
SENATE BILL 5766

State of Washington

61st Legislature

2009 Regular Session

By Senators Pridemore, Murray, Rockefeller, Regala, Kohl-Welles, and Kline

Read first time 01/30/09. Referred to Committee on Ways & Means.

1 AN ACT Relating to modifying pollution control tax incentives and
2 providing additional funding for compensation and retraining of
3 displaced workers; amending RCW 82.08.810 and 50.12.280; amending 1997
4 c 368 s 1 (uncodified); adding a new section to chapter 28C.18 RCW;
5 adding a new section to chapter 43.31 RCW; repealing RCW 84.36.487,
6 82.12.810, 82.32.393, 82.08.811, and 82.12.811; making an
7 appropriation; and providing an effective date.

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

9 **Sec. 1.** 1997 c 368 s 1 (uncodified) is amended to read as follows:
10 ~~((1) The legislature finds that:~~
11 ~~(a) Thermal electric generation facilities play an important role~~
12 ~~in providing jobs for residents of the communities where such plants~~
13 ~~are located; and~~
14 ~~(b) Taxes paid by thermal electric generation facilities help to~~
15 ~~support schools and local and state government operations.~~
16 ~~(2) It is the intent of the legislature to assist thermal electric~~
17 ~~generation facilities placed in operation after December 31, 1969, and~~
18 ~~before July 1, 1975, to update their air pollution control equipment~~
19 ~~and abate pollution by extending certain tax exemptions and credits so~~

1 ~~that such plants may continue to play a long-term vital economic role~~
2 ~~in the communities where they are located.)~~ (1) The legislature finds
3 that the tax policy of the state should be consistent with the green
4 house gas emissions reductions and clean energy jobs goals as
5 established in chapter 14 (Engrossed Second Substitute House Bill No.
6 2815), Laws of 2008.

7 (2) The legislature recognized the benefits of electric power and
8 employment opportunities provided by thermal electric generation
9 facilities when the legislature adopted tax incentives to encourage air
10 pollution control equipment updates and pollution abatement. However,
11 the unexpected closure of coal mining operations in the state in 2006
12 had an adverse impact on workers, families, and the economy of the
13 state. The tax incentives were originally based on continued
14 employment opportunities created by coal mining operations and, since
15 these operations were closed in 2006, the tax benefits for thermal
16 electric generation facilities are disproportionately high for the
17 number of jobs they now provide.

18 (3) The legislature finds that coal-powered thermal electric
19 generation facilities located in the state contribute approximately
20 twelve percent of the total greenhouse gas emissions of the state,
21 according to the December 2007 study, "greenhouse gas inventory and
22 reference case projections."

23 (4) The legislature, considering the environmental and economic
24 climate of the state, concludes that measures are necessary to address
25 climate change and potential closures of thermal electric generation
26 facilities in the state. Thus, it is the intent of the legislature
27 that the state will: (a) Develop programs to create new economic
28 opportunities in counties where coal-powered thermal electric
29 generation facilities are located; (b) identify strategies to replace
30 the energy generated by coal-powered thermal electric generation
31 facilities, including the use of energy conservation and energy
32 efficiency measures; and (c) repeal RCW 82.32.393 to provide funding
33 for the activities in this subsection.

34 **Sec. 2.** RCW 82.08.810 and 1997 c 368 s 2 are each amended to read
35 as follows:

36 (1) For the purposes of this section, "air pollution control
37 facilities" mean any treatment works, control devices and disposal

1 systems, machinery, equipment, structures, property, property
2 improvements, and accessories, that are installed or acquired for the
3 primary purpose of reducing, controlling, or disposing of industrial
4 waste that, if released to the outdoor atmosphere, could cause air
5 pollution, or that are required to meet regulatory requirements
6 applicable to their construction, installation, or operation.

7 (2) The tax levied by RCW 82.08.020 (~~((does not apply to))~~) is
8 deferred for:

9 (a) Sales of tangible personal property to a light and power
10 business, as defined in RCW 82.16.010, for construction or installation
11 of air pollution control facilities at a thermal electric generation
12 facility; or

13 (b) Sales of, cost of, or charges made for labor and services
14 performed in respect to the construction or installation of air
15 pollution control facilities.

16 (3) The (~~(exemption)~~) deferral provided under this section applies
17 only to sales, costs, or charges:

18 (a) Incurred for air pollution control facilities constructed or
19 installed after May 15, 1997, and used in a thermal electric generation
20 facility placed in operation after December 31, 1969, and before July
21 1, 1975;

22 (b) If the air pollution control facilities are constructed or
23 installed to meet applicable regulatory requirements established under
24 state or federal law, including the Washington clean air act, chapter
25 70.94 RCW; and

26 (c) For which the purchaser provides the seller with (~~(an~~
27 ~~exemption)~~) a deferral certificate, signed by the purchaser or
28 purchaser's agent, that includes a description of items or services for
29 which payment is made, the amount of the payment, and such additional
30 information as the department reasonably may require.

31 (4) This section does not apply to sales of tangible personal
32 property purchased or to sales of, costs of, or charges made for labor
33 and services used for maintenance or repairs of pollution control
34 equipment.

35 (~~((If production of electricity at a thermal electric generation~~
36 ~~facility for any calendar year after 2002 and before 2023 falls below~~
37 ~~a twenty percent annual capacity factor for the generation facility,~~

1 ~~all or a portion of the tax previously exempted under this section in~~
2 ~~respect to construction or installation of air pollution control~~
3 ~~facilities at the generation facility shall be due as follows:~~

4		
5		Portion of previously
6	Year event occurs	exempted tax due
7	2003	100%
8	2004	95%
9	2005	90%
10	2006	85%
11	2007	80%
12	2008	75%
13	2009	70%
14	2010	65%
15	2011	60%
16	2012	55%
17	2013	50%
18	2014	45%
19	2015	40%
20	2016	35%
21	2017	30%
22	2018	25%
23	2019	20%
24	2020	15%
25	2021	10%
26	2022	5%
27	2023	0%

28 ~~(6) RCW 82.32.393 applies to this section.)~~ A taxpayer receiving
29 a deferral under this section must begin paying the deferred taxes on
30 July 1, 2013, with subsequent annual payments due on July 1st of the
31 succeeding four years. All taxes previously exempted under this
32 section are deferred as of August 1, 2009, and must be repaid under the
33 schedule in this subsection. The amounts of payment scheduled are as
34 follows:

	<u>Repayment Year</u>	<u>% of Deferred Tax</u>
2		<u>to Repay</u>
3	<u>1</u>	<u>20%</u>
4	<u>2</u>	<u>20%</u>
5	<u>3</u>	<u>20%</u>
6	<u>4</u>	<u>20%</u>
7	<u>5</u>	<u>20%</u>

8 (6) Interest is charged on any taxes deferred under this chapter
9 for the period of deferral. The provisions of chapter 82.32 RCW apply
10 to the deferrals in this section, including penalties and interest for
11 assessed taxes and delinquent payments. The debt for deferred taxes is
12 not extinguished by insolvency or other failure of the recipient.

13 (7) If a taxpayer receiving the deferral ceases operation and
14 decommissions the thermal electric generation facility before the first
15 payment of the deferral is due, the debt for deferred taxes need not be
16 repaid. However, any transfer of ownership occurring after August 1,
17 2009, terminates the deferral provided under this section and all
18 deferred taxes plus interest are immediately due.

19 **Sec. 3.** RCW 50.12.280 and 1997 c 368 s 13 are each amended to read
20 as follows:

21 The displaced workers account is established. ~~((All moneys from~~
22 ~~RCW 82.32.393 must be deposited into the account.)) Moneys in the~~
23 account may be spent only after appropriation. Expenditures from the
24 account may be used only to provide for compensation and retraining of
25 displaced workers of the thermal electric generation facility and of
26 the coal mine that supplied coal to the facility. The benefits from
27 the account are in addition to all other compensation and retraining
28 benefits to which the displaced workers are entitled under existing
29 state law. The employment security department shall administer the
30 distribution of moneys from the account. Any funds remaining in the
31 account on June 30, 2020, must be deposited into the general fund.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 28C.18 RCW
2 to read as follows:

3 The workforce training and education coordinating board, and local
4 associate development organizations, must develop a comprehensive plan
5 to increase employment opportunities for displaced workers receiving
6 assistance under section 5 of this act and improve the economic well-
7 being in the county in which the thermal electric generation facility
8 is located. The plan is due to the governor and the legislature by
9 December 31, 2010. At minimum, the plan must consider:

10 (1) The need for increased investment for public infrastructure,
11 such as roads, rail, water systems, or sewer systems to support new
12 economic investments; and

13 (2) Opportunities and strategies to implement recommendations from
14 the studies related to the green economy jobs growth initiative
15 established in chapter 14, Laws of 2008.

16 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.31 RCW
17 to read as follows:

18 The department of community, trade, and economic development must
19 conduct an analysis to determine how the state can meet its energy
20 needs without using energy currently generated by thermal electric
21 generation facilities placed in operation after December 31, 1969, and
22 before July 1, 1975. The analysis must include strategies and
23 recommendations that are consistent with the state's greenhouse gas
24 emissions reductions and clean energy jobs goals established in chapter
25 14, Laws of 2008. The report is due to the governor and the
26 legislature by December 31, 2010.

27 NEW SECTION. **Sec. 6.** The following acts or parts of acts are each
28 repealed:

29 (1) RCW 84.36.487 (Air pollution control equipment in thermal
30 electric generation facilities--Records--Payments on cessation of
31 operation) and 1997 c 368 s 11;

32 (2) RCW 82.12.810 (Exemptions--Air pollution control facilities at
33 a thermal electric generation facility--Exceptions--Payments on
34 cessation of operation) and 2003 c 5 s 12 & 1997 c 368 s 3;

35 (3) RCW 82.32.393 (Thermal electric generation facilities with tax

1 exemptions for air pollution control equipment--Payments upon cessation
2 of operation) and 1997 c 368 s 12;

3 (4) RCW 82.08.811 (Exemptions--Coal used at coal-fired thermal
4 electric generation facility--Application--Demonstration of progress in
5 air pollution control--Notice of emissions violations--Reapplication--
6 Payments on cessation of operation) and 1997 c 368 s 4; and

7 (5) RCW 82.12.811 (Exemptions--Coal used at coal-fired thermal
8 electric generation facility--Application--Demonstration of progress in
9 air pollution control--Notice of emissions violations--Reapplication--
10 Payments on cessation of operation) and 1997 c 368 s 6.

11 NEW SECTION. **Sec. 7.** The sum of ten million dollars, which
12 reflects the increased revenue receipts from taxes repealed in section
13 6 of this act, or as much of the ten million dollars as may be
14 necessary, is appropriated for the biennium ending June 30, 2011, from
15 the general fund into the displaced workers account in RCW 50.12.280
16 for the purposes of this act.

17 NEW SECTION. **Sec. 8.** This act takes effect August 1, 2009.

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