effective date of this act, as
10 determined by the commissioner of the employment security department,
11 or to sales of tangible personal property that will be incorporated as
12 an ingredient or component of such buildings during the course of the
13 constructing. The exemption is available only when the buyer provides
14 the seller with an exemption certificate in a form and manner
15 prescribed by the department. The seller shall retain a copy of the
16 certificate for the seller's files.

17 (2) To be eligible under this section the business owner must meet
18 the following requirements for an eight-year period, such period
19 beginning the day the new building commences commercial production, or
20 a portion of tax otherwise due shall be immediately due and payable
21 pursuant to subsection (3) of this section:

22 (a) The business owner must maintain at least seventy-five percent
23 of full employment at the new building for which the exemption under
24 this section is claimed.

25 (b) Before commencing commercial production at a new facility the
26 business owner must meet with the department to review projected
27 employment levels in the new buildings. The department, using
28 information provided by the taxpayer, shall make a determination of the
29 number of full-time positions that would be filled at full employment.
30 This number shall be used throughout the eight-year period to determine
31 whether any tax is to be repaid. This information is not subject to
32 the confidentiality provisions of RCW 82.32.330 and may be disclosed to
33 the public upon request.

34 (c) No application is necessary for the tax exemption. The person
35 is subject to all the requirements of chapter 82.32 RCW. A person
36 taking the exemption under this section must report as required under
37 section 8 of this act.

1 (3) If the employment requirement is not met for any one calendar
2 year, one-eighth of the exempt sales and use taxes shall be due and
3 payable by April 1st of the following year. The department shall
4 assess interest to the date the tax was imposed, but not penalties, on
5 the taxes for which the person is not eligible.

6 (4) The exemption applies to new buildings, or parts of buildings,
7 that are used exclusively in the manufacture of solar energy systems
8 using photovoltaic modules into a solar energy system located in a
9 county with an annual average unemployment rate of greater than twelve
10 percent in the calendar year prior to the effective date of this act,
11 as determined by the commissioner of the employment security
12 department, including the storage of raw materials and finished
13 product.

14 (5) For the purposes of this section:

15 (a) "Commencement of commercial production" is deemed to have
16 occurred when the equipment and process qualifications in the new
17 building are completed and production for sale has begun; and

18 (b) "Full employment" is the number of positions required for full
19 capacity production at the new building.

20 (c) "Solar energy system" has the same meaning as provided in
21 section 2 of this act.

22 (6) No exemption may be taken after June 30, 2013, however all of
23 the eligibility criteria and limitations are applicable to any
24 exemptions claimed before that date.

25 (7) This section expires June 30, 2013.

26 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.12 RCW
27 to read as follows:

28 (1) The provisions of this chapter do not apply with respect to the
29 use of tangible personal property that will be incorporated as an
30 ingredient or component of new buildings used for the manufacture of
31 solar energy systems using photovoltaic modules into a solar energy
32 system located in a county with an annual average unemployment rate of
33 greater than twelve percent in the calendar year prior to the effective
34 date of this act, as determined by the commissioner of the employment
35 security department during the course of constructing such buildings or
36 to labor and services rendered in respect to installing, during the

1 course of constructing, building fixtures not otherwise eligible for
2 the exemption under RCW 82.08.02565(2)(b).

3 (2) The eligibility requirements, conditions, and definitions in
4 section 4 of this act apply to this section.

5 (3) No exemption may be taken after June 30, 2013, however all of
6 the eligibility criteria and limitations are applicable to any
7 exemptions claimed before that date.

8 (4) This section expires June 30, 2013.

9 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.04 RCW
10 to read as follows:

11 (1) Subject to the limits and provisions of this section, a credit
12 is authorized against the tax otherwise due under section 3 of this act
13 for persons engaged in the business of manufacturing solar energy
14 systems using photovoltaic modules into a solar energy system located
15 in a county with an annual average unemployment rate of greater than
16 twelve percent in the calendar year prior to the effective date of this
17 act, as determined by the commissioner of the employment security
18 department. For the purposes of this section "solar energy system" has
19 the same meaning as provided in section 2 of this act.

20 (2)(a) The credit under this section shall equal three thousand
21 dollars for each full-time employment position used in manufacturing
22 process that takes place in a new building exempt from sales and use
23 tax under sections 4 and 5 of this act. A credit is earned for the
24 calendar year a person fills a position. Additionally a credit is
25 earned for each year the position is maintained over the subsequent
26 consecutive years, up to eight years. Those positions that are not
27 filled for the entire year are eligible for fifty percent of the credit
28 if filled less than six months, and the entire credit if filled more
29 than six months.

30 (b) To qualify for the credit, the manufacturing activity of the
31 person must be conducted at a new building that qualifies for the
32 exemption from sales and use tax under sections 4 and 5 of this act.

33 (3) No application is necessary for the tax credit. The person is
34 subject to all of the requirements of chapter 82.32 RCW. In no case
35 may a credit earned during one calendar year be carried over to be
36 credited against taxes incurred in a subsequent calendar year. No
37 refunds may be granted for credits under this section.

1 (4) If at any time the department finds that a person is not
2 eligible for tax credit under this section, the amount of taxes for
3 which a credit has been claimed shall be immediately due. The
4 department shall assess interest, but not penalties, on the taxes for
5 which the person is not eligible. The interest shall be assessed at
6 the rate provided for delinquent excise taxes under chapter 82.32 RCW,
7 shall be retroactive to the date the tax credit was taken, and shall
8 accrue until the taxes for which a credit has been used are repaid.

9 (5) A person taking the credit under this section must report under
10 section 8 of this act.

11 (6) Credits may be taken after July 1, 2004, for those buildings at
12 which commercial production began before June 30, 2013, subject to all
13 of the eligibility criteria and limitations of this section.

14 (7) This section expires June 30, 2013.

15 NEW SECTION. **Sec. 7.** A new section is added to chapter 84.36 RCW
16 to read as follows:

17 (1) Machinery and equipment exempt under RCW 82.08.02565 or
18 82.12.02565 used in the manufacture of solar energy systems using
19 photovoltaic modules into a solar energy system located in a county
20 with an annual average unemployment rate of greater than twelve percent
21 in the calendar year prior to the effective date of this act, as
22 determined by the commissioner of the employment security department at
23 a building exempt from sales and use tax and in compliance with the
24 employment requirement under sections 4 and 5 of this act are exempt
25 from taxation under this chapter. "Solar energy system" has the same
26 meaning as provided in section 2 of this act.

27 (2) A person seeking this exemption must make application to the
28 county assessor, on forms prescribed by the department.

29 (3) A person receiving an exemption under this section must report
30 in the manner prescribed in section 8 of this act.

31 (4) This section is effective for taxes levied for collection one
32 year after the effective date of this act and thereafter.

33 (5) This section expires December 31, 2013, for taxes levied for
34 collection in the following year.

35 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.32 RCW
36 to read as follows:

1 (1) The legislature finds that accountability and effectiveness are
2 important aspects of setting tax policy. In order to make policy
3 choices regarding the best use of limited state resources the
4 legislature needs information on how a tax incentive is used.

5 (2)(a) A person who reports taxes under section 3 of this act or
6 who claims an exemption or credit under section 2 or 4 through 7 of
7 this act, shall make an annual report to the department detailing
8 employment, wages, and employer-provided health and retirement benefits
9 per job at the manufacturing site. The report shall not include names
10 of employees. The report shall also detail employment by the total
11 number of full-time, part-time, and temporary positions. The first
12 report filed under this subsection shall include employment, wage, and
13 benefit information for the twelve-month period immediately before
14 first use of a preferential tax rate under section 3 of this act, or
15 tax exemption or credit under section 2 or 4 through 7 of this act.
16 The report is due by March 31st following any year in which a
17 preferential tax rate under section 3 of this act is used, or tax
18 exemption or credit under section 2 or 4 through 7 of this act is
19 taken. This information is not subject to the confidentiality
20 provisions of RCW 82.32.330 and may be disclosed to the public upon
21 request.

22 (b) If a person fails to submit an annual report under (a) of this
23 subsection the department shall declare the amount of taxes exempted or
24 credited for that year to be immediately due and payable. Excise taxes
25 payable under this subsection are subject to interest, as provided
26 under this chapter. This information is not subject to the
27 confidentiality provisions of RCW 82.32.330 and may be disclosed to the
28 public upon request.

29 (3) By November 1, 2009, and November 1, 2012, the joint
30 legislative audit and review committee, in consultation with the
31 department, shall report to the legislature on the effectiveness of
32 chapter . . ., Laws of 2004 (this act) in regard to keeping Washington
33 competitive. The report shall measure the effect of chapter . . .,
34 Laws of 2004 (this act) on job retention, net jobs created for
35 Washington residents, company growth, diversification of the state's
36 economy, and other factors as the committees select. The reports shall
37 include a discussion of principles to apply in evaluating whether the

1 legislature should reenact any or all of the tax preferences in chapter
2 . . . , Laws of 2004 (this act).

3 NEW SECTION. **Sec. 9.** This act takes effect July 1, 2004.

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