

ESSB 6012 - H COMM AMD
By Committee on Finance

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that
4 Washington, through implementation of the clean energy transformation
5 act, is transforming its energy supply and modernizing its
6 electricity system. In implementing this act, the state is
7 prioritizing creation of family wage jobs and providing safeguards to
8 ensure that the achievement of this policy does not impair the
9 reliability of the electricity system or impose unreasonable costs on
10 utility customers.

11 (2) The legislature finds that to accomplish the goals of chapter
12 288, Laws of 2019—promote energy independence; create high-quality
13 jobs in the clean energy sector; maximize the value of hydropower,
14 our principal renewable resource; maintain safe and reliable
15 electricity to all customers at stable and affordable rates; and
16 protect clean air and water in the Pacific Northwest—utilities will
17 need to invest in new renewable energy sources and maximize the use
18 of existing resources, especially renewable resources that can be
19 called upon to produce electricity at all hours throughout the year.

20 (3) The legislature declares that the state has an important role
21 to play in supporting the development of these new renewable energy
22 resources, including the provision of incentives to support
23 hydropower system investments that are specifically targeted to
24 achieve the goals of this policy, provided said investments, and
25 resulting operations maintain or enhance fish conservation mandates
26 and responsibilities.

27 (4) It is the intent of the legislature to exempt from sales and
28 use taxes hydropower system investments that directly support the
29 goals of chapter 288, Laws of 2019. The total amount of exemption
30 will be determined based on the prorated share of hydropower capacity
31 owned by each utility in Washington state as of December 31, 2019.

1 NEW SECTION. **Sec. 2.** (1) This section is the tax preference
2 performance statement for the sales and use tax exemptions contained
3 in sections 3 and 4, chapter . . ., Laws of 2020 (sections 3 and 4 of
4 this act). This performance statement is only intended to be used for
5 subsequent evaluation of these tax preferences. It is not intended to
6 create a private right of action by any party or be used to determine
7 eligibility for preferential tax treatment.

8 (2) The legislature categorizes these sales and use tax
9 exemptions as ones intended to induce certain designated behavior by
10 taxpayers, as indicated in RCW 82.32.808(2)(a).

11 (3) If a review finds that the exemptions provided in sections 3
12 and 4, chapter . . ., Laws of 2020 (sections 3 and 4 of this act)
13 support the goals of chapter 288, Laws of 2019—to promote energy
14 independence; create high-quality jobs in the clean energy sector;
15 maximize the value of hydropower, our principal renewable resource;
16 maintain safe and reliable electricity to all customers at stable and
17 affordable rates; and protect clean air and water in the Pacific
18 Northwest—then the legislature intends to extend the expiration date
19 of these tax preferences.

20 (4) In order to obtain the data necessary to perform the review
21 in subsection (3) of this section, the joint legislative audit and
22 review committee may refer to any data collected by the state.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.08
24 RCW to read as follows:

25 (1) Beginning July 1, 2020, the tax imposed by RCW 82.08.020 does
26 not apply to the following:

27 (a) The sale of or charge made for machinery and equipment, and
28 labor and services, that will provide additional support for the
29 transition to clean energy through incremental increases in
30 production, capacity, flexibility, or efficiency of operation or
31 performance from the refurbishment or replacement of existing
32 machinery and equipment, or purchase of new machinery and equipment,
33 for an existing hydroelectric generation facility; and

34 (b) The sale of or charge made for machinery and equipment, and
35 labor and services, necessary for an existing hydroelectric
36 generation facility to develop self-lubricating adjustable turbine
37 blade hubs for further evaluation and testing.

38 (2) In order to qualify for the exemption provided in subsection
39 (1) of this section:

1 (a) Machinery and equipment must be received by the purchaser
2 after June 30, 2020, and before July 1, 2031; and

3 (b) Labor and services, as described in subsection (1) of this
4 section, must be rendered after June 30, 2020, and before July 1,
5 2031.

6 (3) (a) (i) The total exemption from the state sales and use tax
7 under this section and section 4 of this act is subject to the
8 following biennial limits:

9 (A) For fiscal year 2021, two million five hundred thousand
10 dollars; and

11 (B) For each biennium beginning on or after July 1, 2021, five
12 million dollars.

13 (ii) Unclaimed exempted amounts from fiscal year 2021 or a given
14 biennium must be carried over and added to the limit of the following
15 biennium.

16 (b) Each generating utility in the state is eligible for a
17 proportional amount of the total tax preference over eleven years.
18 This figure will be based on the prorated share of total hydropower
19 generator capacity owned by each generating utility in Washington
20 state as of December 31, 2019. The department of commerce must
21 calculate the prorated shares based on information provided by the
22 utilities and provide this information to the department of revenue.

23 (c) A generating utility may claim an exemption at any time
24 during the eleven-year period that this exemption is in effect, up to
25 its prorated share and subject to the statutory time limitations in
26 RCW 82.32.060. Applications for remittance will be processed on a
27 first-in-time basis. If funds are not available in the biennium in
28 which the application is submitted to the department, the generating
29 utility will be eligible to claim funds the following biennium before
30 any new applicants.

31 (4) (a) The exemption provided under this section is in the form
32 of a remittance and applies only to the state portion of the tax. A
33 generating utility claiming an exemption from the state portion of
34 the sales tax for eligible projects under this section must pay all
35 state and local sales and use taxes. The buyer may then apply to the
36 department for remittance on an annual basis for one hundred percent
37 of the state sales and use tax paid on qualifying purchases subject
38 to the requirements of this section.

39 (b) The department must determine eligibility under this section
40 based on information provided by the buyer and through audit and

1 other administrative records. The buyer must submit an application,
2 in a form and manner as required by the department, specifying the
3 amount of exempted tax claimed and the qualifying purchases or
4 acquisitions for which the exemption is claimed. The buyer must
5 retain, in adequate detail to enable the department to determine
6 whether the charges made for machinery and equipment, and labor and
7 services, meet the criteria under this section: Invoices; proof of
8 tax paid; documents describing the equipment; and construction
9 invoices and documents.

10 (c) As part of the application for a remittance under this
11 section, the generating utility must attest:

12 (i) (A) That the contractors on the project have a history of
13 complying with federal and state wage and hour laws and regulations;
14 or

15 (B) That the project is developed under a community workforce
16 agreement or project labor agreement; or

17 (ii) That, if the contract for refurbishment or upgrade of a
18 hydroelectric generation facility or machinery and equipment therein
19 under subsection (1)(a) or (b) of this section was executed prior to
20 July 1, 2020, and the remaining machinery and equipment, and labor
21 and services, will be delivered or rendered on or after July 1, 2020,
22 either of the conditions in (c)(i) of this subsection (4) is met and
23 wages consistent with chapter 39.12 RCW are paid on the project.

24 (d) If the department determines that any of the facts attested
25 to as required under (c) of this subsection are not true, the
26 department must deny the application for remittance. However, nothing
27 in this section requires the department to endeavor to determine the
28 veracity of the facts attested to as required under (c) of this
29 subsection. Upon the department's request, state agencies must
30 provide assistance to the department in reviewing the information
31 submitted by a generating utility as required by (c) of this
32 subsection.

33 (e) Upon approval of an application for remittance under this
34 section, the department must remit exempted amounts to the generating
35 utility. Remittances under this section are subject to repayment if
36 the department subsequently determines, through audit or other
37 information, that the generating utility was not eligible for the
38 remittance.

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

1 (a) "Eligible project" means a project meeting the requirements
2 in subsection (1) of this section within a hydroelectric facility
3 designed to generate at least one thousand kilowatts of electricity
4 using the energy of falling or flowing fresh water.

5 (b) (i) "Generating utility" means public and private utilities
6 regulated under the laws of Washington state that own and operate
7 hydroelectric facilities located within the state.

8 (ii) "Generating utility" does not include hydroelectric
9 facilities owned by the federal government.

10 (c) "Labor and services" means work associated with demolition,
11 removal, and deconstruction of an existing turbine or generation
12 machinery and equipment; and the construction, installation,
13 alteration, replacement, repair, cleaning, conversion, or assembly of
14 the self-lubricating adjustable turbine blade hub or other machinery
15 and equipment that is acquired or used as part of an eligible
16 project.

17 (d) (i) "Machinery and equipment" means fixtures, devices, control
18 systems, and support facilities that are integral and necessary to
19 the generation of electricity using the energy of falling or flowing
20 fresh water.

21 (ii) "Machinery and equipment" does not include: (A) Hand-powered
22 tools; (B) property with a useful life of less than one year; (C)
23 repair parts required to restore machinery and equipment to normal
24 working order; (D) replacement parts that do not increase
25 productivity, improve efficiency, or extend the useful life of
26 machinery and equipment; (E) buildings and other structures, such as
27 dams, powerhouses, fish ladders, and transmission towers; and (F)
28 building fixtures that are not integral and necessary to the
29 generation of electricity that are permanently affixed to and become
30 a physical part of a building.

31 (e) "Self-lubricating adjustable turbine blade hub" means a type
32 of horizontal or vertical hydroelectric turbine with adjustable
33 blades that use alternative technology to lubricate the internal
34 components.

35 (6) This section expires July 1, 2031.

36 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.12
37 RCW to read as follows:

38 (1) The tax imposed by RCW 82.12.020 does not apply to the use
39 of:

1 (a) Machinery and equipment, and labor and services, that will
2 provide additional support for the transition to clean energy through
3 incremental increases in production, capacity, flexibility, or
4 efficiency of operation or performance from the refurbishment or
5 replacement of existing machinery and equipment, or purchase of new
6 machinery and equipment, for an existing hydroelectric generation
7 facility; and

8 (b) Machinery and equipment, and labor and services, necessary
9 for an existing hydroelectric generation facility to develop self-
10 lubricating adjustable turbine blade hubs for further evaluation and
11 testing.

12 (2) In order to qualify for the exemption provided in subsection
13 (1) of this section:

14 (a) First use of the machinery and equipment, as described in
15 subsection (1) of this section, must occur after June 30, 2020, and
16 before July 1, 2031; and

17 (b) Labor and services, as described in subsection (1) of this
18 section, must be rendered after June 30, 2020, and before July 1,
19 2031.

20 (3) The definitions, conditions, and requirements under section 3
21 of this act apply to this section.

22 (4) This section expires July 1, 2031.

23 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2020."

24 Correct the title.

EFFECT: (1) Provides that the exemption is for the sale of or
charge made for machinery and equipment, and labor and services, that
will provide additional support for the transition to clean energy
through incremental increases in production, capacity, flexibility,
or efficiency of operation or performance from the refurbishment or
replacement of existing machinery and equipment, or purchase of new
machinery and equipment, for an existing hydroelectric generation
facility. Further provides that the exemption is for the sale of or
charge made for machinery and equipment, and labor and services,
necessary for an existing hydroelectric generation facility to
develop self-lubricating adjustable turbine blade hubs for further
evaluation and testing.

(2) Extends the expiration of the exemption to July 1, 2031.

(3) Provides that the remittance is made on an annual basis.

(4) Requires that goods or services be received or rendered after
June 30, 2020, but before July 1, 2031.

(5) Limits the exemption to \$2.5 million in fiscal year 2021 and
\$5 million per biennium ongoing. Provides that generating utilities
are eligible for a share of the exemption proportionally equal to the

prorated share of total hydropower generator capacity owned by the utility as of December 31, 2019.

(6) Requires that applicants attest that certain labor standards are met in order for a project to be eligible for the exemption.

(7) Makes several changes to administrative provisions of the exemption. Provides additional definitions. Provides findings of the legislature. Modifies the tax preference performance statement to direct the joint legislative audit and review committee to examine whether the exemption supports the goals of chapter 288, Laws of 2019.

(8) Removes the null and void clause.

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