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HOUSE BILL 2888

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State of Washington                      60th Legislature                      2008 Regular Session

By Representatives Ormsby, Chandler, Miloscia, Morris, Dunshee, Appleton, McCoy, and Upthegrove

Read first time 01/17/08. Referred to Committee on Finance.

1            AN ACT Relating to the taxation of energy savings performance  
2 contracts; adding a new section to chapter 82.08 RCW; adding a new  
3 section to chapter 82.12 RCW; creating a new section; and providing an  
4 effective date.

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

6            NEW SECTION.    **Sec. 1.** The legislature finds that conserving energy  
7 in publicly owned buildings not only benefits Washington's overall  
8 supply of energy, but also contributes to meeting the state's  
9 greenhouse gas reduction goals. The legislature further finds that  
10 taxpayers are the direct beneficiaries of energy and water conservation  
11 in publicly owned buildings and reducing the cost of performance-based  
12 energy contracts is a means by which municipalities can achieve even  
13 greater levels of energy and water conservation. Although  
14 municipalities and the state have been using energy savings performance  
15 contracts since the mid-1980's, it is only since 2002 that the entire  
16 scope of the contract has been subject to the sales and use tax.

17            Therefore, the legislature declares that it is the policy of the  
18 state to exempt performance contracts from the sales and use tax.

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

3            (1) The tax levied by RCW 82.08.020 does not apply to performance-  
4 based contracted energy equipment and services and energy management  
5 systems.

6            (2) A person taking the exemption under this section must keep  
7 records necessary for the department to verify eligibility under this  
8 section. This exemption is available only when the buyer provides the  
9 seller with an exemption certificate in a form and manner prescribed by  
10 the department. The seller shall retain a copy of the certificate for  
11 the seller's files.

12           (3) The definitions in this subsection apply throughout this  
13 section unless the context clearly requires otherwise.

14           (a) "Energy equipment and services" has the same meaning provided  
15 in RCW 39.35A.020.

16           (b) "Energy management system" has the same meaning provided in RCW  
17 39.35.030.

18           (c) "Performance-based contract" has the same meaning provided in  
19 RCW 39.35A.020.

20        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 82.12 RCW  
21 to read as follows:

22           (1) The tax levied by this chapter does not apply to performance-  
23 based contracted energy equipment and services and energy management  
24 systems.

25           (2) A person taking the exemption under this section must keep  
26 records necessary for the department to verify eligibility under this  
27 section. This exemption is available only when the buyer provides the  
28 seller with an exemption certificate in a form and manner prescribed by  
29 the department. The seller shall retain a copy of the certificate for  
30 the seller's files.

31           (3) The definitions in section 2 of this act apply to this section.

32        NEW SECTION.    **Sec. 4.**    This act takes effect July 1, 2008.

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