
SUBSTITUTE HOUSE BILL 1910

State of Washington

63rd Legislature

2013 Regular Session

By House Finance (originally sponsored by Representatives Fitzgibbon, Tharinger, Farrell, Upthegrove, Liiias, and Fey)

READ FIRST TIME 03/01/13.

1 AN ACT Relating to the sales and use tax exemption expiration date
2 for machinery and equipment used in generating electricity; amending
3 RCW 82.08.962 and 82.12.962; adding a new section to chapter 82.32 RCW;
4 adding a new section to chapter 43.136 RCW; creating a new section;
5 providing an effective date; providing expiration dates; and declaring
6 an emergency.

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

8 NEW SECTION. **Sec. 1.** It is the intent of the legislature to help
9 promote energy independence in the state of Washington and to better
10 position Washington to attract a vibrant clean energy technology
11 manufacturing sector to the state. The purpose of the tax preference
12 created in this act is to incentivize electricity generation from
13 renewable energy sources, reducing the costs of transitioning to these
14 sources and technologies by exempting machinery, equipment, and labor
15 and service charges associated with such electricity generation from
16 the retail sales and use tax. This tax preference makes the most of
17 the local renewable resources, protects us from the price volatility of
18 certain fossil fuel sources, and helps the state achieve its greenhouse
19 gas emissions targets. In addition, promoting manufacture and

1 installation of facilities capable of generating power from renewable
2 sources can create economic benefits in both rural and urban counties,
3 creating high-quality jobs and developing a skilled workforce in an
4 industry sector in which significant job growth is anticipated over the
5 coming decades.

6 **Sec. 2.** RCW 82.08.962 and 2009 c 469 s 101 are each amended to
7 read as follows:

8 (1)(a) Except as provided in RCW 82.08.963, purchasers who have
9 paid the tax imposed by RCW 82.08.020 on machinery and equipment used
10 directly in generating electricity using fuel cells, wind, sun, biomass
11 energy, tidal or wave energy, geothermal resources, anaerobic
12 digestion, technology that converts otherwise lost energy from exhaust,
13 or landfill gas as the principal source of power, or to sales of or
14 charges made for labor and services rendered in respect to installing
15 such machinery and equipment, are eligible for an exemption as provided
16 in this section, but only if the purchaser develops with such
17 machinery, equipment, and labor a facility capable of generating not
18 less than one thousand watts of electricity.

19 (b) Beginning on July 1, 2009, through June 30, 2011, the tax
20 levied by RCW 82.08.020 does not apply to the sale of machinery and
21 equipment described in (a) of this subsection that are used directly in
22 generating electricity or to sales of or charges made for labor and
23 services rendered in respect to installing such machinery and
24 equipment.

25 (c) Beginning on July 1, 2011, through (~~June 30, 2013~~) January 1,
26 2020, the amount of the exemption under this subsection (1) is equal to
27 seventy-five percent of the state and local sales tax paid. The
28 purchaser is eligible for an exemption under this subsection (1)(c) in
29 the form of a remittance.

30 (2) For purposes of this section and RCW 82.12.962, the following
31 definitions apply:

32 (a) "Biomass energy" includes: (i) By-products of pulping and wood
33 manufacturing process; (ii) animal waste; (iii) solid organic fuels
34 from wood; (iv) forest or field residues; (v) wooden demolition or
35 construction debris; (vi) food waste; (vii) liquors derived from algae
36 and other sources; (viii) dedicated energy crops; (ix) biosolids; and
37 (x) yard waste. "Biomass energy" does not include wood pieces that

1 have been treated with chemical preservatives such as creosote,
2 pentachlorophenol, or copper-chrome-arsenic; wood from old growth
3 forests; or municipal solid waste.

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

7 (c) "Landfill gas" means biomass fuel, of the type qualified for
8 federal tax credits under Title 26 U.S.C. Sec. 29 of the federal
9 internal revenue code, collected from a "landfill" as defined under RCW
10 70.95.030.

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

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

25 (3)(a) Machinery and equipment is "used directly" in generating
26 electricity by wind energy, solar energy, biomass energy, tidal or wave
27 energy, geothermal resources, anaerobic digestion, technology that
28 converts otherwise lost energy from exhaust, or landfill gas power if
29 it provides any part of the process that captures the energy of the
30 wind, sun, biomass energy, tidal or wave energy, geothermal resources,
31 anaerobic digestion, technology that converts otherwise lost energy
32 from exhaust, or landfill gas, converts that energy to electricity, and
33 stores, transforms, or transmits that electricity for entry into or
34 operation in parallel with electric transmission and distribution
35 systems.

36 (b) Machinery and equipment is "used directly" in generating
37 electricity by fuel cells if it provides any part of the process that
38 captures the energy of the fuel, converts that energy to electricity,

1 and stores, transforms, or transmits that electricity for entry into or
2 operation in parallel with electric transmission and distribution
3 systems.

4 (4)(a) A purchaser claiming an exemption in the form of a
5 remittance under subsection (1)(c) of this section must pay the tax
6 imposed by RCW 82.08.020 and all applicable local sales taxes imposed
7 under the authority of chapters 82.14 and 81.104 RCW. The purchaser
8 may then apply to the department for remittance in a form and manner
9 prescribed by the department. A purchaser may not apply for a
10 remittance under this section more frequently than once per quarter.
11 The purchaser must specify the amount of exempted tax claimed and the
12 qualifying purchases for which the exemption is claimed. The purchaser
13 must retain, in adequate detail, records to enable the department to
14 determine whether the purchaser is entitled to an exemption under this
15 section, including: Invoices; proof of tax paid; and documents
16 describing the machinery and equipment.

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

22 ((~~5~~) This section expires July 1, 2013.)

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.32 RCW
24 to read as follows:

25 Every taxpayer claiming an exemption under RCW 82.08.962 or
26 82.12.962 must file with the department a complete annual survey as
27 required under RCW 82.32.585, except that the taxpayer must file a
28 separate survey for each facility owned or operated in the state of
29 Washington developed with machinery, equipment, services, or labor for
30 which the exemption under this act is claimed.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.136 RCW
32 to read as follows:

33 (1) The intent of the tax preference provided in RCW 82.08.962 and
34 82.12.962 is to promote electricity generation by facilities with
35 generating capacity of not less than one thousand watts, using
36 renewable energy fuel sources in order to improve energy security and

1 decrease greenhouse gas emissions. Encouraging the development of more
2 facilities that generate power from renewable energy has both immediate
3 and long-term value to the state.

4 (2) As part of the joint legislative audit and review committee's
5 2019 tax preference reviews conducted under this chapter, the joint
6 legislative audit and review committee must assess the performance of
7 the tax preferences established in RCW 82.08.956 and 82.12.956 with
8 reference to the intent and performance milestones established in this
9 section.

10 (3) The department of revenue must provide the joint legislative
11 audit and review committee with annual survey information and any other
12 tax data necessary to conduct the review required in subsection (2) of
13 this section. The Washington State University energy program,
14 department of ecology, and other agencies, as requested, must cooperate
15 with the committee by providing information to assist the committee's
16 analysis.

17 (4) The report is not limited to, but must include, the following
18 information:

19 (a) Identification of the baseline number of facilities, prior to
20 July 1, 2009, with generating capacity of not less than one thousand
21 watts, using fuel cells, wind, sun, biomass energy, tidal or wave
22 energy, geothermal resources, anaerobic digestion, technology that
23 converts otherwise lost energy from exhaust, or landfill gas as the
24 principal source of power.

25 (b) The number of facilities developed each year by purchasers
26 claiming the preference for machinery, equipment, labor, or other
27 services, and the increase in the number of such facilities, as
28 compared to the baseline established in (a) of this subsection.

29 (c) The total generating capacity in megawatts and total power
30 production in kilowatt-hours of the facilities reported in (b) of this
31 subsection.

32 (d) The estimated greenhouse gas emissions avoided as a result of
33 power generation from renewable energy sources by the facilities
34 reported in (b) of this subsection.

35 (e) The number of barrels of oil and tons of coal avoided as a
36 result of power generation from renewable energy sources by the
37 facilities reported in (b) of this subsection, as estimated from the
38 average fuel mix of electricity generated statewide.

1 (f) The number of employees and wages and benefits reported by
2 taxpayers claiming the exemption at the facilities reported in (a) of
3 this subsection.

4 (g) Subject to data availability, analysis of how the wages and
5 benefits reported in (e) of this subsection compare with statewide
6 averages and averages in the county in which the facility is located.

7 (5) This section expires January 1, 2020.

8 **Sec. 5.** RCW 82.12.962 and 2009 c 469 s 102 are each amended to
9 read as follows:

10 (1)(a) Except as provided in RCW 82.12.963, consumers who have paid
11 the tax imposed by RCW 82.12.020 on machinery and equipment used
12 directly in generating electricity using fuel cells, wind, sun, biomass
13 energy, tidal or wave energy, geothermal resources, anaerobic
14 digestion, technology that converts otherwise lost energy from exhaust,
15 or landfill gas as the principal source of power, or to sales of or
16 charges made for labor and services rendered in respect to installing
17 such machinery and equipment, are eligible for an exemption as provided
18 in this section, but only if the purchaser develops with such
19 machinery, equipment, and labor a facility capable of generating not
20 less than one thousand watts of electricity.

21 (b) Beginning on July 1, 2009, through June 30, 2011, the
22 provisions of this chapter do not apply in respect to the use of
23 machinery and equipment described in (a) of this subsection that are
24 used directly in generating electricity or to sales of or charges made
25 for labor and services rendered in respect to installing such machinery
26 and equipment.

27 (c) Beginning on July 1, 2011, through (~~June 30, 2013~~) January 1,
28 2020, the amount of the exemption under this subsection (1) is equal to
29 seventy-five percent of the state and local sales tax paid. The
30 consumer is eligible for an exemption under this subsection (1)(c) in
31 the form of a remittance.

32 (2)(a) A person claiming an exemption in the form of a remittance
33 under subsection (1)(c) of this section must pay the tax imposed by RCW
34 82.12.020 and all applicable local use taxes imposed under the
35 authority of chapters 82.14 and 81.104 RCW. The consumer may then
36 apply to the department for remittance in a form and manner prescribed
37 by the department. A consumer may not apply for a remittance under

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

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

13 (3) Purchases exempt under RCW 82.08.962 are also exempt from the
14 tax imposed under RCW 82.12.020.

15 (4) The definitions in RCW 82.08.962 apply to this section.

16 (5) This section expires (~~June 30, 2013~~) January 1, 2020.

17 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and takes effect
20 July 1, 2013.

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