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SECOND SUBSTITUTE SENATE BILL 6215

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State of Washington

63rd Legislature

2014 Regular Session

By Senate Ways & Means (originally sponsored by Senators Mullet, Ericksen, Ranker, Litzow, Chase, and Fain)

READ FIRST TIME 02/27/14.

1 AN ACT Relating to clarifying and correcting RCW 82.08.962 and  
2 82.12.962 regarding the sales and use tax treatment of machinery and  
3 equipment purchases by companies producing pipeline-quality natural gas  
4 using landfill gas; amending RCW 82.08.962 and 82.12.962; and creating  
5 a new section.

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

7 **Sec. 1.** RCW 82.08.962 and 2013 2nd sp.s. c 13 s 1502 are each  
8 amended to read as follows:

9 (1)(a) Except as provided in RCW 82.08.963, purchasers who have  
10 paid the tax imposed by RCW 82.08.020 on machinery and equipment used  
11 directly in generating electricity or producing pipeline-quality  
12 natural gas, or both, using fuel cells, wind, sun, biomass energy,  
13 tidal or wave energy, geothermal resources, anaerobic digestion,  
14 technology that converts otherwise lost energy from exhaust, or  
15 landfill gas as the principal source of power or pipeline-quality  
16 natural gas, or to sales of or charges made for labor and services  
17 rendered in respect to installing such machinery and equipment, are  
18 eligible for an exemption as provided in this section, but only if the  
19 purchaser develops with such machinery, equipment, and labor a facility

1 capable of generating not less than one thousand watts of electricity  
2 or producing not less than fifty million British thermal units of  
3 pipeline-quality natural gas per hour.

4 (b) Beginning on July 1, 2009, through June 30, 2011, the tax  
5 levied by RCW 82.08.020 does not apply to the sale of machinery and  
6 equipment described in (a) of this subsection that are used directly in  
7 generating electricity or to sales of or charges made for labor and  
8 services rendered in respect to installing such machinery and  
9 equipment.

10 (c) Beginning on July 1, 2007, through June 30, 2011, the tax  
11 levied by RCW 82.08.020 does not apply to the sale of machinery and  
12 equipment that are used directly in producing pipeline-quality natural  
13 gas as described in (a) of this subsection or to sales of or charges  
14 made for labor and services rendered in respect to installing such  
15 machinery and equipment.

16 (d) Beginning on July 1, 2011, through January 1, 2020, the amount  
17 of the exemption under this subsection (1) is equal to seventy-five  
18 percent of the state and local sales tax paid. The purchaser is  
19 eligible for an exemption under this subsection (1)((+e)) (d) in the  
20 form of a remittance.

21 (2) For purposes of this section and RCW 82.12.962, the following  
22 definitions apply:

23 (a) "Biomass energy" includes: (i) By-products of pulping and wood  
24 manufacturing process; (ii) animal waste; (iii) solid organic fuels  
25 from wood; (iv) forest or field residues; (v) wooden demolition or  
26 construction debris; (vi) food waste; (vii) liquors derived from algae  
27 and other sources; (viii) dedicated energy crops; (ix) biosolids; and  
28 (x) yard waste. "Biomass energy" does not include wood pieces that  
29 have been treated with chemical preservatives such as creosote,  
30 pentachlorophenol, or copper-chrome-arsenic; wood from old growth  
31 forests; or municipal solid waste.

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

35 (c) "Landfill gas" means biomass fuel, of the type qualified for  
36 federal tax credits under Title 26 U.S.C. Sec. 29 of the federal  
37 internal revenue code, collected from a "landfill" as defined under RCW  
38 70.95.030.

1 (d)(i) "Machinery and equipment" means fixtures, devices, and  
2 support facilities that are integral and necessary to the generation of  
3 electricity or producing pipeline-quality natural gas, or both, using  
4 fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal  
5 resources, anaerobic digestion, technology that converts otherwise lost  
6 energy from exhaust, or landfill gas as the principal source of power  
7 or pipeline-quality natural gas.

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

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

27 (b) Machinery and equipment is "used directly" in generating  
28 electricity by fuel cells if it provides any part of the process that  
29 captures the energy of the fuel, converts that energy to electricity,  
30 and stores, transforms, or transmits that electricity for entry into or  
31 operation in parallel with electric transmission and distribution  
32 systems.

33 (c) Machinery and equipment is "used directly" in producing  
34 pipeline-quality natural gas if it provides any part of the process  
35 that captures landfill gas and converts that landfill gas to a level  
36 necessary for residential or commercial use.

37 (4)(a) A purchaser claiming an exemption in the form of a  
38 remittance under subsection (1)((+e)) (d) of this section must pay the

1 tax imposed by RCW 82.08.020 and all applicable local sales taxes  
2 imposed under the authority of chapters 82.14 and 81.104 RCW. The  
3 purchaser may then apply to the department for remittance in a form and  
4 manner prescribed by the department. A purchaser may not apply for a  
5 remittance under this section more frequently than once per quarter.  
6 The purchaser must specify the amount of exempted tax claimed and the  
7 qualifying purchases for which the exemption is claimed. The purchaser  
8 must retain, in adequate detail, records to enable the department to  
9 determine whether the purchaser is entitled to an exemption under this  
10 section, including: Invoices; proof of tax paid; and documents  
11 describing the machinery and equipment.

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

17 (5) This section expires January 1, 2020.

18 **Sec. 2.** RCW 82.12.962 and 2013 2nd sp.s. c 13 s 1505 are each  
19 amended to read as follows:

20 (1)(a) Except as provided in RCW 82.12.963, consumers who have paid  
21 the tax imposed by RCW 82.12.020 on machinery and equipment used  
22 directly in generating electricity or producing pipeline-quality  
23 natural gas, or both, using fuel cells, wind, sun, biomass energy,  
24 tidal or wave energy, geothermal resources, anaerobic digestion,  
25 technology that converts otherwise lost energy from exhaust, or  
26 landfill gas as the principal source of power or pipeline-quality  
27 natural gas, or to sales of or charges made for labor and services  
28 rendered in respect to installing such machinery and equipment, are  
29 eligible for an exemption as provided in this section, but only if the  
30 purchaser develops with such machinery, equipment, and labor a facility  
31 capable of generating not less than one thousand watts of electricity  
32 or producing not less than fifty million British thermal units of  
33 pipeline-quality natural gas per hour.

34 (b) Beginning on July 1, 2009, through June 30, 2011, the  
35 provisions of this chapter do not apply in respect to the use of  
36 machinery and equipment described in (a) of this subsection that are

1 used directly in generating electricity or to sales of or charges made  
2 for labor and services rendered in respect to installing such machinery  
3 and equipment.

4 (c) Beginning on July 1, 2007, through June 30, 2011, the  
5 provisions of this chapter do not apply in respect to sales of  
6 machinery and equipment that are used directly in producing  
7 pipeline-quality natural gas as described in (a) of this subsection or  
8 to sales of or charges made for labor and services rendered in respect  
9 to installing such machinery and equipment.

10 (d) Beginning on July 1, 2011, through January 1, 2020, the amount  
11 of the exemption under this subsection (1) is equal to seventy-five  
12 percent of the state and local sales tax paid. The consumer is  
13 eligible for an exemption under this subsection (1)~~((e))~~ (d) in the  
14 form of a remittance.

15 (2)(a) A person claiming an exemption in the form of a remittance  
16 under subsection (1)~~((e))~~ (d) of this section must pay the tax  
17 imposed by RCW 82.12.020 and all applicable local use taxes imposed  
18 under the authority of chapters 82.14 and 81.104 RCW. The consumer may  
19 then apply to the department for remittance in a form and manner  
20 prescribed by the department. A consumer may not apply for a  
21 remittance under this section more frequently than once per quarter.  
22 The consumer must specify the amount of exempted tax claimed and the  
23 qualifying purchases or acquisitions for which the exemption is  
24 claimed. The consumer must retain, in adequate detail, records to  
25 enable the department to determine whether the consumer is entitled to  
26 an exemption under this section, including: Invoices; proof of tax  
27 paid; and documents describing the machinery and equipment.

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

33 (3) Purchases exempt under RCW 82.08.962 are also exempt from the  
34 tax imposed under RCW 82.12.020.

35 (4) The definitions in RCW 82.08.962 apply to this section.

36 (5) This section expires January 1, 2020.

1        NEW SECTION.   **Sec. 3.**   This act is curative and remedial; however,  
2   the legislature does not intend for this act to retroactively create a  
3   right of refund for taxes paid on machinery and equipment purchases by  
4   companies producing pipeline-quality natural gas using landfill gas  
5   prior to the enactment of this section.

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