

ESSB 6170 - H COMM AMD  
By Committee on Finance

1           Beginning on page 1, line 13, strike all of sections 101 and 102  
2 and insert the following:

3           "NEW SECTION.   **Sec. 101.** A new section is added to chapter 82.08  
4 RCW to read as follows:

5           (1)(a) Except as provided in section 104 of this act, purchasers  
6 who have paid the tax imposed by RCW 82.08.020 on machinery and  
7 equipment used directly in generating electricity using fuel cells,  
8 wind, sun, biomass energy, tidal or wave energy, geothermal resources,  
9 anaerobic digestion, technology that converts otherwise lost energy  
10 from exhaust, or landfill gas as the principal source of power, or to  
11 sales of or charges made for labor and services rendered in respect to  
12 installing such machinery and equipment, are eligible for an exemption  
13 as provided in this section, but only if the purchaser develops with  
14 such machinery, equipment, and labor a facility capable of generating  
15 not less than one thousand watts of electricity.

16           (b) From July 1, 2009, through June 30, 2013, a partial exemption  
17 in the form of a remittance is provided for the tax levied by RCW  
18 82.08.020 to the sale of machinery and equipment described in (a) of  
19 this subsection that are used directly in generating electricity or to  
20 sales of or charges made for labor and services rendered in respect to  
21 installing such machinery and equipment.

22           (c) Buyers who receive this partial exemption must comply with the  
23 prevailing wage requirements of chapter 39.12 RCW on all installations.

24           (d) Buyers who receive this partial exemption for installation  
25 projects with equipment or machinery costs of thirty-five thousand  
26 dollars or more must ensure that no less than fifteen percent of the  
27 labor hours installing the equipment or machinery are performed by  
28 apprentices.

29           (2) Sellers must collect the tax on sales subject to this

1 exemption. The buyer must apply for a refund directly from the  
2 department in a form and manner required by the department. The refund  
3 is for fifty percent of the state sales tax.

4 (3) For purposes of this section and section 102 of this act, the  
5 following definitions apply:

6 (a) "Biomass energy" includes: (i) Byproducts of pulping and wood  
7 manufacturing process; (ii) animal waste; (iii) solid organic fuels  
8 from wood; (iv) forest or field residues; (v) wooden demolition or  
9 construction debris; (vi) food waste; (vii) liquors derived from algae  
10 and other sources; (viii) dedicated energy crops; (ix) biosolids; and  
11 (x) yard waste. "Biomass energy" does not include wood pieces that  
12 have been treated with chemical preservatives such as creosote,  
13 pentachlorophenol, or copper-chrome-arsenic; wood from old growth  
14 forests; or municipal solid waste.

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

18 (c) "Landfill gas" means biomass fuel, of the type qualified for  
19 federal tax credits under Title 26 U.S.C. Sec. 29 of the federal  
20 internal revenue code, collected from a "landfill" as defined under RCW  
21 70.95.030.

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

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

36 (e) "Apprentice" means an apprentice enrolled in an apprenticeship  
37 training program approved by the Washington state apprenticeship  
38 council; and

1 (f) "Labor hours" means the total hours of workers receiving an  
2 hourly wage who are directly employed on the site of the project.  
3 "Labor hours" includes hours performed by workers employed by the  
4 contractor and all subcontractors working on the project. "Labor  
5 hours" does not include hours worked by foremen, superintendents,  
6 owners, and workers who are not subject to prevailing wage  
7 requirements.

8 (3)(a) Machinery and equipment is "used directly" in generating  
9 electricity by wind energy, solar energy, biomass energy, tidal or wave  
10 energy, geothermal resources, anaerobic digestion, technology that  
11 converts otherwise lost energy from exhaust, or landfill gas power if  
12 it provides any part of the process that captures the energy of the  
13 wind, sun, biomass energy, tidal or wave energy, geothermal resources,  
14 anaerobic digestion, technology that converts otherwise lost energy  
15 from exhaust, or landfill gas, converts that energy to electricity, and  
16 stores, transforms, or transmits that electricity for entry into or  
17 operation in parallel with electric transmission and distribution  
18 systems.

19 (b) Machinery and equipment is "used directly" in generating  
20 electricity by fuel cells if it provides any part of the process that  
21 captures the energy of the fuel, converts that energy to electricity,  
22 and stores, transforms, or transmits that electricity for entry into or  
23 operation in parallel with electric transmission and distribution  
24 systems.

25 (4)(a) A purchaser claiming an exemption in the form of a  
26 remittance under subsection (1)(c) of this section must pay the tax  
27 imposed by RCW 82.08.020 and all applicable local sales taxes imposed  
28 under the authority of chapters 82.14 and 81.104 RCW. The purchaser  
29 may then apply to the department for remittance in a form and manner  
30 prescribed by the department. A purchaser may not apply for a  
31 remittance under this section more frequently than once per quarter.  
32 The purchaser must specify the amount of exempted tax claimed and the  
33 qualifying purchases for which the exemption is claimed. The purchaser  
34 must retain, in adequate detail, records to enable the department to  
35 determine whether the purchaser is entitled to an exemption under this  
36 section, including: Invoices; proof of tax paid; and documents  
37 describing the machinery and equipment.

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

6 (5) This section expires July 1, 2013.

7 NEW SECTION. **Sec. 102.** A new section is added to chapter 82.12  
8 RCW to read as follows:

9 (1)(a) Except as provided in section 105 of this act, purchasers  
10 who have paid the tax imposed by RCW 82.12.020 on machinery and  
11 equipment used directly in generating electricity using fuel cells,  
12 wind, sun, biomass energy, tidal or wave energy, geothermal resources,  
13 anaerobic digestion, technology that converts otherwise lost energy  
14 from exhaust, or landfill gas as the principal source of power, or to  
15 sales of or charges made for labor and services rendered in respect to  
16 installing such machinery and equipment, are eligible for an exemption  
17 as provided in this section, but only if the purchaser develops with  
18 such machinery, equipment, and labor a facility capable of generating  
19 not less than one thousand watts of electricity.

20 (b) From July 1, 2009, through June 30, 2013, a partial exemption  
21 in the form of a remittance is provided for the tax levied by RCW  
22 82.08.020 to the sale of machinery and equipment described in (a) of  
23 this subsection that are used directly in generating electricity or to  
24 sales of or charges made for labor and services rendered in respect to  
25 installing such machinery and equipment.

26 (c) Buyers who receive this partial exemption must comply with the  
27 prevailing wage requirements of chapter 39.12 RCW on all installations.

28 (d) Buyers who receive this partial exemption for installation  
29 projects with equipment or machinery costs of thirty-five thousand  
30 dollars or more must ensure that no less than fifteen percent of the  
31 labor hours installing the equipment or machinery are performed by  
32 apprentices.

33 (2) Sellers must collect the tax on sales subject to this  
34 exemption. The buyer must apply for a refund directly from the  
35 department in a form and manner required by the department. The refund  
36 is for fifty percent of the state sales tax.

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

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

19 (3) Purchases exempt under section 101 of this act are also exempt  
20 from the tax imposed under RCW 82.12.020.

21 (4) The definitions in section 101 of this act apply to this  
22 section.

23 (5) This section expires July 1, 2013.

24 NEW SECTION. **Sec. 103.** A new section is added to chapter 82.32  
25 RCW to read as follows:

26 (1) The state treasurer must periodically transfer from the general  
27 fund to the green industries jobs training account created in RCW  
28 43.330.310, the fifty percent portion of tax refund requests not  
29 subject to a refund under RCW 82.08.02567 or 82.12.02567.

30 (2)(a) For the purposes of this section, "electricity generation  
31 sales and use tax exemption" means the sales and use tax exemption  
32 under RCW 82.08.02567 and 82.12.02567.

33 (b) The legislature finds that accountability and effectiveness are  
34 important aspects of setting tax policy. In order to make policy  
35 choices regarding the best use of limited state resources, the  
36 legislature needs information to evaluate whether the stated goals of  
37 legislation were achieved.

1 (c)(i) A person who receives the benefit of an electricity  
2 generation sales and use tax exemption must make an annual report to  
3 the department detailing employment, wages, use of apprentices, and  
4 employer-provided health and retirement benefits. The report must  
5 detail employment by the total number of full-time, part-time, and  
6 temporary positions. The report must detail compliance with the  
7 prevailing wage requirements of chapter 39.12 RCW on all installations  
8 and the use of apprentices for all installations of electricity  
9 generation equipment and machinery that costs thirty-five thousand  
10 dollars or more.

11 (ii) The report is due by March 31st following any year in which a  
12 tax exemption is claimed or used. The report may not include names of  
13 employees. The first report filed under this subsection must include  
14 employment, wage, benefit information, and use of apprentices for the  
15 twelve-month period immediately before first use of a tax exemption.

16 (iii) Information in a report under this section is not subject to  
17 the confidentiality provisions of RCW 82.32.330 and may be disclosed to  
18 the public upon request.

19 (iv) If a person fails to submit an annual report under (a) of this  
20 subsection by the due date of the report, the department must declare  
21 the amount of taxes exempted for that year to be immediately due and  
22 payable. This information is not subject to the confidentiality  
23 provisions of RCW 82.32.330 and may be disclosed to the public upon  
24 request.

25 (d) The department must study the electricity generation sales and  
26 use tax exemption authorized under RCW 82.08.02567 and 82.12.02567.  
27 The department must submit a report to the finance committee of the  
28 house of representatives and the ways and means committee of the senate  
29 by December 1, 2011, and December 1, 2014. The report must detail  
30 employment, wages, and employer-provided health and retirement  
31 benefits. The report must measure compliance with the prevailing wage  
32 requirements on all installations and the use of apprentices for all  
33 installations of electricity generation equipment and machinery that  
34 costs thirty-five thousand dollars or more."

35 Renumber the remaining sections consecutively, correct any internal  
36 references accordingly, and correct the title.

EFFECT: Provides a 50 percent sales and use tax refund on sales of certain renewable energy machinery and equipment.

Specifies that the remaining sales and use tax not subject to the partial refund be transferred to the Green Industries Jobs Training Account.

Requires persons receiving the partial refund to comply with the prevailing wage requirements and to ensure that no less than 15 percent of the labor hours used to install the equipment are performed by apprentices for installation costing more than \$35,000.

A person who receives a partial sales and use tax exemption must make an annual report to the Department of Revenue.

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