

# HOUSE BILL REPORT

## HB 3120

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**As Reported by House Committee On:**  
Finance

**Title:** An act relating to a sales and use tax exemption for environmentally certified residential and commercial construction.

**Brief Description:** Providing a sales and use tax exemption for environmentally certified residential and commercial construction.

**Sponsors:** Representatives Rolfes, Morrell, Lias and Williams.

**Brief History:**

**Committee Activity:**

Finance: 2/4/08, 2/12/08 [DPS].

**Brief Summary of Substitute Bill**

- Mandates a study of tax incentives to encourage construction of energy-efficient residential and commercial structures.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Conway, Ericks, McIntire, Roach and Santos.

**Staff:** Don Taylor (786-7388).

**Background:**

Washington's major tax is the state retail sales tax and its companion use tax. Together these comprise approximately 47 percent of all state tax receipts. In addition, local sales/use taxes are a major source of revenue for cities, counties, and other types of local taxing districts.

The sales tax applies to purchases for which the buyer actually uses the item or service (i.e., not for direct resale); use tax applies to items upon which the retail sales tax was not paid (e.g., items purchased out of state or from nonretail vendors). Most purchases of tangible

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personal property, including items used by businesses, are subject to the tax. Some services such as construction and repair of tangible personal property are subject to the tax; however, the majority of personal and professional services are not taxable. A variety of specific exemptions apply to certain types of goods, (e.g., manufacturing machinery and motor vehicle fuel), or to specified type of purchasers, (e.g., the American Red Cross).

The state levies a sales/use tax rate of 6.5 percent; local sales/use tax rates now range from 0.5 to 2.4 percent. Starting in April 2008, the highest combined rate in the state will be 9.0 percent.

In the case of contract construction done for an owner of real property, the retail sales tax applies to the full price of the contract, including materials, labor, and service. For "spec" building, when the builder owns the land upon which a structure is being constructed or remodeled, the builder pays retail sales/use tax upon the materials to be incorporated into the structure, but there is no tax on labor and services.

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**Summary of Substitute Bill:**

The bill mandates a study of the effectiveness of tax incentives to encourage green building of residential and commercial structures. By December 1, 2008 the Department of Community, Trade and Economic Development shall report to the Legislature. The Department of Revenue is directed to provide tax-related data in support of the study.

The study shall identify tax incentives to encourage the construction of energy-efficient building; propose new sales/use tax exemptions for construction activities and B&O tax incentives for contractors and architects; provide an estimate of the fiscal cost of any proposed incentives; and provide an estimate of the potential reduction in emission reductions and cost savings for green-built structures. Also, the study shall consider other tax policies to encourage green building and analyze current trends in this industry.

**Substitute Bill Compared to Original Bill:**

Removes the sales/use tax exemptions for construction of energy efficient structures and substitutes a study by the Department of Community, Trade and Economic Development (CTED). The CTED study shall consider the effectiveness of tax incentives to encourage "green" building for commercial and residential structures with special emphasis on sales tax exemptions for construction activities and business and operation tax incentives for contractors and architects.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

### **Staff Summary of Public Testimony:**

(In support) There are increased up-front costs to build structures according to the higher energy efficiency standards, especially the gold standard. The sales/use tax exemption will be a good start toward meeting the carbon neutral requirements of 2030 and should help encourage high performance buildings.

The existing sales tax penalizes cities that would like to be on the cutting-edge for new energy efficient structures (e.g., a proposed new city hall in Puyallup).

Many of those who support the bill also support the study in the proposed substitute bill, although some feel that the incentives could be enacted while the study continues.

(With concerns) Concerns were expressed about the wide range of differing types of energy efficiency standards. The bill only addresses the highest gold and silver levels, but does nothing to encourage lower levels which are still helpful in addressing energy goals.

The wood products industry is penalized because most of the higher energy standards related to other types of building products.

Some testified in favor of the concept but object to the cap on selling price for residential structures (median income of the county). This targets the types of buildings for which the owners can least afford the increased costs of energy efficiency.

The bill is not clear about the relationship between contract construction and spec building; the latter should also be able to benefit.

Many of those who have concerns about the bill support the study in the proposed substitute bill.

(Opposed) None.

**Persons Testifying:** (In support) Representative Rolfes, prime sponsor; Doug Levy, City of Puyallup; and Stan Bowman, American Institute of Architects Washington Council.

(With concerns) Bill Stauffacher, American Forests Paper Association; Fiona Douglas Hamilton, Northwest EcoBuilding Guild; Julie Sund, Building Industry Association of Washington; and Ezra Eickmeyer, Pioneer Property Group.

**Persons Signed In To Testify But Not Testifying:** None.