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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1009

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State of Washington

61st Legislature

2009 Regular Session

By House Finance (originally sponsored by Representatives Morris, Chase, Llias, Anderson, Orcutt, Seaquist, Hudgins, and Moeller)

READ FIRST TIME 03/03/09.

1 AN ACT Relating to extending the expiration dates for existing  
2 sales and use tax exemptions related to certain electricity generation;  
3 amending RCW 82.08.02567 and 82.12.02567; providing an effective date;  
4 providing expiration dates; and declaring an emergency.

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

6 **Sec. 1.** RCW 82.08.02567 and 2004 c 152 s 1 are each amended to  
7 read as follows:

8 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a  
9 qualifying utility, or to a person contracting with a qualifying  
10 utility for the sale of electric power generated by a facility  
11 containing machinery and equipment, of machinery and equipment used  
12 directly in generating electricity using fuel cells, wind, sun, or  
13 landfill gas as the principal source of power, or to sales of or  
14 charges made for labor and services rendered in respect to installing  
15 such machinery and equipment, but only if the purchaser develops with  
16 such machinery, equipment, and labor a facility capable of generating  
17 not less than two hundred watts of electricity (~~and provides the~~  
18 ~~seller with an exemption certificate in a form and manner prescribed by~~

1 ~~the department. The seller shall retain a copy of the certificate for~~  
2 ~~the seller's files)).~~

3 (2) The exemption provided in this section is provided in the form  
4 of a refund. Sellers must collect the tax on sales subject to this  
5 exemption. The buyer must apply for a refund directly from the  
6 department in a form and manner required by the department. The refund  
7 is only for the state portion of the sales tax. The department may not  
8 provide refunds under this section or section 2 of this act for the  
9 remainder of a fiscal biennium once the total amount of refunds  
10 provided under this section and section 2 of this act during the fiscal  
11 biennium equals twenty million dollars.

12 (3) For purposes of this section and RCW 82.12.02567:

13 (a) "Landfill gas" means biomass fuel of the type qualified for  
14 federal tax credits under 26 U.S.C. Sec. 29 collected from a landfill.  
15 "Landfill" means a landfill as defined under RCW 70.95.030;

16 (b) "Machinery and equipment" means industrial fixtures, devices,  
17 and support facilities that are integral and necessary to the  
18 generation of electricity using fuel cells, wind, sun, or landfill gas  
19 as the principal source of power;

20 (c) "Machinery and equipment" does not include: (i) Hand-powered  
21 tools; (ii) property with a useful life of less than one year; (iii)  
22 repair parts required to restore machinery and equipment to normal  
23 working order; (iv) replacement parts that do not increase  
24 productivity, improve efficiency, or extend the useful life of  
25 machinery and equipment; (v) buildings; or (vi) building fixtures that  
26 are not integral and necessary to the generation of electricity that  
27 are permanently affixed to and become a physical part of a building;

28 (d) Machinery and equipment is "used directly" in generating  
29 electricity with fuel cells or by wind energy, solar energy, or  
30 landfill gas power if it provides any part of the process that captures  
31 the energy of the wind, sun, or landfill gas, converts that energy to  
32 electricity, and stores, transforms, or transmits that electricity for  
33 entry into or operation in parallel with electric transmission and  
34 distribution systems;

35 (e) "Fuel cell" means an electrochemical reaction that generates  
36 electricity by combining atoms of hydrogen and oxygen in the presence  
37 of a catalyst;

1        (f) "Qualifying utility" means an electric utility that is required  
2 to use eligible renewable resources under RCW 19.285.040;  
3        (g) "Person" means the same as person under RCW 82.04.030.  
4        ~~((3))~~ (4) This section expires June 30, ~~((2009))~~ 2020.

5        **Sec. 2.** RCW 82.12.02567 and 2004 c 152 s 2 are each amended to  
6 read as follows:

7        (1) The provisions of this chapter shall not apply to a qualifying  
8 utility, or to a person contracting with a qualifying utility for the  
9 sale of electric power generated by a facility containing machinery and  
10 equipment, with respect to machinery and equipment used directly in  
11 generating not less than two hundred watts of electricity using fuel  
12 cells, wind, sun, or landfill gas as the principal source of power, or  
13 to the use of labor and services rendered in respect to installing such  
14 machinery and equipment.

15        (2) The definitions, limitations, and refund requirements in RCW  
16 82.08.02567 apply to this section.

17        (3) This section expires June 30, ~~((2009))~~ 2020.

18        NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
19 preservation of the public peace, health, or safety, or support of the  
20 state government and its existing public institutions, and takes effect  
21 June 30, 2009.

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