
HOUSE BILL 1719

State of Washington

61st Legislature

2009 Regular Session

By Representatives Hasegawa and Hudgins

Read first time 01/27/09. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to electricity generation sales and use tax
2 exemptions; amending RCW 82.08.02567 and 82.12.02567; adding a new
3 section to chapter 82.32 RCW; creating a new section; and providing
4 expiration dates.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that development of
7 renewable sources of energy is crucial for strengthening Washington's
8 economy and for reducing greenhouse gas emissions. The legislature
9 also finds that it is important for all communities, especially low-
10 income and underserved communities, to have access to conservation
11 practices and green jobs that are created as renewable energy
12 production is increased and as Washington transitions to a green
13 economy. It is therefore the intent of the legislature to spur the
14 development of renewable energy production and encourage installation
15 of conservation measures by training a highly skilled workforce using
16 the opportunity grants program funded through the green industry jobs
17 training account to ensure that people from low-income and underserved
18 communities may have an opportunity to participate in the development
19 of Washington's renewable energy economy and long-term prosperity.

1 **Sec. 2.** RCW 82.08.02567 and 2004 c 152 s 1 are each amended to
2 read as follows:

3 (1) ~~((The tax levied))~~ (a) A partial exemption in the form of a
4 refund is provided for the tax imposed by RCW 82.08.020 ~~((shall not~~
5 ~~apply to))~~ for sales of machinery and equipment used directly in
6 generating electricity using fuel cells, wind, sun, or landfill gas as
7 the principal source of power, or to sales of or charges made for labor
8 and services rendered in respect to installing such machinery and
9 equipment, but only if the purchaser develops with such machinery,
10 equipment, and labor a facility capable of generating not less than two
11 hundred watts of electricity ~~((and provides the seller with an~~
12 ~~exemption certificate in a form and manner prescribed by the~~
13 ~~department. The seller shall retain a copy of the certificate for the~~
14 ~~seller's files))~~.

15 (b) Buyers who receive this partial exemption must comply with the
16 prevailing wage requirements of chapter 39.12 RCW on all installations.

17 (c) Buyers who receive this partial exemption for installation
18 projects with equipment or machinery costs of thirty-five thousand
19 dollars or more must ensure that no less than fifteen percent of the
20 labor hours installing the equipment or machinery are performed by
21 apprentices.

22 (2) Sellers must collect the tax on sales subject to this
23 exemption. The buyer must apply for a refund directly from the
24 department in a form and manner required by the department. The refund
25 is for seventy percent of the state sales tax.

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

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

30 (b) "Machinery and equipment" means industrial fixtures, devices,
31 and support facilities that are integral and necessary to the
32 generation of electricity using fuel cells, wind, sun, or landfill gas
33 as the principal source of power;

34 (c) "Machinery and equipment" does not include: (i) Hand-powered
35 tools; (ii) property with a useful life of less than one year; (iii)
36 repair parts required to restore machinery and equipment to normal
37 working order; (iv) replacement parts that do not increase
38 productivity, improve efficiency, or extend the useful life of

1 machinery and equipment; (v) buildings; or (vi) building fixtures that
2 are not integral and necessary to the generation of electricity that
3 are permanently affixed to and become a physical part of a building;

4 (d) Machinery and equipment is "used directly" in generating
5 electricity with fuel cells or by wind energy, solar energy, or
6 landfill gas power if it provides any part of the process that captures
7 the energy of the wind, sun, or landfill gas, converts that energy to
8 electricity, and stores, transforms, or transmits that electricity for
9 entry into or operation in parallel with electric transmission and
10 distribution systems;

11 (e) "Fuel cell" means an electrochemical reaction that generates
12 electricity by combining atoms of hydrogen and oxygen in the presence
13 of a catalyst;

14 (f) "Apprentice" means an apprentice enrolled in an apprenticeship
15 training program approved by the Washington state apprenticeship
16 council; and

17 (g) "Labor hours" means the total hours of workers receiving an
18 hourly wage who are directly employed on the site of the project.
19 "Labor hours" includes hours performed by workers employed by the
20 contractor and all subcontractors working on the project. "Labor
21 hours" does not include hours worked by foremen, superintendents,
22 owners, and workers who are not subject to prevailing wage
23 requirements.

24 (3) This section expires June 30, (~~(2009)~~) 2015.

25 **Sec. 3.** RCW 82.12.02567 and 2004 c 152 s 2 are each amended to
26 read as follows:

27 (1) (~~The provisions of this chapter shall not apply~~) (a) A
28 partial exemption in the form of a refund is provided for the tax
29 imposed under this chapter with respect to machinery and equipment used
30 directly in generating not less than two hundred watts of electricity
31 using fuel cells, wind, sun, or landfill gas as the principal source of
32 power, or to the use of labor and services rendered in respect to
33 installing such machinery and equipment.

34 (b) Buyers who receive this partial exemption must comply with the
35 prevailing wage requirements of chapter 39.12 RCW on all installations.

36 (c) Buyers who receive this partial exemption for installation
37 projects with equipment or machinery costs of thirty-five thousand

1 dollars or more must ensure that no less than fifteen percent of the
2 labor hours installing the equipment or machinery are performed by
3 apprentices.

4 (2) Sellers obligated to collect use tax must collect tax on sales
5 subject to this exemption. The buyer must apply for a refund directly
6 from the department in a form and manner required by the department.
7 The refund is for seventy percent of the state use tax.

8 (3) The definitions in RCW 82.08.02567 apply to this section.

9 ((+3)) (4) This section expires June 30, ((2009)) 2015.

10 NEW SECTION. Sec. 4. A new section is added to chapter 82.32 RCW
11 to read as follows:

12 (1) The state treasurer must periodically transfer from the general
13 fund to the green industries jobs training account created in RCW
14 43.330.310, the thirty percent portion of tax refund requests not
15 subject to a refund under RCW 82.08.02567 or 82.12.02567.

16 (2)(a) For the purposes of this section, "electricity generation
17 sales and use tax exemption" means the sales and use tax exemption
18 under RCW 82.08.02567 and 82.12.02567.

19 (b) The legislature finds that accountability and effectiveness are
20 important aspects of setting tax policy. In order to make policy
21 choices regarding the best use of limited state resources, the
22 legislature needs information to evaluate whether the stated goals of
23 legislation were achieved.

24 (c)(i) A person who receives the benefit of an electricity
25 generation sales and use tax exemption must make an annual report to
26 the department detailing employment, wages, use of apprentices, and
27 employer-provided health and retirement benefits. The report must
28 detail employment by the total number of full-time, part-time, and
29 temporary positions. The report must detail compliance with the
30 prevailing wage requirements of chapter 39.12 RCW on all installations
31 and the use of apprentices for all installations of electricity
32 generation equipment and machinery that costs thirty-five thousand
33 dollars or more.

34 (ii) The report is due by March 31st following any year in which a
35 tax exemption is claimed or used. The report may not include names of
36 employees. The first report filed under this subsection must include

1 employment, wage, benefit information, and use of apprentices for the
2 twelve-month period immediately before first use of a tax exemption.

3 (iii) Information in a report under this section is not subject to
4 the confidentiality provisions of RCW 82.32.330 and may be disclosed to
5 the public upon request.

6 (iv) If a person fails to submit an annual report under (a) of this
7 subsection by the due date of the report, the department must declare
8 the amount of taxes exempted for that year to be immediately due and
9 payable. This information is not subject to the confidentiality
10 provisions of RCW 82.32.330 and may be disclosed to the public upon
11 request.

12 (d) The department must study the electricity generation sales and
13 use tax exemption authorized under RCW 82.08.02567 and 82.12.02567.
14 The department must submit a report to the finance committee of the
15 house of representatives and the ways and means committee of the senate
16 by December 1, 2011, and December 1, 2014. The report must detail
17 employment, wages, and employer-provided health and retirement
18 benefits. The report must measure compliance with the prevailing wage
19 requirements on all installations and the use of apprentices for all
20 installations of electricity generation equipment and machinery that
21 costs thirty-five thousand dollars or more.

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