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**SUBSTITUTE HOUSE BILL 1856**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** House Finance (originally sponsored by Representatives Morris and Pollet)

READ FIRST TIME 03/01/13.

1       AN ACT Relating to fossil fuel production; amending RCW 43.180.260  
2 and 43.30.385; adding a new section to chapter 84.36 RCW; adding a new  
3 chapter to Title 82 RCW; and providing an effective date.

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

5       NEW SECTION.     **Sec. 1.**   The definitions in this section apply  
6 throughout this chapter unless the context clearly requires otherwise.

7       (1) "Gas" means natural gas and casinghead gas, or other gaseous  
8 hydrocarbons from any lands or waters of this state, regardless of  
9 whether it is produced from a gas well or from a well producing oil or  
10 other liquid hydrocarbons.

11       (2) "Oil" means crude oil, condensate, distillate, or other oil, or  
12 other liquid hydrocarbons extracted from any lands or waters of this  
13 state, regardless of gravity.

14       (3) "Operating producer" means a producer who shares in the  
15 production expenses of the severed product, and who conducts,  
16 personally or by lease or contract, the daily operations of the  
17 business of producing the product including, but not limited to, the  
18 sale of the product, receipt of proceeds of the sale, and the payment  
19 of expenses.

1 (4) "Person" has the meaning provided in RCW 82.04.030.

2 (5) "Point of production" means:

3 (a) For oil, the point where it is severed and is first metered or  
4 measured in a manner approved by the department;

5 (b) For gas recovered from, or in association with, oil, where it  
6 is severed and is first metered or measured in a manner approved by the  
7 department after separation from the oil; and

8 (c) For gas not recovered from, or in association with, oil, where  
9 it is severed and is first metered or measured in a manner approved by  
10 the department.

11 (6) "Producer" means any person having an economic interest in the  
12 severed product, whether engaged in the business of producing or  
13 extracting oil or gas or not, who has, as a result of the ownership of  
14 such interests, a right to receive a part or all of the oil and gas  
15 produced or has a right to receive all or a part of the proceeds of the  
16 oil or gas severed. Such persons include, but are not limited to,  
17 persons owning a royalty interest, an overriding royalty interest, a  
18 working or operating interest, a net profit interest, or any  
19 combination thereof, but does not include laborers or employees working  
20 on or at the production site.

21 (7) "Severance" means the taking from the lands or waters of this  
22 state of any oil and gas in any manner, except that the withdrawal of  
23 gas from underground storage, as underground storage is defined in RCW  
24 80.40.010, may not constitute severance.

25 (8) "Value" means the fair market value of the oil or gas when  
26 first metered and at the point of production.

27 NEW SECTION. **Sec. 2.** (1) In addition to any other tax, an excise  
28 tax of five percent is imposed upon the severance of oil and gas from  
29 any lands or waters of this state, less the value of any part of the  
30 oil or gas, the ownership or right to which is exempt from taxation  
31 under section 4 of this act.

32 (2) The measure of the tax is the value of the oil and gas at the  
33 time and point of production.

34 NEW SECTION. **Sec. 3.** (1) The taxes imposed by this chapter on the  
35 severance of oil and gas are the liability of the producer or  
36 producers. The operating producer must file the return with the

1 department, must pay the tax due, and must deduct and withhold the  
2 ratable share of the tax from payments made to other producers in  
3 proportion to their interest.

4 (2) If oil or gas on which the severance and conservation taxes are  
5 due is not sold at the time of production but is retained by the  
6 producer, the operating producer must pay to the department the taxes  
7 due with respect to the oil and gas severed but not sold and must  
8 deduct or withhold the ratable share of the tax from payments made to  
9 other producers in proportion to their interest.

10 (3) The department may require taxes to be paid upon the basis of  
11 the prevailing price being paid when first metered and point of  
12 production of other oil or gas of like kind, character, quality, or  
13 comparable source when the value reported to the department does not  
14 represent the market value of oil or gas sold or retained.

15 NEW SECTION. **Sec. 4.** The following are exempt from the taxes  
16 imposed under this chapter:

17 (1) The value of any oil or gas reinjected for storage, provided  
18 that any subsequent removal of oil or gas produced in this state from  
19 storage for sale, use, or other retention constitutes a severance  
20 within the meaning of this chapter;

21 (2) The value of any oil or gas owned by a producer or producers  
22 exempt from tax by reason of federal law or a compact negotiated by the  
23 state with a tribal government; and

24 (3) The value of liquid hydrocarbons that are a byproduct of carbon  
25 sequestration.

26 NEW SECTION. **Sec. 5.** All of chapter 82.32 RCW applies to the tax  
27 imposed by this chapter. The department must provide for the effective  
28 administration of this chapter by rules which must include, but are not  
29 limited to, the value at the time and point of production and a  
30 determination of metering methods, and measuring the severance of oil  
31 and gas.

32 NEW SECTION. **Sec. 6.** (1) The department must deposit eighty  
33 percent of the amount collected under section 2 of this act in the park  
34 land trust revolving fund under RCW 43.30.385 reduced by the amount  
35 contributed by the taxpayer under subsection (2) of this section.

1 (2) A person may choose to contribute up to forty percent of the  
2 tax due under section 2 of this act that would otherwise be deposited  
3 into the park land trust revolving fund under RCW 43.30.385 to the  
4 sustainable energy trust account created in section 7 of this act.

5 NEW SECTION. **Sec. 7.** (1) In computing tax owed under this  
6 chapter, a person may take a credit for contributions made to the  
7 sustainable energy trust account. Contributions must be deposited into  
8 the sustainable energy trust account created in this section.

9 (2) A person may take a credit under this section for up to forty  
10 percent of the person's tax liability in the amount of the contribution  
11 made to the sustainable energy trust account.

12 (3) A credit claimed under this section may not exceed the person's  
13 tax liability under this chapter in the tax reporting period in which  
14 the credit is claimed. Unused credits may be carried forward until  
15 used.

16 (4) The sustainable energy trust account is hereby created in the  
17 state treasury. The account must be administered by the housing  
18 finance commission. Only the commission may authorize expenditures  
19 from the account.

20 NEW SECTION. **Sec. 8.** The department must deposit twenty percent  
21 of the amount collected under section 2 of this act in the local  
22 government severance taxation account established in the state  
23 treasury. Moneys in the account may be spent only after appropriation.  
24 Expenditures from this account must be used solely for making  
25 distributions to those local governments in which impacts from oil and  
26 gas production activities occur, after appropriation by statute.

27 **Sec. 9.** RCW 43.180.260 and 2009 c 65 s 3 are each amended to read  
28 as follows:

29 (1) If economically feasible, the commission (~~shall~~) must develop  
30 and implement a sustainable energy trust program to provide financing  
31 for qualified improvement projects. In developing the sustainable  
32 energy trust program, the commission (~~shall~~) must establish  
33 eligibility criteria for financing that will enable it to choose  
34 eligible applicants who are likely to repay loans made or acquired by  
35 the commission and funded from the proceeds of commission bonds.

1 (2) The commission (~~shall~~) must, if economically feasible:

2 (a) Issue bonds, as defined in RCW 43.180.020, for the purpose of  
3 financing loans for qualified energy efficiency and renewable energy  
4 improvement projects in accordance with RCW 43.180.150;

5 (b) Participate fully in federal and other governmental programs  
6 and take actions that are necessary and consistent with this chapter to  
7 secure to itself and the people of the state the benefits of programs  
8 to promote energy efficiency and renewable energy technologies;

9 (c) Contract with a certifying authority to accept applications for  
10 energy efficiency and renewable energy improvement projects, to review  
11 applications, including binding fixed price bids for the improvements,  
12 and to approve qualified improvements for financing by the commission.  
13 For solar electric systems, the certifying authority must use an  
14 application certification process similar to the investment cost  
15 recovery incentive application process provided under RCW 82.16.120.  
16 No work by a certifying authority may commence under this section until  
17 a request has been made by the commission; and

18 (d) Before entering into a contract with a certifying authority as  
19 defined in RCW 43.180.020(2)(b), consult with the Washington State  
20 University (~~energy~~) extension (~~{extension-energy}~~) energy program  
21 to determine which potential improvement technologies are appropriate.

22 (3) The commission may accept contributions made by a person to the  
23 sustainable energy trust account created in section 7 of this act.

24 (4) No general fund resources may be expended to implement this  
25 section.

26 NEW SECTION. Sec. 10. A new section is added to chapter 84.36 RCW  
27 to read as follows:

28 (1) The following real or personal property is exempt from property  
29 taxation: Oil or gas reserves and leases on the rights to develop and  
30 operate upon or within any lands and waters of this state for oil or  
31 gas and the property rights attached to or inherent therein.

32 (2) This section does not in any way exempt the land, improvements,  
33 or other real or personal property from property taxation.

34 Sec. 11. RCW 43.30.385 and 2012 c 166 s 8 are each amended to read  
35 as follows:

36 (1) The park land trust revolving fund is to be utilized by the

1 department for the purpose of acquiring real property, including all  
2 reasonable costs associated with these acquisitions, as a replacement  
3 for the property transferred to the state parks and recreation  
4 commission, as directed by the legislature in order to maintain the  
5 land base of the affected trusts or under RCW 79.22.060 and to receive  
6 voluntary contributions for the purpose of operating and maintaining  
7 public use and recreation facilities, including trails, managed by the  
8 department.

9 (2) In addition to the other purposes identified in this section,  
10 the park land trust revolving fund may be utilized by the department to  
11 hold funding for future acquisition of lands for the community forest  
12 trust program from willing sellers under RCW 79.155.040.

13 (3)(a) Proceeds from transfers of real property to the state parks  
14 and recreation commission or other proceeds identified from transfers  
15 of real property as directed by the legislature (~~shall~~) must be  
16 deposited in the park land trust revolving fund.

17 (b) Except as otherwise provided in this subsection, the proceeds  
18 from real property transferred or disposed under RCW 79.22.060 must be  
19 used solely to purchase replacement forest land, that must be actively  
20 managed as a working forest, within the same county as the property  
21 transferred or disposed. If the real property was transferred under  
22 RCW 79.22.060 (1)(c) and (2)(c) from within a county participating in  
23 the state forest land pool created under RCW 79.22.140, replacement  
24 forest land may be located within any county participating in the land  
25 pool.

26 (c) Disbursement from the park land trust revolving fund to acquire  
27 replacement property and for operating and maintaining public use and  
28 recreation facilities (~~shall~~) must be on the authorization of the  
29 department.

30 (d) The proceeds from the recreation access pass account created in  
31 RCW 79A.80.090 must be solely used for the purpose of operating and  
32 maintaining public use and recreation facilities, including trails,  
33 managed by the department.

34 (4) In order to maintain an effective expenditure and revenue  
35 control, the park land trust revolving fund is subject in all respects  
36 to chapter 43.88 RCW, but no appropriation is required to permit  
37 expenditures and payment of obligations from the fund.

1 (5) The department is authorized to solicit and receive voluntary  
2 contributions for the purpose of operating and maintaining public use  
3 and recreation facilities, including trails, managed by the department.  
4 The department may seek voluntary contributions from individuals and  
5 organizations for this purpose. Voluntary contributions (~~will~~) must  
6 be deposited into the park land trust revolving fund and used solely  
7 for the purpose of public use and recreation facilities operations and  
8 maintenance. Voluntary contributions are not considered a fee for use  
9 of these facilities.

10 (6) A portion of the moneys from this fund collected from the oil  
11 and gas severance tax may be used to recover the cost of oil and gas  
12 regulation as contained in the budget of the department of natural  
13 resources.

14 NEW SECTION. Sec. 12. Sections 1 through 8 of this act constitute  
15 a new chapter in Title 82 RCW.

16 NEW SECTION. Sec. 13. If any provision of this act or its  
17 application to any person or circumstance is held invalid, the  
18 remainder of the act or the application of the provision to other  
19 persons or circumstances is not affected.

20 NEW SECTION. Sec. 14. This act takes effect January 1, 2014.

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