

E2SHB 1009 - S COMM AMD

By Committee on Environment, Water & Energy

1 Strike everything after the enacting clause and insert the
2 following:

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

5 (1) Purchasers who have paid the tax imposed by RCW 82.08.020 on
6 machinery and equipment used directly in generating electricity using
7 fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal
8 resources, anaerobic digestion, technology that converts otherwise lost
9 energy from exhaust, or landfill gas as the principal source of power,
10 or to sales of or charges made for labor and services rendered in
11 respect to installing such machinery and equipment, are eligible for a
12 partial exemption in the form of a remittance, but only if the
13 purchaser develops with such machinery, equipment, and labor a facility
14 capable of generating not less than two hundred watts of electricity.
15 The amount of the exemption is equal to:

16 (a) Seventy-five percent of the state and local sales tax paid on
17 purchases made from the effective date of this act through June 30,
18 2013.

19 (b) Fifty percent of the state and local sales tax paid on
20 purchases made from July 1, 2013, through June 30, 2020.

21 (2) For purposes of this section and section 2 of this act, the
22 following definitions apply:

23 (a) "Biomass energy" has the same meaning as in RCW 19.285.030.

24 (b) "Fuel cell" means an electrochemical reaction that generates
25 electricity by combining atoms of hydrogen and oxygen in the presence
26 of a catalyst.

27 (c) "Landfill gas" means biomass fuel, of the type qualified for
28 federal tax credits under Title 26 U.S.C. Sec. 29 of the federal
29 internal revenue code, collected from a "landfill" as defined under RCW
30 70.95.030.

1 (d)(i) "Machinery and equipment" means fixtures, devices, and
2 support facilities that are integral and necessary to the generation of
3 electricity using fuel cells, wind, sun, biomass energy, tidal or wave
4 energy, geothermal resources, anaerobic digestion, technology that
5 converts otherwise lost energy from exhaust, or landfill gas as the
6 principal source of power.

7 (ii) "Machinery and equipment" does not include: (A) Hand-powered
8 tools; (B) property with a useful life of less than one year; (C)
9 repair parts required to restore machinery and equipment to normal
10 working order; (D) replacement parts that do not increase productivity,
11 improve efficiency, or extend the useful life of machinery and
12 equipment; (E) buildings; or (F) building fixtures that are not
13 integral and necessary to the generation of electricity that are
14 permanently affixed to and become a physical part of a building.

15 (3)(a) Machinery and equipment is "used directly" in generating
16 electricity by wind energy, solar energy, biomass energy, tidal or wave
17 energy, geothermal resources, anaerobic digestion, technology that
18 converts otherwise lost energy from exhaust, or landfill gas power if
19 it provides any part of the process that captures the energy of the
20 wind, sun, biomass energy, tidal or wave energy, geothermal resources,
21 anaerobic digestion, technology that converts otherwise lost energy
22 from exhaust, or landfill gas, converts that energy to electricity, and
23 stores, transforms, or transmits that electricity for entry into or
24 operation in parallel with electric transmission and distribution
25 systems.

26 (b) Machinery and equipment is "used directly" in generating
27 electricity by fuel cells if it provides any part of the process that
28 captures the energy of the fuel, converts that energy to electricity,
29 and stores, transforms, or transmits that electricity for entry into or
30 operation in parallel with electric transmission and distribution
31 systems.

32 (4)(a) A purchaser claiming an exemption in the form of a
33 remittance under this section must pay the tax imposed by RCW 82.08.020
34 and all applicable local sales taxes imposed under the authority of
35 chapters 82.14 and 81.104 RCW. The purchaser may then apply to the
36 department for remittance in a form and manner prescribed by the
37 department. A purchaser may not apply for a remittance under this
38 section more frequently than once per quarter. The purchaser must

1 specify the amount of exempted tax claimed and the qualifying purchases
2 for which the exemption is claimed. The purchaser must retain, in
3 adequate detail, records to enable the department to determine whether
4 the purchaser is entitled to an exemption under this section,
5 including: Invoices; proof of tax paid; and documents describing the
6 machinery and equipment.

7 (b) The department must determine eligibility under this section
8 based on the information provided by the purchaser, which is subject to
9 audit verification by the department. The department must on a
10 quarterly basis remit exempted amounts to qualifying purchasers who
11 submitted applications during the previous quarter.

12 (5) This section expires July 1, 2020.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12 RCW
14 to read as follows:

15 (1) Consumers who have paid the tax imposed by RCW 82.12.020 on
16 machinery and equipment used directly in generating electricity using
17 fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal
18 resources, anaerobic digestion, technology that converts otherwise lost
19 energy from exhaust, or landfill gas as the principal source of power,
20 or to sales of or charges made for labor and services rendered in
21 respect to installing such machinery and equipment, are eligible for a
22 partial exemption in the form of a remittance, but only if the
23 purchaser develops with such machinery, equipment, and labor a facility
24 capable of generating not less than two hundred watts of electricity.
25 The amount of the exemption is equal to:

26 (a) Seventy-five percent of the state and local sales tax paid on
27 purchases made from the effective date of this act through June 30,
28 2013.

29 (b) Fifty percent of the state and local sales tax paid on
30 purchases made from July 1, 2013, through June 30, 2020.

31 (2)(a) A person claiming an exemption in the form of a remittance
32 under this section must pay the tax imposed by RCW 82.12.020 and all
33 applicable local use taxes imposed under the authority of chapters
34 82.14 and 81.104 RCW. The consumer may then apply to the department
35 for remittance in a form and manner prescribed by the department. A
36 consumer may not apply for a remittance under this section more
37 frequently than once per quarter. The consumer must specify the amount

1 of exempted tax claimed and the qualifying purchases or acquisitions
2 for which the exemption is claimed. The consumer must retain, in
3 adequate detail, records to enable the department to determine whether
4 the consumer is entitled to an exemption under this section, including:
5 Invoices; proof of tax paid; and documents describing the machinery and
6 equipment.

7 (b) The department must determine eligibility under this section
8 based on the information provided by the consumer, which is subject to
9 audit verification by the department. The department must on a
10 quarterly basis remit exempted amounts to qualifying consumers who
11 submitted applications during the previous quarter.

12 (3) Purchases exempt under section 1 of this act are also exempt
13 from the tax imposed under RCW 82.12.020.

14 (4) The definitions in section 1 of this act apply to this section.

15 (5) This section expires July 1, 2020.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.14 RCW
17 to read as follows:

18 The exemptions in sections 1 and 2 of this act are for the state
19 and local sales and use taxes and include the sales and use taxes
20 imposed under the authority of this chapter.

21 **Sec. 4.** RCW 81.104.170 and 1997 c 450 s 5 are each amended to read
22 as follows:

23 (1) Cities that operate transit systems, county transportation
24 authorities, metropolitan municipal corporations, public transportation
25 benefit areas, and regional transit authorities may submit an
26 authorizing proposition to the voters and if approved by a majority of
27 persons voting, fix and impose a sales and use tax in accordance with
28 the terms of this chapter, solely for the purpose of providing high
29 capacity transportation service.

30 (2) The tax authorized pursuant to this section shall be in
31 addition to the tax authorized by RCW 82.14.030 and shall be collected
32 from those persons who are taxable by the state pursuant to chapters
33 82.08 and 82.12 RCW upon the occurrence of any taxable event within the
34 taxing district. The maximum rate of such tax shall be approved by the
35 voters and shall not exceed one percent of the selling price (in the
36 case of a sales tax) or value of the article used (in the case of a use

1 tax). The maximum rate of such tax that may be imposed shall not
2 exceed nine-tenths of one percent in any county that imposes a tax
3 under RCW 82.14.340, or within a regional transit authority if any
4 county within the authority imposes a tax under RCW 82.14.340.

5 (3)(a) The exemptions in RCW 82.08.820 and 82.12.820 are for the
6 state portion of the sales and use tax and do not extend to the tax
7 authorized in this section.

8 (b) The exemptions in sections 1 and 2 of this act are for the
9 state and local sales and use taxes and include the tax authorized by
10 this section.

11 **Sec. 5.** RCW 82.14.050 and 2005 c 336 s 20 are each amended to read
12 as follows:

13 (1) The counties, cities, and transportation authorities under RCW
14 82.14.045, public facilities districts under chapters 36.100 and 35.57
15 RCW, public transportation benefit areas under RCW 82.14.440, regional
16 transportation investment districts, and transportation benefit
17 districts under chapter 36.73 RCW shall contract, prior to the
18 effective date of a resolution or ordinance imposing a sales and use
19 tax, the administration and collection to the state department of
20 revenue, which shall deduct a percentage amount, as provided by
21 contract, not to exceed two percent of the taxes collected for
22 administration and collection expenses incurred by the department. The
23 remainder of any portion of any tax authorized by this chapter that is
24 collected by the department of revenue shall be deposited by the state
25 department of revenue in the local sales and use tax account hereby
26 created in the state treasury. Moneys in the local sales and use tax
27 account may be (~~spent~~) withdrawn only for:

28 (a) Distribution to counties, cities, transportation authorities,
29 public facilities districts, public transportation benefit areas,
30 regional transportation investment districts, and transportation
31 benefit districts imposing a sales and use tax; and

32 (b) Making refunds of taxes imposed under the authority of this
33 chapter and RCW 81.104.170 and exempted under sections 1 and 2 of this
34 act.

35 (2) All administrative provisions in chapters 82.03, 82.08, 82.12,
36 and 82.32 RCW, as they now exist or may hereafter be amended, shall,

1 insofar as they are applicable to state sales and use taxes, be
2 applicable to taxes imposed pursuant to this chapter.

3 (3) Counties, cities, transportation authorities, public facilities
4 districts, and regional transportation investment districts may not
5 conduct independent sales or use tax audits of sellers registered under
6 the streamlined sales tax agreement.

7 (4) Except as provided in RCW 43.08.190, all earnings of
8 investments of balances in the local sales and use tax account shall be
9 credited to the local sales and use tax account and distributed to the
10 counties, cities, transportation authorities, public facilities
11 districts, public transportation benefit areas, regional transportation
12 investment districts, and transportation benefit districts monthly.

13 **Sec. 6.** RCW 82.14.060 and 2005 c 336 s 21 are each amended to read
14 as follows:

15 (1)(a) Monthly, the state treasurer (~~(shall make distribution)~~)
16 must distribute from the local sales and use tax account to the
17 counties, cities, transportation authorities, public facilities
18 districts, and transportation benefit districts the amount of tax
19 collected on behalf of each taxing authority, less:

20 (i) The deduction provided for in RCW 82.14.050; and

21 (ii) The amount of any refunds of local sales and use taxes
22 exempted under sections 1 and 2 of this act, which shall be made
23 without appropriation.

24 (b) The state treasurer shall make the distribution under this
25 section without appropriation.

26 (2) In the event that any ordinance or resolution imposes a sales
27 and use tax at a rate in excess of the applicable limits contained
28 herein, such ordinance or resolution shall not be considered void in
29 toto, but only with respect to that portion of the rate which is in
30 excess of the applicable limits contained herein.

31 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.12 RCW
32 to read as follows:

33 (1) Except as provided in subsection (2) of this section, the
34 expiration of RCW 82.12.02567 and section 2 of this act do not require
35 the payment of, or authorize the department to assess, use tax imposed
36 by or under the authority of RCW 82.12.020, 81.104.170, and chapter

1 82.14 RCW, on the use of machinery and equipment, and labor and
2 services rendered in respect to installing such machinery and
3 equipment, if such use qualified for the exemption under RCW
4 82.12.02567 or section 2 of this act immediately preceding the
5 expiration date of the applicable exemption under RCW 82.12.02567 or
6 section 2 of this act.

7 (2) Subsection (1) of this section does not prohibit the department
8 from assessing, subject to the limitations period in RCW 82.32.050,
9 state and local use taxes on the use of machinery and equipment, and
10 labor and services rendered in respect to installing such machinery and
11 equipment, if, before the expiration of the applicable exemption
12 provided in RCW 82.12.02567 or section 2 of this act, the machinery and
13 equipment was put to a use that is outside of the scope of the
14 applicable exemption in RCW 82.12.02567 or section 2 of this act."

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15 On page 1, line 2 of the title, after "generation;" strike the
16 remainder of the title and insert "amending RCW 81.104.170, 82.14.050,
17 and 82.14.060; adding a new section to chapter 82.08 RCW; adding new
18 sections to chapter 82.12 RCW; adding a new section to chapter 82.14
19 RCW; and providing expiration dates."

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