**6012-S AMS KEIS S4518.6 - NOT FOR FLOOR USE**

**SSB 6012** - S AMD TO S AMD (S-4494.1/19) **891**

By Senator Keiser

**NOT CONSIDERED 12/11/2019**

Beginning on page 1, line 3, strike all of sections 1 and 2 and insert the following:

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

(1)(a) Qualifying utilities are eligible for an exemption from the tax imposed in RCW 82.08.020. The exemption in this section is in the form of a refund of a portion of the state retail sales tax paid by the qualifying utility on:

(i) Machinery and equipment used directly in generating electricity using fresh water as the principal source of power; and

(ii) Labor and services rendered in respect to installing machinery and equipment described in (a)(i) of this subsection.

(b) Beginning January 1, 2020, through December 31, 2029, the purchaser is entitled to a remittance in an amount equal to:

(i) Fifty percent of the state sales tax paid, if the exempt purchase is for machinery and equipment or labor and services rendered in respect to installing such machinery and equipment in (a)(i) 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;

(ii) Seventy-five percent of the state sales tax paid, if the department of labor and industries certifies that the project complies with (b)(i) 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

(iii) One hundred percent of the state 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.

(c) In order to qualify for the refund under (b) 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.

(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) of this section; and

(ii) Set requirements for all good faith efforts under subsection (1) 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 under this subsection (2) must be adopted by December 1, 2019, and must take effect January 1, 2020.

(3) Machinery and equipment is "used directly" in generating electricity using fresh water as the principal source of power, if the machinery and equipment provides any part of the process that captures the energy of fresh water, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

(4) The exemption under subsection (1) of this section applies only with respect to machinery and equipment and installation labor and services, received by the qualifying utility on or after January 1, 2020, and before January 1, 2030. For purposes of this subsection, "received" has the same meaning as "receive" and "receipt" in RCW 82.32.730.

(5)(a) A qualifying utility claiming an exemption in the form of a refund under subsection (1) of this section must first 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 on purchases qualifying for the exemption.

(b)(i) The qualifying utility may then apply to the department for a refund in a form and manner prescribed by the department. A qualifying utility may not apply for a refund under this section more frequently than once per calendar quarter. The qualifying utility must specify the amount of exempted tax claimed and the qualifying purchases for which the exemption is claimed. The qualifying utility must retain, in adequate detail, records to enable the department to determine whether the qualifying utility 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.

(c) The department must determine eligibility under this section based on the information provided by the qualifying utility, which is subject to audit verification by the department. The department must on a quarterly basis refund exempted amounts to qualifying utilities that submitted complete applications during the previous calendar quarter.

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

(a) "Increase electricity output" means improvements in efficiency, increases in capacity, or the extension of the useful life of the facility.

(b)(i) "Machinery and equipment" means fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using fresh water, and that increase electricity output, including component parts of such fixtures, devices, and support facilities. "Machinery and equipment" includes but is not limited to turbines, generators, pipes, control gates, pumps, transformers, and power lines.

(ii) "Machinery and equipment" does not include: (A) Hand-powered tools; (B) property with a useful life of less than one year; (C) buildings and other structures, such as dams, power houses, and fish ladders, and transmission towers; and (D) 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.

(c) "Project labor agreement" and "community workforce agreement" have the same meanings as provided in RCW 82.08.962.

(d) "Qualifying utility" means a light and power business, as defined in RCW 82.16.010, that owns and operates a hydroelectric power generation plant.

(7) This section expires January 1, 2030.

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

(1)(a) Qualifying utilities are eligible for an exemption from the tax imposed in RCW 82.12.020 in the form of a refund of a portion of the state use tax paid by the qualifying utility on:

(i) Machinery and equipment used directly in generating electricity using fresh water as the principal source of power; and

(ii) Labor and services rendered in respect to the installing of machinery and equipment described in (a)(i) of this subsection.

(b) Beginning January 1, 2020, through December 31, 2029, the purchaser is entitled to a remittance in an amount equal to:

(i) Fifty percent of the state use tax paid, if the exempt purchase is for machinery and equipment or labor and services rendered in respect to installing such machinery and equipment in (a)(i) 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;

(ii) Seventy-five percent of the state use tax paid, if the department of labor and industries certifies that the project complies with (b)(i) 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

(iii) One hundred percent of the state 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.

(c) In order to qualify for the refund under (b) 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.

(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) of this section; and

(ii) Set requirements for all good faith efforts under subsection (1) 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 under this subsection (2) must be adopted by December 1, 2019, and must take effect January 1, 2020.

(3) Machinery and equipment is "used directly" in generating electricity using fresh water as the principal source of power, if the machinery and equipment provides any part of the process that captures the energy of fresh water, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

(4) The exemption under subsection (1) of this section applies only with respect to machinery and equipment and installation labor and services, first used within this state by the qualifying utility on or after January 1, 2020, and before January 1, 2030.

(5)(a) A qualifying utility claiming an exemption in the form of a refund under subsection (1) of this section must first 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 on machinery and equipment and labor and services qualifying for the exemption.

(b)(i) The qualifying utility may then apply to the department for a refund in a form and manner prescribed by the department. A qualifying utility may not apply for a refund under this section more frequently than once per calendar quarter. The qualifying utility must specify the amount of exempted tax claimed and the qualifying purchases for which the exemption is claimed. The qualifying utility must retain, in adequate detail, records to enable the department to determine whether the qualifying utility 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.

(c) The department must determine eligibility under this section based on the information provided by the qualifying utility, which is subject to audit verification by the department. The department must on a quarterly basis refund exempted amounts to qualifying utilities that submitted complete applications during the previous calendar quarter.

(6) Purchases exempt under section 1 of this act are also exempt from the tax imposed under RCW 82.12.020.

(7) The definitions in section 1 of this act apply to this section.

(8) This section expires January 1, 2030."

EFFECT: (1) Establishes a stand-alone exemption for a portion of the state sales and use tax for qualifying utilities on machinery and equipment used directly in generating electricity using fresh water and on labor and services rendered in respect to installing such machinery and equipment.

(2) Includes the labor standards in E2SSB 5116 to qualify for the sales and use tax exemption. If the department of labor and industries certifies that the project contracts with certain businesses, including women, minority, or veteran-owned businesses, the taxpayer is eligible for a 50 percent exemption. Additionally, if the project pays prevailing wage rates, the taxpayer is eligible for a 75 percent exemption. A 100 percent exemption is authorized if L&I certifies that the project is developed under a community workforce agreement or project labor agreement.

(3) Provides that the machinery and equipment must increase electricity output as defined herein.