

E2SSB 5116 - H AMD TO APP COMM AMD (H-2810.1/19) **626**

By Representative Young

WITHDRAWN 04/11/2019

1 On page 36, beginning on line 19 of the striking amendment, strike
2 all of sections 18 and 19 and insert the following:

3
4 "Sec. 18. RCW 82.08.962 and 2018 c 164 s 5 are each amended to
5 read as follows:

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

21 (b) Beginning on July 1, 2011, through ((January 1, 2020))
22 December 31, 2019, the amount of the exemption under this subsection
23 (1)(b) is equal to seventy-five percent of the state and local sales
24 tax paid. The purchaser is eligible for an exemption under this
25 subsection (1)(b) in the form of a remittance.

26
27

1 (c) Beginning January 1, 2020, through December 31, 2029, the
2 purchaser is entitled to an exemption, in the form of a remittance,
3 under this subsection (1)(c) in an amount equal to:
4 (i) Ninety percent of the state and local sales tax paid, if:
5 (A) The exempt purchase is for machinery and equipment or labor
6 and services rendered in respect to installing such machinery and
7 equipment in (a) of this subsection, excluding qualified purchases
8 under subsection (c)(i)(B) of this subsection, and the department of
9 labor and industries certifies that the project includes:
10 Procurement from and contracts with women, minority, or
11 veteran-owned businesses; procurement from and contracts with
12 entities that have a history of complying with federal and state
13 wage and hour laws and regulations; apprenticeship utilization; and
14 preferred entry for workers living in the area where the project is
15 being constructed. In the event that a project is built without one
16 or more of these standards, and a project developer or its
17 designated principal contractor demonstrates that it has made all
18 good faith efforts to meet the standards but was unable to comply
19 due to lack of availability of qualified businesses or local hires,
20 the department of labor and industries may certify that the
21 developer complied with that standard; or
22 (B) The exempt purchase is for machinery and equipment that is
23 used directly in the generation of electricity by a solar energy
24 system capable of generating more than one hundred kilowatts AC but
25 no more than five hundred kilowatts AC of electricity, and labor and
26 services rendered in respect to installing such machinery and
27 equipment, and the department of labor and industries certifies that
28 the project has met the requirements of (c)(i)(A) of this
29 subsection, and the purchaser provides the following documentation
30 to the department as part of the application for a remittance:
31 (I) A copy of the contractor's certificate of registration in
32 compliance with chapter 18.27 RCW;
33 (II) The contractor's current state unified business identifier
34 number;

1 (III) A copy of the contractor's proof of industrial insurance
2 coverage for the contractor's employees working in Washington as
3 required in Title 51 RCW; employment security department number as
4 required in Title 50 RCW; and a state excise tax registration number
5 as required in Title 82 RCW; and

6 (IV) Documentation of the contractor's history of compliance
7 with federal and state wage and hour laws and regulations; or

8 (ii) One hundred percent of the state and local sales tax paid,
9 if the department of labor and industries certifies that the project
10 is developed under a community workforce agreement or project labor
11 agreement. This subsection (1)(c)(ii) does not apply with respect to
12 solar energy systems described in (c)(i)(B) of this subsection.

13 (d) In order to qualify for the remittance under (c) of this
14 subsection, installation of the qualifying machinery and equipment
15 must commence no earlier than January 1, 2020, and be completed by
16 December 31, 2029.

17 (e) Beginning July 1, 2019, and through December 31, 2029, the
18 purchaser is entitled to an exemption under this subsection (1)(e)
19 in an amount equal to one hundred percent of the state and local
20 sales tax due on:

21 (i) Machinery and equipment that is used directly in the
22 generation of electricity by a solar energy system that is capable
23 of generating no more than one hundred kilowatts AC of electricity; or

24 (ii) Labor and services rendered in respect to installing
25 machinery and equipment exempt under (e)(i) of this subsection, and
26 the seller meets the following requirements at the time of the sale
27 for which the exemption is claimed:

28 (A) Has obtained a certificate of registration in compliance
29 with chapter 18.27 RCW;

30 (B) Has obtained a current state unified business identifier
31 number;

32 (C) Possesses proof of industrial insurance coverage for the
33 contractor's employees working in Washington as required in Title 51
34 RCW; employment security department number as required in Title 50

1 RCW; and a state excise tax registration number as required in Title
2 82 RCW; and

3 (D) Has not been found by any administrative agency or court of
4 competent jurisdiction to have violated federal and state wage and
5 hours laws and regulations.

6 (f) Purchasers claiming an exemption under (e) of this
7 subsection must provide the seller with an exemption certificate in
8 a form and manner prescribed by the department.

9 (g) In order to qualify for the exemption under (e)(ii) of this
10 subsection, installation of the qualifying machinery and equipment
11 must commence no earlier than July 1, 2019, and be completed by
12 December 31, 2029.

13 (2) The department of labor and industries must initiate an
14 emergency rule making on the effective date of this section to be
15 completed by December 1, 2019, to:

16 (a) Define and set minimum requirements for all labor standards
17 identified in subsection (1)(c) of this section; and

18 (b) Set requirements for all good faith efforts under subsection
19 (1)(c)(i) and (ii) of this section, as well as documentation
20 requirements and a certification process. Requirements for all good
21 faith efforts must be designed to maximize the likelihood that the
22 project is completed with said standards and could include:
23 Proactive outreach to firms that are women, minority, and
24 veteran-owned businesses; advertising in local community
25 publications and publications appropriate to identified firms;
26 participating in community job fairs, conferences, and trade shows;
27 and other measures. The certification process and timeline must be
28 designed to prevent undue delay to project development.

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

31 (a) "Biomass energy" includes: (i) By-products of pulping and
32 wood manufacturing process; (ii) animal waste; (iii) solid organic
33 fuels from wood; (iv) forest or field residues; (v) wooden
34 demolition or construction debris; (vi) food waste; (vii) liquors

1 derived from algae and other sources; (viii) dedicated energy crops;
2 (ix) biosolids; and (x) yard waste. "Biomass energy" does not
3 include wood pieces that have been treated with chemical
4 preservatives such as creosote, pentachlorophenol, or
5 copper-chrome-arsenic; wood from old growth forests; or municipal
6 solid waste.

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

10 (c)(i) "Machinery and equipment" means fixtures, devices, and
11 support facilities that are integral and necessary to the generation
12 of electricity using fuel cells, wind, sun, biomass energy, tidal or
13 wave energy, geothermal resources, or technology that converts
14 otherwise lost energy from exhaust.

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

24 ~~((+3))~~ (d) "Project labor agreement" and "community workforce
25 agreement" means a prehire collective bargaining agreement with one
26 or more labor organizations that establishes the terms and
27 conditions of employment for a specific construction project and is
28 an agreement described in 29 U.S.C. Sec. 158(f).

29 (4)(a) Machinery and equipment is "used directly" in generating
30 electricity by wind energy, solar energy, biomass energy, tidal or
31 wave energy, geothermal resources, or technology that converts
32 otherwise lost energy from exhaust if it provides any part of the
33 process that captures the energy of the wind, sun, biomass energy,
34 tidal or wave energy, geothermal resources, or technology that

1 converts otherwise lost energy from exhaust, converts that energy to
2 electricity, and stores, transforms, or transmits that electricity
3 for entry into or operation in parallel with electric transmission
4 and distribution systems.

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

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

24 (ii) The application for remittance must include a copy of the
25 certificate issued for the project by the department of labor and
26 industries as prescribed by rule under subsection (2) of this section.

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

32 ~~((5) The exemption provided by this section expires September~~
33 ~~30, 2017, as it applies to: (a))~~ (6)(a) Except as otherwise
34 provided in (c) of this subsection, from October 1, 2017, through

1 December 31, 2019, the exemption provided by this section does not
2 apply to: (i) Machinery and equipment that is used directly in the
3 generation of electricity using solar energy and capable of
4 generating no more than five hundred kilowatts AC of electricity; or
5 ~~((b))~~ (ii) sales of or charges made for labor and services
6 rendered in respect to installing such machinery and equipment.

7 (b) The exemption provided by this section is reinstated for
8 machinery and equipment for solar energy systems capable of
9 generating more than one hundred kilowatts AC but no more than five
10 hundred kilowatts AC of electricity, or sales of or charges made for
11 labor and services rendered in respect to installing such machinery
12 and equipment, if installation of the machinery and equipment
13 commences on or after January 1, 2020.

14 (c) The exemption provided by this section is reinstated for
15 machinery and equipment for solar energy systems capable of
16 generating no more than one hundred kilowatts AC of electricity, or
17 sales of or charges made for labor and services rendered in respect
18 to installing such machinery and equipment, if installation of the
19 machinery and equipment commences on or after July 1, 2019.

20 ~~((6))~~ (7) This section expires January 1, ((2020)) 2030.

21

22 **Sec. 19.** RCW 82.12.962 and 2018 c 164 s 7 are each amended to
23 read as follows:

24 ~~((1)(a) ((Except as provided in RCW 82.12.963, consumers who have~~
25 ~~paid))~~ Subject to the requirements of this section, the tax imposed
26 by RCW 82.12.020 ~~((on))~~ does not apply to machinery and equipment
27 used directly in generating electricity using fuel cells, wind, sun,
28 biomass energy, tidal or wave energy, geothermal resources, or
29 technology that converts otherwise lost energy from exhaust, or to
30 ~~((sales of or charges made for))~~ labor and services rendered in
31 respect to installing such machinery and equipment, ((are eligible
32 ~~for an exemption as provided in this section,))~~ but only if the
33 purchaser develops with such machinery, equipment, and labor a
34 facility capable of generating not less than one thousand watts AC

1 of electricity. Except as otherwise provided in this section, the
2 consumer must pay the state and local use tax on the use of such
3 machinery and equipment and labor and services, and apply to the
4 department for a remittance of the tax paid.

5 (b) Beginning on July 1, 2011, through ~~((January 1, 2020))~~
6 December 31, 2019, the amount of the exemption under this subsection
7 (1) is equal to seventy-five percent of the state and local
8 ~~((sales))~~ use tax paid. The consumer is eligible for an exemption
9 under this subsection (1)(b) in the form of a remittance.

10 ~~((+2))~~ (c) Beginning January 1, 2020, through December 31,
11 2029, the purchaser is entitled to an exemption, in the form of a
12 remittance, under this subsection (1)(c) in an amount equal to:

13 (i) Ninety percent of the state and local use tax paid, if:

14 (A) The exempt purchase is for machinery and equipment or labor
15 and services rendered in respect to installing such machinery and
16 equipment in (a) of this subsection, excluding qualified purchases
17 under (c)(i)(B) of this subsection, and the department of labor and
18 industries certifies that the project includes: Procurement from and
19 contracts with women, minority, or veteran-owned businesses;
20 procurement from and contracts with entities that have a history of
21 complying with federal and state wage and hour laws and regulations;
22 apprenticeship utilization; and preferred entry for workers living
23 in the area where the project is being constructed. In the event
24 that a project is built without one or more of these standards, and
25 a project developer or its designated principal contractor
26 demonstrates that it has made all good faith efforts to meet the
27 standards but was unable to comply due to lack of availability of
28 qualified businesses or local hires, the department of labor and
29 industries may certify that the developer complied with that
30 standard; or

31 (B) The exempt purchase is for machinery and equipment that is
32 used directly in the generation of electricity by a solar energy
33 system capable of generating more than one hundred kilowatts AC but
34 no more than five hundred kilowatts AC of electricity, or labor and

1 services rendered in respect to installing such machinery and
2 equipment, and the department of labor and industries certifies that
3 the project has met the requirements of (c)(i)(A) of this
4 subsection, and the purchaser has provided the following
5 documentation to the department as part of the application for a
6 remittance:

7 (I) A copy of the contractor's certificate of registration in
8 compliance with chapter 18.27 RCW;

9 (II) The contractor's current state unified business identifier
10 number;

11 (III) A copy of the contractor's proof of industrial insurance
12 coverage for the contractor's employees working in Washington as
13 required in Title 51 RCW; employment security department number as
14 required in Title 50 RCW; and a state excise tax registration number
15 as required in Title 82 RCW; and

16 (IV) Documentation of the contractor's history of compliance
17 with federal and state wage and hour laws and regulations;

18 (ii) One hundred percent of the state and local use tax paid, if
19 the department of labor and industries certifies that the project is
20 developed under a community workforce agreement or project labor
21 agreement. This subsection (1)(c)(ii) does not apply with respect to
22 solar energy systems described in (c)(i)(B) of this subsection.

23 (d) In order to qualify for the remittance under (c) of this
24 subsection, installation of the qualifying machinery and equipment
25 must commence no earlier than January 1, 2020, and be completed by
26 December 31, 2029.

27 (e) Beginning July 1, 2019, and through December 31, 2029, the
28 consumer is entitled to an exemption under this subsection (1)(e) in
29 an amount equal to one hundred percent of the state and local use
30 tax due on:

31 (i) Machinery and equipment that is used directly in the
32 generation of electricity by a solar energy system that is capable
33 of generating no more than one hundred kilowatts AC of electricity; or
34

1 (ii) Labor and services rendered in respect to installing
2 machinery and equipment exempt under (e)(i) of this subsection, and
3 the seller meets the following requirements at the time of the
4 purchase for which the exemption is claimed:

5 (A) Has obtained a certificate of registration in compliance
6 with chapter 18.27 RCW;

7 (B) Has obtained a current state unified business identifier
8 number;

9 (C) Possesses proof of industrial insurance coverage for the
10 contractor's employees working in Washington as required in Title 51
11 RCW; employment security department number as required in Title 50
12 RCW; and a state excise tax registration number as required in Title
13 82 RCW; and

14 (D) Has not been found by any administrative agency or court of
15 competent jurisdiction to have violated federal and state wage and
16 hours laws and regulations.

17 (f) In order to qualify for the exemption under (e)(ii) of this
18 subsection, installation of the qualifying machinery and equipment
19 must commence no earlier than July 1, 2019, and be completed by
20 December 31, 2029.

21 (2) The department of labor and industries must initiate an
22 emergency rule making on the effective date of this section to be
23 completed by December 1, 2019, to:

24 (a) Define and set minimum requirements for all labor standards
25 identified in subsection (1)(c) of this section; and

26 (b) Set requirements for all good faith efforts under subsection
27 (1)(c)(i) and (ii) of this section, as well as documentation
28 requirements and a certification process. Requirements for all good
29 faith efforts must be designed to maximize the likelihood that the
30 project is completed with said standards and could include:

31 Proactive outreach to firms that are women, minority, and
32 veteran-owned businesses; advertising in local community
33 publications and publications appropriate to identified firms;
34 participating in community job fairs, conferences, and trade shows;

1 and other measures. The certification process and timeline must be
2 designed to prevent undue delay to project development.

3 (3)(a)(i) A person claiming an exemption in the form of a
4 remittance under subsection (1)(b) and (c) of this section must pay
5 the tax imposed by RCW 82.12.020 and all applicable local use taxes
6 imposed under the authority of chapters 82.14 and 81.104 RCW. The
7 consumer may then apply to the department for remittance in a form
8 and manner prescribed by the department. A consumer may not apply
9 for a remittance under this section more frequently than once per
10 quarter. The consumer must specify the amount of exempted tax
11 claimed and the qualifying purchases or acquisitions for which the
12 exemption is claimed. The consumer must retain, in adequate detail,
13 records to enable the department to determine whether the consumer
14 is entitled to an exemption under this section, including: Invoices;
15 proof of tax paid; and documents describing the machinery and
16 equipment.

17 (ii) The application for remittance must include a copy of the
18 certificate issued for the project by the department of labor and
19 industries under subsection (1) of this section.

20 (b) The department must determine eligibility for remittances
21 under this section based on the information provided by the
22 consumer, which is subject to audit verification by the department.
23 The department must on a quarterly basis remit exempted amounts to
24 qualifying consumers who submitted applications during the previous
25 quarter.

26 ~~((3))~~ (4) Purchases exempt under RCW 82.08.962 are also exempt
27 from the tax imposed under RCW 82.12.020.

28 ~~((4))~~ (5) The definitions in RCW 82.08.962 apply to this
29 section.

30 ~~((5))~~ (6) The exemption provided in subsection (1) of this
31 section does not apply:

32 (a) To machinery and equipment used directly in the generation
33 of electricity using solar energy and capable of generating no more
34 than five hundred kilowatts AC of electricity, or to sales of or

1 charges made for labor and services rendered in respect to
2 installing such machinery and equipment, when first use within this
3 state of such machinery and equipment, or labor and services, occurs
4 after September 30, 2017, and before January 1, 2020, except as
5 otherwise provided in subsection (7) of this section; and

6 (b) To any other machinery and equipment described in subsection
7 (1)(a) of this section, or to sales of or charges made for labor and
8 services rendered in respect to installing such machinery or
9 equipment, when first use within this state of such machinery and
10 equipment, or labor and services, occurs after December 31, ~~((2019))~~
11 2029.

12 ~~((+6+))~~ (7)(a) The exemption provided by this section is
13 reinstated for machinery and equipment for solar energy systems
14 capable of generating more than one hundred kilowatts AC but no more
15 than five hundred kilowatts AC of electricity, or sales of or
16 charges made for labor and services rendered in respect to
17 installing such machinery and equipment, if first use within the
18 state of the machinery and equipment commences on or after January
19 1, 2020.

20 (b) The exemption provided by this section is reinstated for
21 machinery and equipment for solar energy systems capable of
22 generating no more than one hundred kilowatts AC of electricity, or
23 sales of or charges made for labor and services rendered in respect
24 to installing such machinery and equipment, if first use within the
25 state of the machinery and equipment commences on or after July 1,
26 2019.

27 (8) This section expires January 1, ~~((2020))~~ 2030."

EFFECT: Strikes the underlying sections. Provides a sales and use tax exemption, in the form of a remittance, beginning January 1, 2020, through December 31, 2029, in an amount equal to ninety percent of the state and local sales tax paid for certain alternative energy systems and for solar energy systems greater than 100 kilowatts AC but less than 500 kilowatts AC in size, if the Department of Labor and Industries certifies that the project meets certain requirements. Provides a sales and use tax exemption in an amount equal to one hundred percent of the state and local sales tax

paid if the Department of Labor and Industries certifies that the project is developed under a community workforce agreement or project labor agreement. Eliminates the sales and use tax tier pertaining to projects that compensate workers at prevailing wage rates determine by local collective bargaining, as determined by the Department of Labor and Industries.

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