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**SUBSTITUTE HOUSE BILL 1768**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Finance (originally sponsored by Representatives Shavers, Barnard, Chapman, and Ramel)

READ FIRST TIME 03/13/23.

1 AN ACT Relating to exempting certain sales of electricity to  
2 qualifying green businesses from the public utilities tax; adding a  
3 new section to chapter 82.16 RCW; creating a new section; providing  
4 an effective date; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.16  
7 RCW to read as follows:

8 (1) Subject to the restrictions in this section, beginning  
9 October 1, 2023, the tax levied under this chapter does not apply to  
10 sales of electricity from a renewable resource or nonemitting  
11 electric generation made by a light and power business to a  
12 qualifying business if:

13 (a) The qualifying activity commences no later than July 1, 2033;  
14 and

15 (b) The contract for sale of electricity to the business contains  
16 the following terms:

17 (i) The electricity to be used in the qualifying activities is  
18 separately metered from the electricity used for general operations  
19 of the business; and

20 (ii) The price charged for the electricity used in the qualifying  
21 activities is reduced by an amount, not to exceed \$100,000 per year,

1 equal to the tax exemption available to the light and power business  
2 under this section.

3 (2) (a) The maximum annual exemption amount per qualifying  
4 business is \$100,000. The light and power business must remit to the  
5 department the value of any exemptions taken plus interest if the  
6 total amount of the exemption claimed for sales of electricity to a  
7 qualifying business exceeds \$100,000 in a calendar year.

8 (b) The exemption provided for in this section does not apply to  
9 amounts received from the remarketing or resale of electricity  
10 originally obtained by contract for the qualifying activities.

11 (3) In order to claim an exemption under this section, a  
12 qualifying business must provide the light and power business with an  
13 exemption certificate in a form and manner prescribed by the  
14 department.

15 (4) In order to claim an exemption under this section, the  
16 qualifying business must demonstrate that at least 60 percent of the  
17 hydrogen produced by its qualifying activity is used in qualifying  
18 projects. The end use of the hydrogen does not need to be at a  
19 facility owned by the qualifying business receiving the benefit of  
20 the exemption provided in this section.

21 (5) A qualifying business receiving the benefit of the exemption  
22 provided in this section must file a complete annual tax performance  
23 report with the department under RCW 82.32.534, and include a  
24 certification that the qualifying projects met the requirements of  
25 this section for the year in which the exemption is given. Every  
26 person receiving the benefit of the exemption under subsection (1) of  
27 this section must preserve, for a period of five years, any  
28 documentation to substantiate the amount of the exemption received.

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

31 (a) "Commercial motor vehicles" has the same meaning as in RCW  
32 46.25.010.

33 (b) "Compression" means compressing a gas, or a gas compressed,  
34 to a pressure above ambient atmospheric pressure for processing,  
35 storage, or transportation.

36 (c) "Green electrolytic hydrogen" has the same meaning as  
37 provided in RCW 82.89.010.

38 (d) "Nonemitting electric generation" has the same meaning as in  
39 RCW 19.405.020.

1 (e) "Qualifying activities" means the green electrolytic hydrogen  
2 production process, the renewable hydrogen production process, and  
3 the compression, liquification, storage, or dispensing of green  
4 electrolytic hydrogen or renewable hydrogen.

5 (f) "Qualifying business" means a business using electricity in  
6 qualifying activities where at least 60 percent of the hydrogen is  
7 used in one or more qualifying projects.

8 (g) "Qualifying projects" means one or more of the following  
9 prioritized uses:

10 (i) High heat industrial processes using hydrogen as a fuel and  
11 industrial processes using hydrogen as feedstock, including refining  
12 and fertilizer production;

13 (ii) Fuel for commercial motor vehicles, aviation, maritime  
14 transportation, drayage, mass transit, rail, or off-road agricultural  
15 or industrial equipment;

16 (iii) Generation of electricity using a hydrogen fuel cell or  
17 using a combustion turbine operating no more than 500 hours per year;  
18 or

19 (iv) Production of a green hydrogen carrier if the green hydrogen  
20 carrier is used in one or more of the prioritized uses in (g)(i),  
21 (ii), or (iii) of this subsection (6). For the purposes of this  
22 subsection (6)(g)(iv), "green hydrogen carrier" has the same meaning  
23 as provided in RCW 82.89.010.

24 (h) "Renewable hydrogen" means hydrogen produced using renewable  
25 resources both as the source for the hydrogen and the source for the  
26 energy input into the production process.

27 (i) "Renewable resource" has the same meaning as in RCW  
28 19.405.020.

29 (7) This section expires January 1, 2034.

30 NEW SECTION. **Sec. 2.** RCW 82.32.808 does not apply to this act.

31 NEW SECTION. **Sec. 3.** This act takes effect October 1, 2023.

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