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**SECOND SUBSTITUTE SENATE BILL 5689**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Stanford, Braun, Keiser, Rolfes, and Saldaña)

AN ACT Relating to providing a sales and use tax exemption related to internet and telecommunications infrastructure projects involving a federally recognized Indian tribe; adding new sections to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; and providing expiration dates.

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

NEW SECTION. **Sec.**  A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of building materials, telecommunications equipment, or any personal property used or incorporated into a qualified infrastructure project. This exemption also applies to charges made for the labor and services related to the construction of a qualified infrastructure project or the installation of any equipment or other personal property incorporated into a qualified infrastructure project.

(2)(a) In order to obtain an exemption certificate under this section, a taxpayer working on a qualified infrastructure project must submit an application to the department for an exemption certificate. The application must include the information necessary, as required by the department to determine that the taxpayer qualifies for the exemption under this section. The application must also include certification from the owner of the qualified infrastructure project that the taxpayer is associated with the qualified infrastructure project and any other information as required by the department. The department must issue an exemption certificate to qualified taxpayers.

(b) A qualified taxpayer claiming the exemption under this section must present the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(c) The exemption certificate is effective on the date the application is received by the department, which is the date of issuance. Only purchases on or after the date of issuance qualify for the exemption under this section. No tax refunds are authorized for purchases made before the effective date of the exemption.

(d) An exemption certificate expires on the date the project is certified as complete by the qualified infrastructure project owner or December 31, 2029, whichever is first.

(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Qualified infrastructure project" means the construction of buildings and utilities related to the deployment of modern global internet and telecommunications infrastructure that occurs in part in a distressed county located on the coast of Washington. The infrastructure may include, but is not limited to, cable landing stations, communications hubs, buried utility connections and extension, and any related equipment and buildings that will add broadband capacity and infrastructure to the area.

(b) "Qualified infrastructure project owner" means a federally recognized tribe and an indigenous-owned business entity that is deploying an internet and telecommunications infrastructure in at least one distressed county on the coast of Washington.

(4) The total amount of state sales and use tax exempted under this section and section 2 of this act may not exceed $8,000,000. A qualified infrastructure project owner within 60 days of the expiration of the exemption certificate under subsection (2)(d) of this section must pay any tax due under this subsection. The department may not assess penalties and interest as provided in chapter 82.32 RCW on the amount due if the amount due is paid within the 60-day period, or any extension thereof. The department may require a qualified infrastructure project owner to periodically submit documentation, as specified by the department, prior to the expiration of the exemption certificate to allow the department to track the total amount of sales and use tax exempted under this section and section 2 of this act.

(5) This section expires December 31, 2029.

NEW SECTION. **Sec.**  A new section is added to chapter 82.12 RCW to read as follows:

(1) Provided an exemption certificate has been issued pursuant to section 1 of this act, the provisions of this chapter do not apply with respect to the use of building materials as well as charges made for the labor and services related to the construction of a qualified infrastructure project. This exemption also applies to charges made for the labor and services related to the construction of a qualified infrastructure project or the installation of any equipment or other personal property incorporated into a qualified infrastructure project.

(2) The definitions and requirements in section 1 of this act apply to this section.

(3) This section expires December 31, 2029.

NEW SECTION. **Sec.**  A new section is added to chapter 82.08 RCW to read as follows:

(1) From the effective date of this section, in order to obtain the exemptions provided in sections 1 and 2 of this act, a qualified infrastructure project owner must certify to the department of labor and industries that, for new construction work to be performed on the site of the qualified infrastructure project, the project will be performed under the terms of a community workforce agreement or project labor agreement negotiated prior to the start of the qualified infrastructure project. The agreement must include worker compensation requirements consistent with the payment of area standard prevailing wages in accordance with chapter 39.12 RCW, apprenticeship utilization requirements, and tribal employment and contracting opportunities, provided the following apply:

(a) The owner and the prime contractor and all of its subcontractors regardless of tier have the absolute right to select any qualified and responsible bidder for the award of contracts on a specified project without reference to the existence or nonexistence of any agreements between such bidder and any party to such project labor agreement, and only when such bidder is willing, ready, and able to become a party to, signs a letter of assent, and complies with such agreement or agreements, should it be designated the successful bidder; and

(b) It is understood that this is a self-contained, stand-alone agreement, and that by virtue of having become bound to such agreement or agreements, neither the project contractor nor the subcontractors are obligated to sign any other local, area, or national agreement.

(2) This section expires December 31, 2029.

NEW SECTION. **Sec.**  RCW 82.32.808 does not apply to this act.

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