
SENATE BILL 5161

State of Washington

61st Legislature

2009 Regular Session

By Senators Hobbs, Rockefeller, Honeyford, Hewitt, Oemig, Shin, Zarelli, Regala, Benton, Kilmer, Kline, Roach, Haugen, and Pridemore

Read first time 01/15/09. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to extending tax incentives for renewable
2 resources, including tidal and wave energy; amending RCW 82.08.02567,
3 82.12.02567, and 82.16.055; providing an effective date; and declaring
4 an emergency.

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

6 **Sec. 1.** RCW 82.08.02567 and 2004 c 152 s 1 are each amended to
7 read as follows:

8 (1) The tax levied by RCW 82.08.020 shall not apply to sales of
9 machinery and equipment used directly in generating electricity using
10 fuel cells, wind, sun, tidal or wave energy, geothermal resources, or
11 landfill gas as the principal source of power, or to sales of or
12 charges made for labor and services rendered in respect to installing
13 such machinery and equipment, but only if the purchaser develops with
14 such machinery, equipment, and labor a facility capable of generating
15 not less than two hundred watts of electricity and provides the seller
16 with an exemption certificate in a form and manner prescribed by the
17 department. The seller shall retain a copy of the certificate for the
18 seller's files.

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

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

4 (b) "Machinery and equipment" means industrial fixtures, devices,
5 and support facilities that are integral and necessary to the
6 generation of electricity using fuel cells, wind, sun, or landfill gas
7 as the principal source of power;

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

16 (d) Machinery and equipment is "used directly" in generating
17 electricity with fuel cells or by wind energy, solar energy, or
18 landfill gas power if it provides any part of the process that captures
19 the energy of the wind, sun, or landfill gas, converts that energy to
20 electricity, and stores, transforms, or transmits that electricity for
21 entry into or operation in parallel with electric transmission and
22 distribution systems;

23 (e) "Fuel cell" means an electrochemical reaction that generates
24 electricity by combining atoms of hydrogen and oxygen in the presence
25 of a catalyst.

26 (3) This section expires June 30, (~~(2009)~~) 2019.

27 **Sec. 2.** RCW 82.12.02567 and 2004 c 152 s 2 are each amended to
28 read as follows:

29 (1) The provisions of this chapter shall not apply with respect to
30 machinery and equipment used directly in generating not less than two
31 hundred watts of electricity using fuel cells, wind, sun, tidal or wave
32 energy, geothermal resources, or landfill gas as the principal source
33 of power, or to the use of labor and services rendered in respect to
34 installing such machinery and equipment.

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

36 (3) This section expires June 30, (~~(2009)~~) 2019.

1 **Sec. 3.** RCW 82.16.055 and 1980 c 149 s 3 are each amended to read
2 as follows:

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

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

7 (i) Electrical energy produced or generated from cogeneration (~~as~~
8 ~~defined in RCW 82.35.020~~); and

9 (ii) Electrical energy or gas produced or generated from renewable
10 energy resources such as solar energy, tidal or wave energy, geothermal
11 resources, wind energy, hydroelectric energy, geothermal energy, wood,
12 wood wastes, municipal wastes, agricultural products and wastes, and
13 end-use waste heat; and

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

17 (2) (a) Except for tidal and wave energy and geothermal facilities,
18 this section applies only to new facilities for the production or
19 generation of energy from cogeneration or renewable energy resources or
20 measures to improve the efficiency of energy end use on which
21 construction or installation is begun after June 12, 1980, and before
22 January 1, 1990.

23 (b) This section applies to new facilities for the production and
24 generation of energy from tidal and wave energy, and from geothermal
25 resources, on which construction or installation is begun after January
26 1, 2009, and before January 1, 2019.

27 (3) Deductions under subsection (1)(a) of this section shall be
28 allowed for a period not to exceed thirty years after the project is
29 placed in operation.

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

1 ~~(5))~~ The department (~~(of revenue)~~), after consultation with the
2 utilities and transportation commission (~~(in the case of investor-owned~~
3 ~~utilities)~~) and the governing bodies of locally regulated utilities,
4 shall determine the eligibility of individual projects and measures for
5 deductions under this section.

6 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of the
8 state government and its existing public institutions, and takes effect
9 June 30, 2009.

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