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**HOUSE BILL 1768**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representatives Shavers, Barnard, Chapman, and Ramel

Read first time 02/06/23. Referred to Committee on Finance.

1 AN ACT Relating to exempting certain sales of electricity to  
2 qualifying green businesses from the public utilities tax; adding a  
3 new section to chapter 82.16 RCW; creating a new section; providing  
4 an effective date; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.16  
7 RCW to read as follows:

8 (1) Beginning October 1, 2023, and for 10 years from the date of  
9 commercial operation of the business, the tax levied under this  
10 chapter does not apply to sales of electricity made by a light and  
11 power business to a qualifying business if:

12 (a) The commercial operation commences no later than July 1,  
13 2033; and

14 (b) The contract for sale of electricity to the business contains  
15 the following terms:

16 (i) The electricity to be used in the qualifying activities is  
17 separately metered from the electricity used for general operations  
18 of the business; and

19 (ii) The price charged for the electricity used in the qualifying  
20 activities is reduced by an amount equal to the tax exemption  
21 available to the light and power business under this section.

1 (2) The exemption provided for in this section does not apply to  
2 amounts received from the remarketing or resale of electricity  
3 originally obtained by contract for the qualifying activities.

4 (3) In order to claim an exemption under this section, a  
5 qualifying business must provide the light and power business with an  
6 exemption certificate in a form and manner prescribed by the  
7 department.

8 (4) A person receiving the benefit of the exemption provided in  
9 this section must file a complete annual tax performance report with  
10 the department under RCW 82.32.534.

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

13 (a) "Compression" means compressing a gas, or a gas compressed,  
14 to a pressure above ambient atmospheric pressure for processing,  
15 storage, or transportation.

16 (b) "Green electrolytic hydrogen" means hydrogen produced through  
17 electrolysis and does not include hydrogen manufactured using steam  
18 reforming or any other conversion technology that produces hydrogen  
19 from a fossil fuel feedstock.

20 (c) "Qualifying activities" means the green electrolytic hydrogen  
21 production process, the renewable hydrogen production process, and  
22 the compression, liquification, storage, or dispensing of green  
23 electrolytic hydrogen or renewable hydrogen.

24 (d) "Qualifying business" means a business using electricity in  
25 qualifying activities for qualifying projects.

26 (e) "Qualifying projects" means projects where the use of the  
27 hydrogen is included in the state energy strategy including, but not  
28 limited to, high heat industry, fuel for decarbonization of  
29 transportation, including aviation, maritime, and surface  
30 transportation, storage or generation of electricity, or otherwise  
31 for use as a fuel that can be demonstrated to have a carbon intensity  
32 of less than one pursuant to chapter 70A.535 RCW and the rules  
33 adopted under RCW 70A.535.025.

34 (f) "Renewable hydrogen" means hydrogen produced using renewable  
35 resources both as the source for the hydrogen and the source for the  
36 energy input into the production process.

37 (g) "Renewable natural gas" has the same meaning as provided in  
38 RCW 54.04.190.

1 (h) "State energy strategy" means the document developed by the  
2 department of commerce pursuant to RCW 43.21F.090 in effect at the  
3 initiation of construction of a qualifying project.

4 (6) This section expires January 1, 2045.

5 NEW SECTION. **Sec. 2.** (1) This section is the tax preference  
6 performance statement for the tax preference contained in section 1,  
7 chapter . . . , Laws of 2023 (section 1 of this act). This performance  
8 statement is only intended to be used for subsequent evaluation of  
9 the tax preference. It is not intended to create a private right of  
10 action by any party or to be used to determine eligibility for  
11 preferential tax treatment.

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

15 (3) It is the legislature's specific public policy objective to  
16 attract and retain renewable and clean hydrogen production facilities  
17 whose production outputs will be used in place of fossil fuel derived  
18 fuels and manufacturing feedstocks that they replace.

19 (4) To measure the effectiveness of the tax preference in section  
20 1 of this act, the joint legislative audit and review committee must,  
21 using calendar year 2022 as the baseline, evaluate the annual  
22 volumetric quantity of renewable hydrogen and green electrolytic  
23 hydrogen produced in the state, as well as the annual percentage of  
24 hydrogen produced in the state that is either green electrolytic  
25 hydrogen or renewable hydrogen.

26 (5) In order to obtain the data necessary to perform the  
27 evaluation in subsection (4) of this section, the department of  
28 revenue must provide data needed for the joint legislative audit and  
29 review committee analysis. In addition to the data source described  
30 under this subsection, the joint legislative audit and review  
31 committee may use any other data it deems necessary.

32 NEW SECTION. **Sec. 3.** This act takes effect October 1, 2023.

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