
SENATE BILL 6174

State of Washington

57th Legislature

2001 Regular Session

By Senators T. Sheldon, Morton, Hale, Zarelli, Honeyford, Horn, Hewitt, Rossi, Stevens, Finkbeiner, Sheahan and Hargrove

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1 AN ACT Relating to the management of state energy supply and
2 demand; amending RCW 80.50.020, 80.50.060, 80.50.100, 80.52.030,
3 82.16.055, 19.29A.040, 82.08.02567, and 82.12.02567; adding new
4 sections to chapter 80.50 RCW; adding a new section to chapter 80.52
5 RCW; adding a new section to chapter 82.34 RCW; adding new sections to
6 chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; adding a
7 new section to chapter 19.29A RCW; creating new sections; providing
8 expiration dates; and declaring an emergency.

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

10 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

11 (a) A sufficient and reliable supply of energy is critically
12 important to the health and welfare of the citizens of the state and to
13 the prosperity of the state and region;

14 (b) The cyclical nature of wholesale markets has affected the
15 ability of independent energy producers to forecast long-term prices
16 sufficient to ensure recovery of their investments. Low wholesale
17 prices in the region for nearly a decade have curtailed the development
18 of generation resources by independent power producers that could have
19 addressed the region's growing electricity deficit, which was predicted

1 as early as 1993 and acknowledged in the Washington state energy
2 strategy. The prospect of potential new regulations over the wholesale
3 electricity market, and concerns about the ability of utilities and
4 energy marketers to recover their costs, have further undermined
5 confidence in financial markets. Without greater regulatory
6 incentives, needed investments in new resource and system upgrades by
7 electrical companies may not be realized;

8 (c) Energy supply, generation, and distribution systems and
9 technologies have changed greatly since the original enactment of the
10 state's energy facility siting laws thirty years ago. Experience
11 during this time has demonstrated that a state council with the primary
12 responsibility for energy facility siting approval is warranted, but
13 that its procedures and authorities can be improved to enhance energy
14 supplies;

15 (d) The state enjoys an abundance of hydroelectric capacity.
16 Additional generation can be achieved without increasing the amount of
17 water used and without adversely impacting fish and wildlife;

18 (e) Domestic industries have become innovators in clean, new energy
19 generation, and demand-management technologies. Those technologies
20 could be marketed internationally to promote the economic development
21 of the state, and further advance the reputation of the state as a
22 technological leader; and

23 (f) The current energy situation requires that the state undertake
24 economic and policy decisions to effectuate both short-term and long-
25 term solutions. Actions and incentives by the state to promote the
26 expansion of generation capacity and the development and application of
27 clean, new energy technologies would be of great benefit to the
28 citizens of the state.

29 (2) The legislature intends this act to:

30 (a) Modify the statutory procedures and authorities of the energy
31 facility siting evaluation council for a limited time to encourage
32 generators to operate their facilities to their fullest capacity;

33 (b) Provide a regulatory incentive for electrical companies to
34 invest in demand-management systems, promote distributive generation
35 technologies, upgrade hydroelectric facilities, increase transmission
36 and distribution efficiencies, and encourage certain renewable resource
37 projects; and

38 (c) Offer limited tax incentives to encourage:

- 1 (i) Installation of new air pollution control equipment at existing
2 peaking plants to decrease certain toxic emissions and increase overall
3 generation output;
- 4 (ii) Upgrades of existing hydroelectric facilities to increase
5 efficiency and generation capacity;
- 6 (iii) Development of cogeneration facilities to maximize the
7 efficient use of gas while increasing electricity supply nearer the
8 load;
- 9 (iv) Research, development, and manufacture of innovative energy
10 technologies and demand-management technologies; and
- 11 (v) Deployment of demand-management systems.

12 **I. PROMOTING ADDITIONAL GENERATION CAPACITY**

13 **Sec. 101.** RCW 80.50.020 and 1995 c 69 s 1 are each amended to read
14 as follows:

15 The definitions in this section apply throughout this chapter
16 unless the context clearly requires otherwise.

17 (1) "Applicant" means any person who makes application for a site
18 certification pursuant to the provisions of this chapter((+)).

19 (2) "Application" means any request for approval of a particular
20 site or sites filed in accordance with the procedures established
21 pursuant to this chapter, unless the context otherwise requires((+)).

22 (3) "Person" means an individual, partnership, joint venture,
23 private or public corporation, association, firm, public service
24 company, political subdivision, municipal corporation, government
25 agency, public utility district, or any other entity, public or
26 private, however organized((+)).

27 (4) "Site" means any proposed or approved location of an energy
28 facility((+)).

29 (5) "Certification" means a binding agreement between an applicant
30 and the state which shall embody compliance to the siting guidelines,
31 in effect as of the date of certification, which have been adopted
32 pursuant to RCW 80.50.040 as now or hereafter amended as conditions to
33 be met prior to or concurrent with the construction or operation of any
34 energy facility((+)).

35 (6) "Associated facilities" means storage, transmission, handling,
36 or other related and supporting facilities connecting an energy plant
37 with the existing energy supply, processing, or distribution system,

1 including, but not limited to, communications, controls, mobilizing or
2 maintenance equipment, instrumentation, and other types of ancillary
3 transmission equipment, off-line storage or venting required for
4 efficient operation or safety of the transmission system and overhead,
5 and surface or subsurface lines of physical access for the inspection,
6 maintenance, and safe operations of the transmission facility and new
7 transmission lines constructed to operate at nominal voltages in excess
8 of 200,000 volts to connect a thermal power plant to the northwest
9 power grid: PROVIDED, That common carrier railroads or motor vehicles
10 shall not be included((?)).

11 (7) "Transmission facility" means any of the following together
12 with their associated facilities:

13 (a) Crude or refined petroleum or liquid petroleum product
14 transmission pipeline of the following dimensions: A pipeline larger
15 than six inches minimum inside diameter between valves for the
16 transmission of these products with a total length of at least fifteen
17 miles;

18 (b) Natural gas, synthetic fuel gas, or liquified petroleum gas
19 transmission pipeline of the following dimensions: A pipeline larger
20 than fourteen inches minimum inside diameter between valves, for the
21 transmission of these products, with a total length of at least fifteen
22 miles for the purpose of delivering gas to a distribution facility,
23 except an interstate natural gas pipeline regulated by the United
24 States federal power commission((?)).

25 (8) "Independent consultants" means those persons who have no
26 financial interest in the applicant's proposals and who are retained by
27 the council to evaluate the applicant's proposals, supporting studies,
28 or to conduct additional studies((?)).

29 (9) "Thermal power plant" means, for the purpose of certification,
30 any electrical generating facility using any fuel, including nuclear
31 materials, for distribution of electricity by electric utilities((?)).

32 (10) "Energy facility" means an energy plant or transmission
33 facilities: PROVIDED, That the following are excluded from the
34 provisions of this chapter:

35 (a) Facilities for the extraction, conversion, transmission or
36 storage of water, other than water specifically consumed or discharged
37 by energy production or conversion for energy purposes; and

38 (b) Facilities operated by and for the armed services for military
39 purposes or by other federal authority for the national defense((?)).

1 (11) "Council" means the energy facility site evaluation council
2 created by RCW 80.50.030((~~+~~)).

3 (12) "Counsel for the environment" means an assistant attorney
4 general or a special assistant attorney general who shall represent the
5 public in accordance with RCW 80.50.080((~~+~~)).

6 (13) "Construction" means on-site improvements, excluding
7 exploratory work, which cost in excess of two hundred fifty thousand
8 dollars((~~+~~)).

9 (14) "Energy plant" means the following facilities together with
10 their associated facilities:

11 (a) Any stationary thermal power plant with generating capacity of
12 ((~~two~~)) three hundred fifty thousand kilowatts or more, measured using
13 maximum continuous electric generating capacity, less minimum auxiliary
14 load, at average ambient temperature and pressure, and floating thermal
15 power plants of fifty thousand kilowatts or more, including associated
16 facilities;

17 (b) Facilities which will have the capacity to receive liquified
18 natural gas in the equivalent of more than one hundred million standard
19 cubic feet of natural gas per day, which has been transported over
20 marine waters;

21 (c) Facilities which will have the capacity to receive more than an
22 average of fifty thousand barrels per day of crude or refined petroleum
23 or liquified petroleum gas which has been or will be transported over
24 marine waters, except that the provisions of this chapter shall not
25 apply to storage facilities unless occasioned by such new facility
26 construction;

27 (d) Any underground reservoir for receipt and storage of natural
28 gas as defined in RCW 80.40.010 capable of delivering an average of
29 more than one hundred million standard cubic feet of natural gas per
30 day; and

31 (e) Facilities capable of processing more than twenty-five thousand
32 barrels per day of petroleum into refined products((~~+~~)).

33 (15) "Land use plan" means a comprehensive plan or land use element
34 thereof adopted by a unit of local government pursuant to chapters
35 35.63, 35A.63, or 36.70 RCW((~~+~~)).

36 (16) "Zoning ordinance" means an ordinance of a unit of local
37 government regulating the use of land and adopted pursuant to chapters
38 35.63, 35A.63, or 36.70 RCW or Article XI of the state Constitution.

1 NEW SECTION. **Sec. 102.** A new section is added to chapter 80.50
2 RCW to read as follows:

3 The council shall actively seek to implement the intent of this
4 chapter as set forth in RCW 80.50.010 by diligently and expediently
5 facilitating the siting of energy facilities to meet present and
6 emergent energy supply needs.

7 NEW SECTION. **Sec. 103.** A new section is added to chapter 80.50
8 RCW to read as follows:

9 The council may only develop rules, policies, procedures,
10 guidelines, or operating protocols that are based directly on, and no
11 more stringent than federal or state statutory or administrative code
12 authority, and the standards and criteria set forth therein. A site
13 certification agreement may not require compliance with air quality,
14 water quality, or health protection measures unless such compliance is
15 based on and no more stringent than standards adopted into federal or
16 state statute or administrative code authority.

17 **Sec. 104.** RCW 80.50.060 and 1977 ex.s. c 371 s 5 are each amended
18 to read as follows:

19 (1) The provisions of this chapter shall apply to the construction
20 of energy facilities which includes the new construction of energy
21 facilities and the reconstruction or enlargement of existing energy
22 facilities where the net increase in physical capacity or dimensions
23 resulting from such reconstruction or enlargement meets or exceeds
24 those capacities or dimensions set forth in RCW 80.50.020 (7) and
25 (~~(17)~~) (14), as now or hereafter amended. No construction of such
26 energy facilities may be undertaken, except as otherwise provided in
27 this chapter, after July 15, 1977, without first obtaining
28 certification in the manner provided in this chapter.

29 (2) The provisions of this chapter apply to the construction of any
30 new energy facility or the reconstruction or enlargement of any
31 existing energy facility that chooses to utilize the process
32 established in this chapter, regardless of the generating capacity of
33 the project.

34 (3) The provisions of this chapter shall not apply to normal
35 maintenance and repairs which do not increase the capacity or
36 dimensions beyond those set forth in RCW 80.50.020 (7) and (~~(17)~~)
37 (14), as now or hereafter amended.

1 (~~(3)~~) (4) Applications for certification of energy facilities
2 made prior to July 15, 1977, shall continue to be governed by the
3 applicable provisions of law in effect on the day immediately preceding
4 July 15, 1977, with the exceptions of RCW 80.50.190 and 80.50.071 which
5 shall apply to such prior applications and to site certifications
6 prospectively from July 15, 1977.

7 (~~(4)~~) (5) Applications for certification shall be upon forms
8 prescribed by the council and shall be supported by such information
9 and technical studies as the council may require.

10 **Sec. 105.** RCW 80.50.100 and 1989 c 175 s 174 are each amended to
11 read as follows:

12 (1) The council shall report to the governor its recommendations as
13 to the approval or rejection of an application for certification within
14 (~~(twelve)~~) six months of receipt by the council of such an application,
15 or such later time as is mutually agreed by the council and the
16 applicant. If the council recommends approval of an application for
17 certification, it shall also submit a draft certification agreement
18 with the report. The council shall include conditions in the draft
19 certification agreement to implement the provisions of this chapter,
20 including, but not limited to, conditions to protect state or local
21 governmental or community interests affected by the construction or
22 operation of the energy facility, and conditions designed to recognize
23 the purpose of laws or ordinances, or rules or regulations promulgated
24 thereunder, that are preempted or superseded pursuant to RCW 80.50.110
25 as now or hereafter amended.

26 (2) Within (~~(sixty)~~) thirty days of receipt of the council's report
27 the governor shall take one of the following actions:

28 (a) Approve the application and execute the draft certification
29 agreement; or

30 (b) Reject the application; or

31 (c) Direct the council to reconsider certain aspects of the draft
32 certification agreement.

33 The council shall reconsider such aspects of the draft
34 certification agreement by reviewing the existing record of the
35 application or, as necessary, by reopening the adjudicative proceeding
36 for the purposes of receiving additional evidence. Such
37 reconsideration shall be conducted expeditiously. The council shall
38 resubmit the draft certification to the governor incorporating any

1 amendments deemed necessary upon reconsideration within ninety days of
2 receipt of such direction for reconsideration. Within ((sixty))
3 fifteen days of receipt of such draft certification agreement, the
4 governor shall either approve the application and execute the
5 certification agreement or reject the application. The certification
6 agreement shall be binding upon execution by the governor and the
7 applicant.

8 (3) The rejection of an application for certification by the
9 governor shall be final as to that application but shall not preclude
10 submission of a subsequent application for the same site on the basis
11 of changed conditions or new information.

12 **Sec. 106.** RCW 80.52.030 and 1995 c 69 s 2 are each amended to read
13 as follows:

14 The definitions set forth in this section apply throughout this
15 chapter unless the context clearly requires otherwise.

16 (1) "Public agency" means a public utility district, joint
17 operating agency, city, county, or any other state governmental agency,
18 entity, or political subdivision.

19 (2) "Major public energy project" means a nuclear power plant ((or
20 installation capable, or intended to be capable, of generating
21 electricity in an amount greater than two hundred fifty megawatts,
22 measured using maximum continuous electric generating capacity, less
23 minimum auxiliary load, at average ambient temperature and pressure.
24 Where two or more such plants are located within the same geographic
25 site, each plant shall be considered a major public energy project. An
26 addition to an existing facility is not deemed to be a major energy
27 project unless the addition itself is capable, or intended to be
28 capable, of generating electricity in an amount greater than two
29 hundred fifty megawatts)). A project which is under construction on
30 July 1, 1982, shall not be considered a major public energy project
31 unless the official agency budget or estimate for total construction
32 costs for the project as of July 1, 1982, is more than two hundred
33 percent of the first official estimate of total construction costs as
34 specified in the senate energy and utilities committee WPPSS inquiry
35 report, volume one, January 12, 1981, and unless, as of July 1, 1982,
36 the projected remaining cost of construction for that project exceeds
37 two hundred million dollars.

1 (3) "Cost of construction" means the total cost of planning and
2 building a major public energy project and placing it into operation,
3 including, but not limited to, planning cost, direct construction cost,
4 licensing cost, cost of fuel inventory for the first year's operation,
5 interest, and all other costs incurred prior to the first day of full
6 operation, whether or not incurred prior to July 1, 1982.

7 (4) "Cost of acquisition" means the total cost of acquiring a major
8 public energy project from another party, including, but not limited
9 to, principal and interest costs.

10 (5) "Bond" means a revenue bond, a general obligation bond, or any
11 other indebtedness issued by a public agency or its assignee.

12 (6) "Applicant" means a public agency, or the assignee of a public
13 agency, requesting the secretary of state to conduct an election
14 pursuant to this chapter.

15 (7) "Cost-effective" means that a project or resource is forecast:

16 (a) To be reliable and available within the time it is needed; and

17 (b) To meet or reduce the electric power demand of the intended
18 consumers at an estimated incremental system cost no greater than that
19 of the least-cost similarly reliable and available alternative project
20 or resource, or any combination thereof.

21 (8) "System cost" means an estimate of all direct costs of a
22 project or resource over its effective life, including, if applicable,
23 the costs of distribution to the consumer, and, among other factors,
24 waste disposal costs, end-of-cycle costs, and fuel costs (including
25 projected increases), and such quantifiable environmental costs and
26 benefits as are directly attributable to the project or resource.

27 NEW SECTION. **Sec. 107.** A new section is added to chapter 80.52
28 RCW to read as follows:

29 (1) Before approving financing for any large public energy project
30 that is not subject to the voter approval requirements of this chapter,
31 a public agency must submit to its governing board a cost-effectiveness
32 study pertaining to the project under consideration. The study must be
33 prepared by an independent consultant and must be available for public
34 review and comment for at least thirty days after submission to the
35 governing board.

36 (2) At the end of the thirty-day period, the public agency must
37 conduct a public hearing on the project under consideration and the

1 cost-effectiveness study. Notice of the public hearing must provide at
2 least the following information:

3 (a) The name, location, and type of large public energy project,
4 expressed in common terms;

5 (b) The dollar amount and type of bonds being requested;

6 (c) If the bond issuance is intended to finance the acquisition of
7 all or a portion of the project, the anticipated total cost of the
8 acquisition of the project;

9 (d) If the bond issuance is intended to finance the planning or
10 construction of all or a portion of the project, the anticipated total
11 cost of construction of the project;

12 (e) The projected average rate increase for consumers of the
13 electricity to be generated by the project. The rate increase must be
14 that which is necessary to repay the total indebtedness incurred for
15 the project, including estimated interest;

16 (f) A summary of the final cost-effectiveness study conducted under
17 subsection (1) of this section;

18 (g) The anticipated functional life of the project; and

19 (h) The anticipated decommissioning costs of the project.

20 (3) For the purposes of this section, a "large public energy
21 project that is not subject to the voter approval requirements of this
22 chapter" means a nonnuclear plant or installation capable, or intended
23 to be capable, of generating electricity in an amount greater than two
24 hundred fifty megawatts, measured using maximum continuous electric
25 generating capacity, less minimum auxiliary load, at average ambient
26 temperature and pressure. Where two or more such plants are located
27 within the same geographic site, each plant is considered a large
28 public energy project. An addition to an existing facility is not a
29 large public energy project unless the addition itself is capable, or
30 intended to be capable, of generating electricity in an amount greater
31 than two hundred fifty megawatts.

32 II. MAXIMIZING EFFICIENT GENERATION CAPACITY

33 NEW SECTION. **Sec. 201.** A new section is added to chapter 82.34
34 RCW to read as follows:

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

1 (a) "Qualifying facility" means an air pollution control facility
2 as that term is defined in RCW 82.34.010(1)(a) to be installed or
3 acquired for a thermal electric peaking plant and which is approved
4 under the Washington clean air act, chapter 70.94 RCW.

5 (b) "Thermal electric peaking plant" means a natural gas-fired
6 thermal electric generating facility operated by a light and power
7 business and placed into service between January 1, 1978, and December
8 31, 1984, and that is registered for the calendar year 2000 pursuant to
9 RCW 70.94.151.

10 (c) "Light and power business" has the same meaning as that term is
11 defined in RCW 82.16.010.

12 (2) The department shall, upon written request of a light and power
13 business to which the approval issued under chapter 70.94 RCW is
14 attached, make a determination as to whether a plant is a thermal
15 electric peaking plant acquiring or installing a qualifying facility
16 eligible under this section. The department shall consult with the
17 department of community, trade, and economic development and the
18 department of ecology in making the determination. If the
19 determination is in the affirmative, the department shall issue the
20 light and power business a sales and use tax exemption certificate in
21 a form and manner as deemed appropriate by the department.

22 (3) The charges for installation or acquisition of a qualifying
23 facility by the holder of the certificate are exempt from sales tax
24 imposed under chapter 82.08 RCW and use tax imposed under chapter 82.12
25 RCW. The purchaser must provide the seller with a copy of the sales
26 and use tax exemption certificate. The seller shall retain a copy of
27 the certificate for the seller's files.

28 (4) The exemption in this section is limited to the installation or
29 acquisition of a qualifying facility and does not apply to servicing,
30 maintenance, operation, or repairs of a thermal electric peaking plant
31 or of an air pollution control facility.

32 NEW SECTION. **Sec. 202.** A new section is added to chapter 82.08
33 RCW to read as follows:

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

35 (a) Sales of tangible personal property to an electric utility for
36 improving the output or efficiency of hydroelectric generating
37 facilities in existence on the effective date of this section; or

1 (b) Sales of or charges made for labor and services performed in
2 respect to improving the output or efficiency of hydroelectric
3 generating facilities in existence on the effective date of this
4 section.

5 (2) The following definitions apply to this section unless the
6 context clearly requires otherwise.

7 (a) "Electric utility" has the same meaning as provided under RCW
8 19.29A.010.

9 (b) "Hydroelectric generating facilities" means any machinery,
10 equipment, structure, property, property improvement, or accessory
11 installed, built, or acquired for the purpose of producing or
12 generating electrical energy from falling water.

13 (3) The purchaser must provide the seller with an exemption
14 certificate in a form and manner prescribed by the department. The
15 seller must retain a copy of the certificate for the seller's files.

16 NEW SECTION. **Sec. 203.** A new section is added to chapter 82.12
17 RCW to read as follows:

18 (1) The tax levied by RCW 82.12.020 does not apply to the use of
19 tangible personal property by an electric utility for improving the
20 output or efficiency of hydroelectric generating facilities in
21 existence on the effective date of this section.

22 (2) The following definitions apply to this section unless the
23 context clearly requires otherwise.

24 (a) "Electric utility" has the same meaning as provided under RCW
25 19.29A.010.

26 (b) "Hydroelectric generating facilities" means any machinery,
27 equipment, structure, property, property improvement, or accessory
28 installed, built, or acquired for the purpose of producing or
29 generating electrical energy from falling water.

30 (3) The purchaser must provide the seller with an exemption
31 certificate in a form and manner prescribed by the department. The
32 seller must retain a copy of the certificate for the seller's files.

33 **Sec. 204.** RCW 82.16.055 and 1980 c 149 s 3 are each amended to
34 read as follows:

35 (1) In computing tax under this chapter there shall be deducted
36 from the gross income:

1 (a) An amount equal to the cost of production at the plant for
2 consumption within the state of Washington of:

3 (i) Electrical energy produced or generated from cogeneration as
4 defined in RCW 82.35.020; and

5 (ii) Electrical energy or gas produced or generated from renewable
6 energy resources such as solar energy, wind energy, hydroelectric
7 energy, geothermal energy, wood, wood wastes, municipal wastes,
8 agricultural products and wastes, and end-use waste heat; and

9 (b) Those amounts expended to improve consumers' efficiency of
10 energy end use or to otherwise reduce the use of electrical energy or
11 gas by the consumer.

12 (2) This section applies (~~only~~) to new facilities for the
13 production or generation of energy from cogeneration or renewable
14 energy resources or measures to improve the efficiency of energy end
15 use on which construction or installation is begun after June 12, 1980,
16 and before January 1, 1990.

17 (3)(a) In addition, this section applies to new or expanded
18 cogeneration from a facility on which construction or installation is
19 begun after June 30, 2001, and before January 1, 2011.

20 (b) For purposes of this subsection, the following definitions
21 apply:

22 (i) "Cogeneration facility" means any machinery, equipment,
23 structure, process, or property, or any part thereof, installed or
24 acquired by a person or corporation for the purpose of the sequential
25 generation, in either order, of electrical energy and useful thermal
26 energy, such as heat or steam, from the same primary energy source or
27 fuel in which the useful thermal energy is used:

28 (A) For a manufacturing process;

29 (B) To improve the operating efficiency of a facility that produces
30 electrical energy through biomass generation as defined in RCW
31 19.29A.010; or

32 (C) In space heating or cooling.

33 (ii) "Expanded cogeneration" means the amount of electrical energy
34 produced for sale at a facility that exceeds the amount of electrical
35 energy sold on an average annual basis in the three years prior to June
36 30, 2001.

37 (c) This subsection does not apply to:

38 (i) A cogeneration facility fueled by diesel; or

1 (ii) A cogeneration facility that has a combined fuel conversion
2 efficiency of less than sixty percent, unless the cogeneration facility
3 is used to improve the operating efficiency of a facility that produces
4 electrical energy through biomass generation as defined in RCW
5 19.29A.010, in which case this subsection shall apply unless the
6 cogeneration facility has a combined fuel conversion efficiency of less
7 than forty percent.

8 (d) By August 25th of each fiscal year in which a taxpayer intends
9 to claim the deduction under this subsection, the taxpayer shall file
10 with the department, on a form and in a manner prescribed by the
11 department, the following information concerning production at the
12 cogeneration facility during the previous twelve months:

13 (i) The amount of fuel consumed;

14 (ii) The energy content of the fuel measured in British thermal
15 units per unit of fuel;

16 (iii) The amount of electricity produced measured in kilowatt
17 hours;

18 (iv) The gallons of hot water or pounds of steam produced;

19 (v) The temperature of the hot water, or temperature and pressure
20 of the steam, produced; and

21 (vi) The temperature of the hot water or condensate returned to the
22 boiler.

23 (e) The department may disclose information received under (d)(i)
24 through (vi) of this subsection to energy policy staff of the
25 department of community, trade, and economic development or the
26 Washington State University cooperative extension solely for the
27 purpose of determining a taxpayer's eligibility for a deduction under
28 this subsection. In addition, prior to the time a cogeneration
29 facility has operated for a full fiscal year, the department may
30 require such information that it finds necessary to determining a
31 taxpayer's eligibility under this subsection, and may disclose the
32 information received to energy policy staff of the department of
33 community, trade, and economic development or the Washington State
34 University cooperative extension solely for the purpose of determining
35 the taxpayer's eligibility for a deduction under this subsection.

36 (4) Deductions under subsection (1)(a) of this section shall be
37 allowed for a period not to exceed thirty years after the project is
38 placed in operation.

1 (~~(4)~~) (5) Measures or projects encouraged under this section
2 shall at the time they are placed in service be reasonably expected to
3 save, produce, or generate energy at a total incremental system cost
4 per unit of energy delivered to end use which is less than or equal to
5 the incremental system cost per unit of energy delivered to end use
6 from similarly available conventional energy resources which utilize
7 nuclear energy or fossil fuels and which the gas or electric utility
8 could acquire to meet energy demand in the same time period.

9 (~~(5)~~) (6) The department of revenue, after consultation with the
10 utilities and transportation commission in the case of investor-owned
11 utilities and the governing bodies of locally regulated utilities,
12 shall determine the eligibility of individual projects and measures for
13 deductions under this section.

14 **III. PROMOTING NEW CLEAN TECHNOLOGIES FOR ENERGY**
15 **PRODUCTION AND DEMAND MANAGEMENT**

16 NEW SECTION. **Sec. 301.** A new section is added to chapter 19.29A
17 RCW to read as follows:

18 (1) Beginning January 1, 2002, each electric utility must provide
19 to its retail electricity customers a voluntary option to purchase
20 qualified renewable energy resources in accordance with this section.

21 (2) Each electric utility must include on its retail electric
22 customer's regular billing statements a voluntary option to purchase
23 qualified renewable energy resources. The option may allow customers
24 to purchase qualified renewable energy resources at fixed or variable
25 rates and for fixed or variable periods of time. A utility may provide
26 qualified renewable energy resource options through either: (a)
27 Resources it owns or contracts for; or (b) the purchase of credits
28 issued by a clearinghouse or other system by which the utility may
29 secure, for trade or other consideration, verifiable evidence that a
30 second party has developed a qualified renewable energy resource and
31 that the second party agrees to transfer such evidence exclusively to
32 the credit of the utility.

33 (3) For the purposes of this section, a "qualified renewable energy
34 resource" means the electricity produced from generation facilities
35 initiating operations after January 1, 2001, that are fueled by: (a)
36 Wind; (b) solar energy; (c) geothermal energy; (d) landfill gas; (e)
37 wave or tidal action; (f) gas produced during the treatment of

1 wastewater; (g) environmentally qualified hydropower, as defined in RCW
2 82.08.02567; (h) fuel cells, as defined in RCW 82.08.02567; or (i)
3 biomass energy based on solid organic fuels from wood, forest, or field
4 residues, or dedicated energy crops that do not include wood pieces
5 that have been treated with chemical preservatives such as creosote,
6 pentachlorophenol, or copper-chrome-arsenic.

7 (4) The rates, terms, conditions, and customer notification of each
8 utility's option or options offered in accordance with this section
9 must be approved by the governing body of the consumer-owned utility or
10 by the commission for investor-owned utilities.

11 (5) Each consumer-owned utility must report to the department and
12 each investor-owned utility must report annually to the commission
13 beginning October 1, 2002, until October 1, 2012, describing the option
14 or options it is offering its customers under the requirements of this
15 section, the rate of customer participation, the amount of qualified
16 renewable energy resources purchased by customers, and the amount of
17 utility investments in qualified renewable energy resources. The
18 department and the commission together shall report annually to the
19 legislature, beginning December 1, 2002, until December 1, 2012, with
20 the results of the utility reports.

21 **Sec. 302.** RCW 19.29A.040 and 1998 c 300 s 6 are each amended to
22 read as follows:

23 The provisions of RCW 19.29A.020, 19.29A.030, (~~and~~) section 5,
24 chapter 300, Laws of 1998, and section 301 of this act do not apply to
25 a small utility. However, nothing in this section prohibits the
26 governing body of a small utility from determining the utility should
27 comply with any or all of the provisions of RCW 19.29A.020, 19.29A.030,
28 (~~and~~) section 5, chapter 300, Laws of 1998, and section 301 of this
29 act, which governing bodies are encouraged to do.

30 **Sec. 303.** RCW 82.08.02567 and 1999 c 358 s 4 are each amended to
31 read as follows:

32 (1) The tax levied by RCW 82.08.020 shall not apply to sales of
33 machinery and equipment used directly in generating electricity using
34 fuel cells, environmentally qualified hydropower, wind, sun, or
35 landfill gas as the principal source of power, or to sales of or
36 charges made for labor and services rendered in respect to installing
37 such machinery and equipment, but only if the purchaser develops with

1 such machinery, equipment, and labor a facility capable of generating
2 not less than two hundred (~~(kilowatts))~~ watts of electricity and
3 provides the seller with an exemption certificate in a form and manner
4 prescribed by the department (~~(by rule)~~). The seller shall retain a
5 copy of the certificate for the seller's files.

6 (2) For purposes of this section and RCW 82.12.02567:

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

10 (b) "Machinery and equipment" means industrial fixtures, devices,
11 and support facilities that are integral and necessary to the
12 generation of electricity using wind, sun, environmentally qualified
13 hydropower, or landfill gas as the principal source of power;

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

22 (d) Machinery and equipment is "used directly" in generating
23 electricity with fuel cells or by wind energy, environmentally
24 qualified hydropower, solar energy, or landfill gas power if it
25 provides any part of the process that captures the energy of the wind,
26 sun, or landfill gas, converts that energy to electricity, and stores,
27 transforms, or transmits that electricity for entry into or operation
28 with electric transmission and distribution systems;

29 (e) "Fuel cell" means a technology involving an electrochemical
30 reaction that generates electricity by combining atoms of hydrogen and
31 oxygen in the presence of a catalyst;

32 (f) "Environmentally qualified hydropower" means (i) the additional
33 energy produced by existing hydropower facilities that have been
34 modernized or upgraded after June 1, 1998, to increase capacity or
35 efficiency; or (ii) energy produced by run-of-the-river or run-of-the-
36 canal hydropower facilities that are not responsible for obstructing
37 the passage of anadromous fish.

38 (3) This section expires June 30, (~~(2005))~~ 2009.

1 **Sec. 304.** RCW 82.12.02567 and 1999 c 358 s 10 are each amended to
2 read as follows:

3 (1) The provisions of this chapter shall not apply with respect to
4 machinery and equipment used directly in generating not less than two
5 hundred ((kilowatts)) watts of electricity using wind, sun, or landfill
6 gas as the principal source of power.

7 (2) The definitions in RCW 82.08.02567 apply to this section.

8 (3) This section expires June 30, ((2005)) 2009.

9 NEW SECTION. **Sec. 305.** A new section is added to chapter 82.08
10 RCW to read as follows:

11 The tax levied by RCW 82.08.020 does not apply to sales of smart
12 metering technology purchased after July 1, 2003, by an electric
13 utility as defined in RCW 80.60.010, up to a selling price of fifty
14 dollars per utility customer to be served by the technology. For the
15 purposes of this section, "smart metering technology" means equipment,
16 including specialized meters, that provide two-way electronic
17 communication between the utility and a residential customer's electric
18 meter or electric appliances, and that will enable the utility to
19 charge different rates during different times of the day to encourage
20 a shifting of residential customers' demand in order to minimize peak
21 demand. By December 1, 2001, the utilities and transportation
22 commission shall provide information to the department and to the
23 electric utility in regard to how many residential customers are being
24 served by smart metering technology on June 30, 2001, and how many
25 additional residential customers will be served by application of the
26 smart metering technology after July 1, 2001.

27 This section expires June 30, 2007.

28 NEW SECTION. **Sec. 306.** A new section is added to chapter 82.12
29 RCW to read as follows:

30 This chapter does not apply in respect to smart metering technology
31 purchased after July 1, 2003, by an electric utility as defined in RCW
32 80.60.010, up to a selling price of fifty dollars per utility customer
33 to be served by the technology. For the purposes of this section,
34 "smart metering technology" means equipment, including specialized
35 meters, that provide two-way electronic communication between the
36 utility and a residential customer's electric meter or electric
37 appliances, and that will enable the utility to charge different rates

1 during different times of the day to encourage a shifting of
2 residential customers' demand in order to minimize peak demand.

3 This section expires June 30, 2007.

4 **IV. MISCELLANEOUS**

5 NEW SECTION. **Sec. 401.** Part headings used in this act are not any
6 part of the law.

7 NEW SECTION. **Sec. 402.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.

11 NEW SECTION. **Sec. 403.** This act is necessary for the immediate
12 preservation of the public peace, health, or safety, or support of the
13 state government and its existing public institutions, and takes effect
14 immediately.

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