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HOUSE BILL 1760

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State of Washington

59th Legislature

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**By** Representatives Chase, Morris, Nixon, Upthegrove, Rodne, Springer, Moeller, P. Sullivan, Hudgins, B. Sullivan, Sells, Appleton, Flannigan, Green, Darneille, Blake, Hunt, McCoy, Kagi, Pettigrew, Simpson, Williams, Morrell, Eickmeyer, O'Brien, Linville, Walsh, Buri, Miloscia, Grant, Clibborn, Conway, Kenney, Dunshee, Ormsby, Haler, Campbell and Kilmer

Read first time 02/04/2005. Referred to Committee on Technology, Energy & Communications.

1       AN ACT Relating to providing incentives to support the renewable  
2 energy industry in Washington state; adding new sections to chapter  
3 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new  
4 section to chapter 82.12 RCW; adding a new section to chapter 84.36  
5 RCW; adding a new section to chapter 82.32 RCW; creating a new section;  
6 providing an effective date; providing expiration dates; and declaring  
7 an emergency.

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

9       NEW SECTION. **Sec. 1.** The legislature finds that the welfare of  
10 the people of the state of Washington is positively impacted through  
11 the encouragement and expansion of key growth industries in the state.  
12 The legislature further finds that targeting tax incentives to focus on  
13 key growth industries is an important strategy to enhance the state's  
14 business climate.

15       A recent report by the Washington State University energy program  
16 recognized the solar electric industry as one of the state's important  
17 growth industries. It is of great concern that businesses in this  
18 industry have been increasingly expanding and relocating their

1 operations elsewhere. The report indicates that additional incentives  
2 for the solar electric industry are needed in recognition of the unique  
3 forces and issues involved in business decisions in this industry.

4 Therefore, the legislature intends to enact comprehensive tax  
5 incentives for the solar electric industry that address activities of  
6 the manufacture of these products and to encourage these industries to  
7 locate in counties with high unemployment. Tax incentives for the  
8 solar electric industry are important in both retention and expansion  
9 of existing business and attraction of new businesses, all of which  
10 will strengthen this growth industry within our state, will create  
11 jobs, and will bring many indirect benefits to the state.

12       **NEW SECTION.** **Sec. 2.** A new section is added to chapter 82.04 RCW  
13 to read as follows:

14       (1) The tax imposed by section 3 of this act does not apply to any  
15 person who manufactures solar energy systems using photovoltaic  
16 modules, if located in a county with an annual average unemployment  
17 rate of greater than eight and one-half percent in the calendar year  
18 before the effective date of this section, as determined by the  
19 commissioner of the employment security department.

20       (2) The definitions in this subsection apply throughout this  
21 section.

22       (a) "Module" means the smallest nondivisible self-contained  
23 physical structure housing interconnected photovoltaic cells and  
24 providing a single direct current electrical output.

25       (b) "Photovoltaic cell" means a device that converts light directly  
26 into electricity without moving parts.

27       (c) "Solar energy system" means any device or combination of  
28 devices or elements that rely upon direct sunlight as an energy source  
29 for use in the generation of electricity.

30       (3) This section expires June 30, 2014.

31       **NEW SECTION.** **Sec. 3.** A new section is added to chapter 82.04 RCW  
32 to read as follows:

33       (1) Upon every person engaging within this state in the business of  
34 manufacturing solar energy systems using photovoltaic modules, the  
35 amount of the tax with respect to such business shall be equal to the

1 value of the products manufactured, multiplied by the rate of 0.275  
2 percent. For the purposes of this section, "solar energy system" has  
3 the same meaning as in section 2 of this act.

4 (2) This section expires June 30, 2014.

5       **NEW SECTION.**   **Sec. 4.** A new section is added to chapter 82.08 RCW  
6 to read as follows:

7       (1) The tax levied by RCW 82.08.020 shall not apply to charges made  
8 for labor and services rendered in respect to the constructing of new  
9 buildings used for the manufacture of solar energy systems using  
10 photovoltaic modules into a solar energy system located in a county  
11 with an annual average unemployment rate of greater than eight and one-  
12 half percent in the calendar year before the effective date of this  
13 section, as determined by the commissioner of the employment security  
14 department, or to sales of tangible personal property that will be  
15 incorporated as an ingredient or component of such buildings during the  
16 course of the constructing. The exemption is available only when the  
17 buyer provides the seller with an exemption certificate in a form and  
18 manner prescribed by the department. The seller shall retain a copy of  
19 the certificate for the seller's files.

20       (2) To be eligible under this section the business owner must meet  
21 the following requirements for an eight-year period, such period  
22 beginning the day the new building commences commercial production, or  
23 a portion of tax otherwise due shall be immediately due and payable  
24 pursuant to subsection (3) of this section:

25       (a) The business owner must maintain at least seventy-five percent  
26 of full employment at the new building for which the exemption under  
27 this section is claimed.

28       (b) Before commencing commercial production at a new facility the  
29 business owner must meet with the department to review projected  
30 employment levels in the new buildings. The department, using  
31 information provided by the taxpayer, shall make a determination of the  
32 number of full-time positions that would be filled at full employment.  
33 This number shall be used throughout the eight-year period to determine  
34 whether any tax is to be repaid. This information is not subject to  
35 the confidentiality provisions of RCW 82.32.330 and may be disclosed to  
36 the public upon request.

1       (c) No application is necessary for the tax exemption. The person  
2 is subject to all the requirements of chapter 82.32 RCW. A person  
3 taking the exemption under this section must report as required under  
4 section 8 of this act.

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

10      (4) The exemption applies to new buildings, or parts of buildings,  
11 that are used exclusively in the manufacture of solar energy systems  
12 using photovoltaic modules into a solar energy system located in a  
13 county with an annual average unemployment rate of greater than eight  
14 and one-half percent in the calendar year before the effective date of  
15 this section, as determined by the commissioner of the employment  
16 security department, including the storage of raw materials and  
17 finished product.

18      (5) The definitions in this subsection apply throughout this  
19 section.

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

23      (b) "Full employment" is the number of positions required for full  
24 capacity production at the new building.

25      (c) "Solar energy system" has the same meaning as provided in  
26 section 2 of this act.

27      (6) No exemption may be taken after June 30, 2014, however all of  
28 the eligibility criteria and limitations are applicable to any  
29 exemptions claimed before that date.

30      (7) This section expires June 30, 2014.

31      NEW SECTION. **Sec. 5.** A new section is added to chapter 82.12 RCW  
32 to read as follows:

33      (1) The provisions of this chapter do not apply with respect to the  
34 use of tangible personal property that will be incorporated as an  
35 ingredient or component of new buildings used for the manufacture of  
36 solar energy systems using photovoltaic modules into a solar energy  
37 system located in a county with an annual average unemployment rate of

1 greater than eight and one-half percent in the calendar year before the  
2 effective date of this section, as determined by the commissioner of  
3 the employment security department during the course of constructing  
4 such buildings or to labor and services rendered in respect to  
5 installing, during the course of constructing, building fixtures not  
6 otherwise eligible for the exemption under RCW 82.08.02565(2)(b).

7       (2) The eligibility requirements, conditions, and definitions in  
8 section 4 of this act apply to this section.

9       (3) No exemption may be taken after June 30, 2014, however all of  
10 the eligibility criteria and limitations are applicable to any  
11 exemptions claimed before that date.

12       (4) This section expires June 30, 2014.

13           NEW SECTION. **Sec. 6.** A new section is added to chapter 82.04 RCW  
14 to read as follows:

15       (1) Subject to the limits and provisions of this section, a credit  
16 is authorized against the tax otherwise due under section 3 of this act  
17 for persons engaged in the business of manufacturing solar energy  
18 systems using photovoltaic modules into a solar energy system located  
19 in a county with an annual average unemployment rate of greater than  
20 eight and one-half percent in the calendar year before the effective  
21 date of this section, as determined by the commissioner of the  
22 employment security department. For the purposes of this section  
23 "solar energy system" has the same meaning as provided in section 2 of  
24 this act.

25       (2)(a) The credit under this section shall equal three thousand  
26 dollars for each full-time employment position used in manufacturing  
27 process that takes place in a new building exempt from sales and use  
28 tax under sections 4 and 5 of this act. A credit is earned for the  
29 calendar year a person fills a position. Additionally a credit is  
30 earned for each year the position is maintained over the subsequent  
31 consecutive years, up to eight years. Those positions that are not  
32 filled for the entire year are eligible for fifty percent of the credit  
33 if filled less than six months, and the entire credit if filled more  
34 than six months.

35       (b) To qualify for the credit, the manufacturing activity of the  
36 person must be conducted at a new building that qualifies for the  
37 exemption from sales and use tax under sections 4 and 5 of this act.

1       (3) No application is necessary for the tax credit. The person is  
2 subject to all of the requirements of chapter 82.32 RCW. In no case  
3 may a credit earned during one calendar year be carried over to be  
4 credited against taxes incurred in a subsequent calendar year. No  
5 refunds may be granted for credits under this section.

6       (4) If at any time the department finds that a person is not  
7 eligible for tax credit under this section, the amount of taxes for  
8 which a credit has been claimed shall be immediately due. The  
9 department shall assess interest, but not penalties, on the taxes for  
10 which the person is not eligible. The interest shall be assessed at  
11 the rate provided for delinquent excise taxes under chapter 82.32 RCW,  
12 shall be retroactive to the date the tax credit was taken, and shall  
13 accrue until the taxes for which a credit has been used are repaid.

14      (5) A person taking the credit under this section must report under  
15 section 8 of this act.

16      (6) Credits may be taken after July 1, 2005, for those buildings at  
17 which commercial production began before June 30, 2014, subject to all  
18 of the eligibility criteria and limitations of this section.

19      (7) This section expires June 30, 2014.

20           NEW SECTION. **Sec. 7.** A new section is added to chapter 84.36 RCW  
21 to read as follows:

22       (1) Machinery and equipment exempt under RCW 82.08.02565 or  
23 82.12.02565 used in the manufacture of solar energy systems using  
24 photovoltaic modules into a solar energy system located in a county  
25 with an annual average unemployment rate of greater than eight and one-  
26 half percent in the calendar year before the effective date of this  
27 section, as determined by the commissioner of the employment security  
28 department at a building exempt from sales and use tax and in  
29 compliance with the employment requirement under sections 4 and 5 of  
30 this act are exempt from taxation under this chapter. "Solar energy  
31 system" has the same meaning as provided in section 2 of this act.

32       (2) A person seeking this exemption must make application to the  
33 county assessor, on forms prescribed by the department.

34       (3) A person receiving an exemption under this section must report  
35 in the manner prescribed in section 8 of this act.

36       (4) This section is effective for taxes levied for collection one  
37 year after the effective date of this section and thereafter.

1       (5) This section expires December 31, 2014, for taxes levied for  
2 collection in the following year.

3       NEW SECTION. **Sec. 8.** A new section is added to chapter 82.32 RCW  
4 to read as follows:

5       (1) The legislature finds that accountability and effectiveness are  
6 important aspects of setting tax policy. In order to make policy  
7 choices regarding the best use of limited state resources the  
8 legislature needs information on how a tax incentive is used.

9       (2)(a) A person who reports taxes under section 3 of this act or  
10 who claims an exemption or credit under section 2 or 4 through 7 of  
11 this act, shall make an annual report to the department detailing  
12 employment, wages, and employer-provided health and retirement benefits  
13 per job at the manufacturing site. The report shall not include names  
14 of employees. The report shall also detail employment by the total  
15 number of full-time, part-time, and temporary positions. The first  
16 report filed under this subsection shall include employment, wage, and  
17 benefit information for the twelve-month period immediately before  
18 first use of a preferential tax rate under section 3 of this act, or  
19 tax exemption or credit under section 2 or 4 through 7 of this act.  
20 The report is due by March 31st following any year in which a  
21 preferential tax rate under section 3 of this act is used, or tax  
22 exemption or credit under section 2 or 4 through 7 of this act is  
23 taken. This information is not subject to the confidentiality  
24 provisions of RCW 82.32.330 and may be disclosed to the public upon  
25 request.

26       (b) If a person fails to submit an annual report under (a) of this  
27 subsection the department shall declare the amount of taxes exempted or  
28 credited for that year to be immediately due and payable. Excise taxes  
29 payable under this subsection are subject to interest, as provided  
30 under this chapter. This information is not subject to the  
31 confidentiality provisions of RCW 82.32.330 and may be disclosed to the  
32 public upon request.

33       (3) By November 1, 2010, and November 1, 2013, the joint  
34 legislative audit and review committee, in consultation with the  
35 department, shall report to the legislature on the effectiveness of  
36 chapter . . . , Laws of 2005 (this act) in regard to keeping Washington  
37 competitive. The report shall measure the effect of chapter . . . ,

1 Laws of 2005 (this act) on job retention, net jobs created for  
2 Washington residents, company growth, diversification of the state's  
3 economy, and other factors as the committee selects. The reports shall  
4 include a discussion of principles to apply in evaluating whether the  
5 legislature should extend any or all of the tax preferences in chapter  
6 . . . , Laws of 2005 (this act).

7       **NEW SECTION.** **Sec. 9.** This act is necessary for the immediate  
8 preservation of the public peace, health, or safety, or support of the  
9 state government and its existing public institutions, and takes effect  
10 July 1, 2005.

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