

FINAL BILL REPORT

HB 1347

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Synopsis as Enacted

Brief Description: Concerning sales and use tax exemptions for certain property and services used in manufacturing, research and development, or testing operations, not including changes to RCW 82.08.02565 and 82.12.02565 that reduce state revenue.

Sponsors: Representatives Hunter and Orcutt; by request of Department of Revenue.

House Committee on Ways & Means
Senate Committee on Ways & Means

Background:

Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property and digital products and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the property, digital products, or services were acquired by the user, then use taxes apply to the value of most tangible personal property and digital products and some services when used in this state. The state sales and use tax rate is 6.5 percent. Local tax rates vary from 0.5 percent to 3.0 percent, depending on the location. The average local tax rate is 2 percent, for an average combined state and local tax rate of 8.5 percent.

A retail sales and use tax exemption applies to new or replacement machinery and equipment (M&E) used in a manufacturing or research and development operation by a manufacturer or processor for hire. The exemption also applies to services, such as installation or repair services, rendered with respect to the M&E. The exemption applies to industrial fixtures and devices as well as pollution control equipment that is used in the manufacturing operation. The exemption does not apply to short-lived tools, hand tools, and consumable supplies.

King County is constructing a new regional wastewater treatment plant, called Brightwater. Construction started in 2006. The treatment plant is anticipated to begin operations in 2012. Brightwater will serve portions of King and Snohomish counties. The new facilities will include a treatment plant, conveyance (pipes and pumps taking wastewater to and from the plant), and a marine outfall. King County filed a refund lawsuit claiming it is entitled to the M&E exemption for the M&E installed at Brightwater. The amount of the refund request is approximately \$23 million, not including interest.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

As part of the wastewater treatment process, many treatment plants produce exceptional quality biosolids that contain almost no pathogens. These exceptional grade biosolids can be used as commercial fertilizer.

Two state universities are claiming the exemption for M&E used as part of a technological research and development operation.

Summary:

The sales and use tax exemption for machinery and equipment (M&E) is clarified to only apply with respect to businesses that are taxed under the manufacturing category for business and occupation tax. The exemption does not apply to M&E used for activities within the purview of a utility business, i.e., distributing electricity, providing water and sewer services, distributing natural gas, etc. However, M&E used by a wastewater treatment facility to process class B biosolids into biosolids meeting class A or exceptional quality standards would qualify for the exemption. It is also clarified that the M&E exemption does not apply to the state and its departments and institutions.

A stand-alone sales and use tax exemption for M&E is provided for public research institutions using the M&E as part of a research and development operation. The exemption also applies to installation, repair, and other services related to the M&E. The following institutions would be eligible for the exemption: University of Washington, Washington State University, Western Washington University, Central Washington University, Eastern Washington University, and The Evergreen State College. Any public research institution claiming the exemption is required to file an annual survey with the Department of Revenue providing employment-related information for the prior calendar year, the general areas of research and development where exempt M&E is used, and the amount of the tax exemption claimed in the prior calendar year.

The act applies retroactively to open assessment periods as well as prospectively.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: April 11, 2011