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**SENATE BILL 6019**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Palumbo and Hawkins

AN ACT Relating to generating electricity from a facility powered by the combustion of solid waste; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.16 RCW; adding new sections to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; creating a new section; and providing expiration dates.

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

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference contained in sections 2 through 7, chapter . . ., Laws of 2019 (sections 2 through 7 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(3) It is the legislature's specific public policy objective to create a more coordinated waste-to-energy policy in Washington state. It is the legislature's intent to exempt the construction of energy recovery facilities and the sale of electricity from various state taxes when a facility is built within one mile of an existing landfill, in order to encourage the development of waste-to-energy facilities, thereby increasing renewable energy resources and decreasing waste in existing landfills in Washington state.

(4) If a review finds that there is an increase in the number of waste-to-energy facilities and new manufacturing businesses using electricity generated by these facilities, then the legislature intends to extend the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to tax data available from the department of revenue.

NEW SECTION. **Sec.**  A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to amounts received by an energy recovery facility, where the facility is within one mile of an existing landfill and the facility is constructed after the effective date of this section.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Energy recovery" means a process operating under federal and state environmental laws and regulations for converting solid waste into usable energy and for reducing the volume of solid waste, except that permit actions to site an energy recovery facility may be exempt from compliance with chapter 43.21C RCW.

(b) "Landfill" means a disposal facility or part of a facility at which solid waste is placed in or on land and which is not a land treatment facility.

(3) This section expires January 1, 2030.

NEW SECTION. **Sec.**  A new section is added to chapter 82.16 RCW to read as follows:

(1) This chapter does not apply to the sale of electricity made by a light and power business if the contract for sale of electricity to the manufacturer or processor for hire contains the following terms: The electricity to be used by the manufacturer or processor for hire is generated by an energy recovery facility, where the facility is within one mile of an existing landfill and the facility is constructed after the effective date of this section.

(2) The definitions in section 2 of this act apply to this section.

(3) This section expires January 1, 2030.

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

(1) The tax levied by RCW 82.08.020 does not apply to:

(a) The sales of machinery or equipment used to construct an energy recovery facility, where the facility is within one mile of an existing landfill and the facility is constructed after the effective date of this section; and

(b) The sales of or charge made for labor and services rendered in respect to installing such machinery and equipment in an energy recovery facility, where the facility is within one mile of an existing landfill and the facility is constructed after the effective date of this section.

(2) The definitions in section 2 of this act apply to this section.

(3) This section expires January 1, 2030.

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

(1) The provisions of this chapter do not apply with respect to the use of:

(a) Machinery or equipment used to construct an energy recovery facility, where the facility is within one mile of an existing landfill and the facility is constructed after the effective date of this section; and

(b) Labor and services rendered in respect to installing such machinery and equipment in an energy recovery facility, where the facility is within one mile of an existing landfill and the facility is constructed after the effective date of this section.

(2) The definitions in section 2 of this act apply to this section.

(3) This section expires January 1, 2030.

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

(1) The tax levied by RCW 82.08.020 does not apply to charges made for labor and services rendered in respect to the constructing of new buildings used for manufacturing, to sales of tangible personal property that will be incorporated as an ingredient or component of such buildings during the course of the constructing, or to labor and services rendered in respect to installing, during the course of constructing, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565(2)(b), where the buildings are using electricity generated by an energy recovery facility within five miles and that is receiving exemptions under this chapter and chapter 82.12 RCW. The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(2) To be eligible under this section the manufacturer or processor for hire must meet the following requirements for a ten-year period, such period beginning the day the new building commences commercial production, or a portion of tax otherwise due will be immediately due and payable pursuant to subsection (3) of this section:

(a) The manufacturer or processor for hire must maintain at least twenty-five family living wage jobs at the new building for which the exemption under this section is claimed.

(b) Before commencing commercial production at a new facility the manufacturer or processor for hire must meet with the department to review projected employment levels in the new buildings. The department, using information provided by the taxpayer, must make a determination of the number of positions that would be family living wage jobs. This number must be used throughout the ten-year period to determine whether any tax is to be repaid. This information is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(c) No application is necessary for the tax exemption. The person is subject to all the requirements of chapter 82.32 RCW. A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) If the employment requirement is not met for any one calendar year, one-tenth of the exempt sales and use taxes will be due and payable by April 1st of the following year. The department must assess interest to the date the tax was imposed, but not penalties, on the taxes for which the person is not eligible.

(4) The exemption applies to new buildings, or parts of buildings, that are used exclusively in the manufacturing.

(5) The definitions in this subsection and section 2 of this act apply to this section unless the context clearly requires otherwise.

(a) "Commencement of commercial production" is deemed to have occurred when the equipment and process qualifications in the new building are completed and production for sale has begun.

(b) "Family living wage job" has the same meaning as defined in RCW 84.25.030.

(6) This section expires January 1, 2030.

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

(1) The provisions of this chapter do not apply with respect to the use of tangible personal property that will be incorporated as an ingredient or component of new buildings used for the manufacturing during the course of constructing such buildings or to labor and services rendered in respect to installing, during the course of constructing, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565(2)(b), where the buildings are using electricity generated by an energy recovery facility within five miles and that is receiving exemptions under chapter 82.08 RCW and this chapter.

(2) The eligibility requirements, conditions, and definitions in section 6 of this act apply to this section, including the filing of a complete annual tax performance report with the department under RCW 82.32.534.

(3) This section expires January 1, 2030.

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