**6012-S AMS HAWK S5009.2 - NOT FOR FLOOR USE**

**SSB 6012** - S AMD **912**

By Senator Hawkins

**PULLED 02/05/2020**

Strike everything after the enacting clause and insert the following:

"**Sec.**  RCW 82.08.962 and 2019 c 288 s 18 are each amended to read as follows:

(1)(a) Subject to the requirements of this section, the tax imposed by RCW 82.08.020 does not apply to sales of machinery and equipment used directly in generating electricity using fuel cells, wind, fresh water, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust, as the principal source of power, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts AC of electricity. Except as otherwise provided in this section, the purchaser must pay the state and local sales tax on such sales and apply to the department for a remittance of the tax paid.

(b) Beginning on July 1, 2011, through December 31, 2019, the amount of the exemption under this subsection (1)(b) is equal to seventy-five percent of the state and local sales tax paid. The purchaser is eligible for an exemption under this subsection (1)(b) in the form of a remittance.

(c) Beginning January 1, 2020, through December 31, 2029, the purchaser is entitled to an exemption, in the form of a remittance, under this subsection (1)(c) in an amount equal to:

(i) Fifty percent of the state and local sales tax paid, if:

(A) The exempt purchase is for machinery and equipment or labor and services rendered in respect to installing such machinery and equipment in (a) of this subsection, excluding qualified purchases under subsection (c)(i)(B) of this subsection, and the department of labor and industries certifies that the project includes: Procurement from and contracts with women, minority, or veteran-owned businesses; procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations; apprenticeship utilization; and preferred entry for workers living in the area where the project is being constructed. In the event that a project is built without one or more of these standards, and a project developer or its designated principal contractor demonstrates that it has made all good faith efforts to meet the standards but was unable to comply due to lack of availability of qualified businesses or local hires, the department of labor and industries may certify that the developer complied with that standard; or

(B) The exempt purchase is for machinery and equipment that is used directly in the generation of electricity by a solar energy system capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, and labor and services rendered in respect to installing such machinery and equipment, and the department of labor and industries certifies that the project has met the requirements of (c)(i)(A) of this subsection, and the purchaser provides the following documentation to the department as part of the application for a remittance:

(I) A copy of the contractor's certificate of registration in compliance with chapter 18.27 RCW;

(II) The contractor's current state unified business identifier number;

(III) A copy of the contractor's proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in this title ((~~82 RCW~~)); and

(IV) Documentation of the contractor's history of compliance with federal and state wage and hour laws and regulations, consistent with (e)(ii)(D) of this subsection;

(ii) Seventy-five percent of the state and local sales tax paid, if:

(A) The department of labor and industries certifies that the project complies with (c)(i)(A) and (B) of this subsection and compensates workers at prevailing wage rates determined by local collective bargaining as determined by the department of labor and industries; or

(B) The machinery and equipment, labor and services, or both, otherwise qualify under (a) of this subsection and the purchase and installation of the machinery and equipment is rendered with respect to a contract executed prior to January 1, 2020, and such contract compensates workers at prevailing wage rates based on rates in local collective bargaining agreements as determined by the department of labor and industries under RCW 39.12.015. This subsection (1)(c)(ii) does not apply with respect to solar energy systems described in (c)(i)(B) of this subsection; or

(iii) One hundred percent of the state and local sales tax paid, if the department of labor and industries certifies that the project is developed under a community workforce agreement or project labor agreement. This subsection (1)(c)(iii) does not apply with respect to solar energy systems described in (c)(i)(B) of this subsection.

(d) In order to qualify for the remittance under (c) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than January 1, 2020, and be completed by December 31, 2029.

(e) Beginning July 1, 2019, and through December 31, 2029, the purchaser is entitled to an exemption under this subsection (1)(e) in an amount equal to one hundred percent of the state and local sales tax due on:

(i) Machinery and equipment that is used directly in the generation of electricity by a solar energy system that is capable of generating no more than one hundred kilowatts AC of electricity; or

(ii) Labor and services rendered in respect to installing machinery and equipment exempt under (e)(i) of this subsection, and the seller meets the following requirements at the time of the sale for which the exemption is claimed:

(A) Has obtained a certificate of registration in compliance with chapter 18.27 RCW;

(B) Has obtained a current state unified business identifier number;

(C) Possesses proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in this title ((~~82 RCW~~)); and

(D) Has had no findings of violation of federal or state wage and hour laws and regulations in a final and binding order by an administrative agency or court of competent jurisdiction in the past twenty-four months.

(f) Purchasers claiming an exemption under (e) of this subsection must provide the seller with an exemption certificate in a form and manner prescribed by the department.

(g) In order to qualify for the exemption under (e)(ii) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than July 1, 2019, and be completed by December 31, 2029.

(2)(a) The department of labor and industries must adopt emergency and permanent rules to:

(i) Define and set minimum requirements for all labor standards identified in subsection (1)(c) of this section; and

(ii) Set requirements for all good faith efforts under subsection (1)(c)(i) and (ii) of this section, as well as documentation requirements and a certification process. Requirements for all good faith efforts must be designed to maximize the likelihood that the project is completed with said standards and could include: Proactive outreach to firms that are women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms; participating in community job fairs, conferences, and trade shows; and other measures. The certification process and timeline must be designed to prevent undue delay to project development.

(b) Emergency rules must be adopted by December 1, 2019, and take effect January 1, 2020.

(3) For purposes of this section and RCW 82.12.962, the following definitions apply:

(a) "Biomass energy" includes: (i) By-products of pulping and wood manufacturing process; (ii) animal waste; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) wooden demolition or construction debris; (vi) food waste; (vii) liquors derived from algae and other sources; (viii) dedicated energy crops; (ix) biosolids; and (x) yard waste. "Biomass energy" does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old growth forests; or municipal solid waste.

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

(c)(i) "Machinery and equipment" means:

(A) Fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust; and

(B) Materials, parts, fixtures, devices, and support facilities used directly in generating electricity from fresh water acquired or used as part of a project to increase electricity output of the facility through improvements in efficiency, increases in capacity, or the extension of the useful life of the electrical generation equipment.

(ii) "Machinery and equipment" does not include: (A) Hand-powered tools; (B) property with a useful life of less than one year; (C) repair parts required to restore machinery and equipment to normal working order; (D) replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment; (E) buildings; or (F) building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.

(d) "Project labor agreement" and "community workforce agreement" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f).

(4)(a) Machinery and equipment is "used directly" in generating electricity by wind energy, hydropower energy, solar energy, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust if it provides any part of the process that captures the energy of the wind, water, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust, converts that energy to electricity, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

(b) Machinery and equipment is "used directly" in generating electricity by fuel cells if it provides any part of the process that captures the energy of the fuel, converts that energy to electricity, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

(5)(a)(i) A purchaser claiming an exemption in the form of a remittance under subsection (1)(b) or (c) of this section must pay the tax imposed by RCW 82.08.020 and all applicable local sales taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The purchaser may then apply to the department for remittance in a form and manner prescribed by the department. A purchaser may not apply for a remittance under this section more frequently than once per quarter. The purchaser must specify the amount of exempted tax claimed and the qualifying purchases for which the exemption is claimed. The purchaser must retain, in adequate detail, records to enable the department to determine whether the purchaser is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(ii) The application for remittance must include a copy of the certificate issued for the project by the department of labor and industries as prescribed by rule under subsection (2) of this section.

(b) The department must determine eligibility under this section based on the information provided by the purchaser, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying purchasers who submitted applications during the previous quarter.

(6)(a) Except as otherwise provided in (c) of this subsection, from October 1, 2017, through December 31, 2019, the exemption provided by this section does not apply to: (i) Machinery and equipment that is used directly in the generation of electricity using solar energy and capable of generating no more than five hundred kilowatts AC of electricity; or (ii) sales of or charges made for labor and services rendered in respect to installing such machinery and equipment.

(b) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if installation of the machinery and equipment commences on or after January 1, 2020.

(c) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating no more than one hundred kilowatts AC of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if installation of the machinery and equipment commences on or after July 1, 2019.

(7) The exemption provided by this section for machinery and equipment used directly in generating electricity from water does not apply to local sales and use taxes imposed under chapter 82.14 RCW.

(8) This section expires January 1, 2030.

**Sec.**  RCW 82.12.962 and 2019 c 288 s 19 are each amended to read as follows:

(1)(a) Subject to the requirements of this section, the tax imposed by RCW 82.12.020 does not apply to machinery and equipment used directly in generating electricity using fuel cells, wind, water, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust, or to labor and services rendered in respect to installing such machinery and equipment, but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts AC of electricity. Except as otherwise provided in this section, the consumer must pay the state and local use tax on the use of such machinery and equipment and labor and services, and apply to the department for a remittance of the tax paid.

(b) Beginning on July 1, 2011, through December 31, 2019, the amount of the exemption under this subsection (1) is equal to seventy-five percent of the state and local use tax paid. The consumer is eligible for an exemption under this subsection (1)(b) in the form of a remittance.

(c) Beginning January 1, 2020, through December 31, 2029, the purchaser is entitled to an exemption, in the form of a remittance, under this subsection (1)(c) in an amount equal to:

(i) Fifty percent of the state and local use tax paid, if:

(A) The exempt purchase is for machinery and equipment or labor and services rendered in respect to installing such machinery and equipment in (a) of this subsection, excluding qualified purchases under (c)(i)(B) of this subsection, and the department of labor and industries certifies that the project includes: Procurement from and contracts with women, minority, or veteran-owned businesses; procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations; apprenticeship utilization; and preferred entry for workers living in the area where the project is being constructed. In the event that a project is built without one or more of these standards, and a project developer or its designated principal contractor demonstrates that it has made all good faith efforts to meet the standards but was unable to comply due to lack of availability of qualified businesses or local hires, the department of labor and industries may certify that the developer complied with that standard; or

(B) The exempt purchase is for machinery and equipment that is used directly in the generation of electricity by a solar energy system capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, or labor and services rendered in respect to installing such machinery and equipment, and the department of labor and industries certifies that the project has met the requirements of (c)(i)(A) of this subsection, and the purchaser has provided the following documentation to the department as part of the application for a remittance:

(I) A copy of the contractor's certificate of registration in compliance with chapter 18.27 RCW;

(II) The contractor's current state unified business identifier number;

(III) A copy of the contractor's proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in this title ((~~82 RCW~~)); and

(IV) Documentation of the contractor's history of compliance with federal and state wage and hour laws and regulations, consistent with (e)(ii)(D) of this subsection;

(ii) Seventy-five percent of the state and local use tax paid, if:

(A) The department of labor and industries certifies that the project complies with (c)(i)(A) of this subsection and compensates workers at prevailing wage rates determined by local collective bargaining as determined by the department of labor and industries; or

(B) The machinery and equipment, labor and services, or both, otherwise qualify under (a) of this subsection and the purchase and installation of the machinery and equipment is rendered with respect to a contract executed prior to January 1, 2020, and such contract compensates workers at prevailing wage rates based on rates in local collective bargaining agreements as determined by the department of labor and industries under RCW 39.12.015. This subsection (1)(c)(ii) does not apply with respect to solar energy systems described in (c)(i)(B) of this subsection; or

(iii) One hundred percent of the state and local use tax paid, if the department of labor and industries certifies that the project is developed under a community workforce agreement or project labor agreement. This subsection (1)(c)(iii) does not apply with respect to solar energy systems described in (c)(i)(B) of this subsection.

(d) In order to qualify for the remittance under (c) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than January 1, 2020, and be completed by December 31, 2029.

(e) Beginning July 1, 2019, and through December 31, 2029, the consumer is entitled to an exemption under this subsection (1)(e) in an amount equal to one hundred percent of the state and local use tax due on:

(i) Machinery and equipment that is used directly in the generation of electricity by a solar energy system that is capable of generating no more than one hundred kilowatts AC of electricity; or

(ii) Labor and services rendered in respect to installing machinery and equipment exempt under (e)(i) of this subsection, and the seller meets the following requirements at the time of the purchase for which the exemption is claimed:

(A) Has obtained a certificate of registration in compliance with chapter 18.27 RCW;

(B) Has obtained a current state unified business identifier number;

(C) Possesses proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in this title ((~~82 RCW~~)); and

(D) Has had no findings of violations of federal or state wage and hour laws and regulations in a final and binding order by an administrative agency or court of competent jurisdiction in the past twenty-four months.

(f) In order to qualify for the exemption under (e)(ii) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than July 1, 2019, and be completed by December 31, 2029.

(2) The department of labor and industries must initiate an emergency rule making on May 7, 2019, to be completed by December 1, 2019, to:

(a) Define and set minimum requirements for all labor standards identified in subsection (1)(c) of this section; and

(b) Set requirements for all good faith efforts under subsection (1)(c)(i) and (ii) of this section, as well as documentation requirements and a certification process. Requirements for all good faith efforts must be designed to maximize the likelihood that the project is completed with said standards and could include: Proactive outreach to firms that are women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms; participating in community job fairs, conferences, and trade shows; and other measures. The certification process and timeline must be designed to prevent undue delay to project development.

(3)(a)(i) A person claiming an exemption in the form of a remittance under subsection (1)(b) and (c) of this section must pay the tax imposed by RCW 82.12.020 and all applicable local use taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The consumer may then apply to the department for remittance in a form and manner prescribed by the department. A consumer may not apply for a remittance under this section more frequently than once per quarter. The consumer must specify the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The consumer must retain, in adequate detail, records to enable the department to determine whether the consumer is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(ii) The application for remittance must include a copy of the certificate issued for the project by the department of labor and industries under subsection (1) of this section.

(b) The department must determine eligibility for remittances under this section based on the information provided by the consumer, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying consumers who submitted applications during the previous quarter.

(4) Purchases exempt under RCW 82.08.962 are also exempt from the tax imposed under RCW 82.12.020.

(5) The definitions in RCW 82.08.962 apply to this section.

(6) The exemption provided in subsection (1) of this section does not apply:

(a) To machinery and equipment used directly in the generation of electricity using solar energy and capable of generating no more than five hundred kilowatts AC of electricity, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, when first use within this state of such machinery and equipment, or labor and services, occurs after September 30, 2017, and before January 1, 2020, except as otherwise provided in subsection (7) of this section; and

(b) To any other machinery and equipment described in subsection (1)(a) of this section, or to sales of or charges made for labor and services rendered in respect to installing such machinery or equipment, when first use within this state of such machinery and equipment, or labor and services, occurs after December 31, 2029.

(7)(a) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if first use within the state of the machinery and equipment commences on or after January 1, 2020.

(b) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating no more than one hundred kilowatts AC of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if first use within the state of the machinery and equipment commences on or after July 1, 2019.

(8) The exemption provided by this section for machinery and equipment used directly in generating electricity from water does not apply to local sales and use taxes imposed under chapter 82.14 RCW.

(9) This section expires January 1, 2030.

**Sec.**  RCW 82.14.455 and 2009 c 469 s 105 are each amended to read as follows:

(1) Except as provided otherwise in subsection (2) of this section, the exemptions in RCW 82.08.962, 82.12.962, 82.08.963, and 82.12.963 are for the state and local sales and use taxes and include the sales and use taxes imposed under the authority of this chapter.

(2) Machinery and equipment used directly in generating electricity using water are not exempt from the local sales and use taxes imposed under the authority of this chapter.

NEW SECTION. **Sec.**  RCW 82.32.805 and 82.32.808 do not apply to this act.

NEW SECTION. **Sec.**  This act takes effect July 1, 2020."

**SSB 6012** - S AMD **912**

By Senator Hawkins

**PULLED 02/05/2020**

On page 1, line 2 of the title, after "incentives;" strike the remainder of the title and insert "amending RCW 82.08.962, 82.12.962, and 82.14.455; creating a new section; and providing an effective date."

EFFECT: Allows a 75 percent exemption for renewable energy machinery and equipment purchased and installed as part of a contract in effect as of January 1, 2020, without having to meet the new labor standards other than a prevailing wage requirement.