CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1756**

Chapter 427, Laws of 2023

68th Legislature

2023 Regular Session

RENEWABLE ENERGY GENERATION—TAXES

EFFECTIVE DATE: July 23, 2023

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| Passed by the House March 16, 2023  Yeas 81 Nays 12  LAURIE JINKINS  **Speaker of the House of Representatives**  Passed by the Senate April 19, 2023  Yeas 33 Nays 15  DENNY HECK  **President of the Senate** | CERTIFICATE  I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1756** as passed by the House of Representatives and the Senate on the dates hereon set forth.  BERNARD DEAN  Chief Clerk |
| Approved May 11, 2023 9:54 AM | May 11, 2023 |
| JAY INSLEE  **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**SUBSTITUTE HOUSE BILL 1756**

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Passed Legislature - 2023 Regular Session

**State of Washington 68th Legislature 2023 Regular Session**

**By** House Finance (originally sponsored by Representatives Ramel, Klicker, Duerr, Rude, Schmidt, Reed, Kloba, Doglio, Senn, Ryu, and Macri)

AN ACT Relating to supporting clean energy through tax changes that increase revenue to local governments, schools, and impacted communities; adding a new section to chapter 84.36 RCW; adding a new chapter to Title 82 RCW; and creating new sections.

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

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

(1) Provided the taxpayer fulfills the requirements of this section, all qualified personal property owned by a taxpayer is exempt from property taxes levied for any state purpose.

(2)(a) Unless a taxpayer is assessed under chapter 84.12 RCW, a claim for an exemption under this section from taxes payable the following year must be filed by March 31st with the county assessor together with the statement required under RCW 84.40.190 and a statement attesting that the taxpayer meets the requirements of subsection (3) of this section. The claim must be made upon forms as prescribed and furnished by the department. The application must indicate if the taxpayer is applying for a 10 or 15-year exemption.

(b) If a taxpayer is assessed under chapter 84.12 RCW, a claim for an exemption under this section from taxes payable the following year must be filed by March 31st with the department together with the annual report required under RCW 84.12.230 and a statement attesting that the taxpayer meets the requirements of subsection (3) of this section. The claim must be made upon forms as prescribed and furnished by the department. The application must indicate if the taxpayer is applying for a 10 or 15-year exemption.

(c) The taxpayer claiming an exemption under this subsection (2) and paying the production excise tax under section 2 of this act must file an annual attestation in the manner and form prescribed by the department.

(3) The taxpayer must register with the department to pay the production excise tax authorized in section 2 of this act.

(4) An exemption granted pursuant to this section to a taxpayer compliant with requirements of this section is granted for 10 or 15 years following the date on which the facility where the qualified personal property is located first becomes operational.

(5) The department must apportion personal property assessed under chapter 84.12 RCW that is granted an exemption under this section pursuant to RCW 84.12.360.

(6)(a) If a taxpayer fails to meet the annual attestation requirement in subsection (2)(c) of this section or fails to pay the production excise tax required in section 2 of this act, the department shall send a notice to the taxpayer to comply or forfeit the exemption. The taxpayer must come into compliance within 60 days from the date of the notice.

(b) Failure to comply with the requirements of this section results in the personal property taxes previously exempted becoming immediately due and payable with interest. The rate of interest must be the same as provided for delinquent taxes in RCW 84.56.020(5). No additional penalties may be assessed; however, credit for production excise taxes paid pursuant to section 2 of this act may not be given in calculating the total amount due under this subsection (6). In addition, the qualified personal property no longer qualifies for a personal property tax exemption under this section.

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

(a) "Personal property" has the same meaning as in RCW 84.04.080.

(b) "Qualified personal property" means personal property that is used exclusively for the generation or storage of renewable energy in a facility, the construction of which began on or after July 1, 2023.

(c) "Renewable energy" means energy produced by a solar or wind facility with nameplate capacity sufficient to generate at least 10 megawatts of nameplate capacity of alternating current power.

NEW SECTION. **Sec.**  (1)(a) For taxpayers granted an exemption under section 1 of this act, an excise tax is imposed on the privilege of using qualified renewable energy generating systems used as an electric power source in the state. The rate of the tax is as follows:

(i) $80 per month per megawatt of nameplate capacity of alternating current power for a qualified renewable energy generating system that uses solar energy to generate electricity and that was granted an exemption under section 1 of this act for 10 years;

(ii) $75 per month per megawatt of nameplate capacity of alternating current power for a qualified renewable energy generating system that uses solar energy to generate electricity and that was granted an exemption under section 1 of this act for 15 years;

(iii) $150 per month per megawatt of nameplate capacity of alternating current power for a qualified renewable energy generating system that uses wind energy to generate electricity and that was granted an exemption under section 1 of this act for 10 years;

(iv) $130 per month per megawatt of nameplate capacity of alternating current power for a qualified renewable energy generating system that uses wind energy to generate electricity and that was granted an exemption under section 1 of this act for 15 years.

(b) For taxpayers granted an exemption under section 1 of this act, a tax is imposed on the capacity of the renewable energy storage system of a qualified renewable energy generating system.

(i) The rate of the tax is $19 per month per megawatt hour of renewable energy storage capacity for exemptions granted under section 1 of this act for 10 years.

(ii) The rate of the tax is $14 per month per megawatt hour of renewable energy storage capacity for exemptions granted under section 1 of this act for 15 years.

(2) To ensure the rate structures reflect changes in technology, capacity, markets incentives, and inflation, the department may recommend to the legislature changes to the production excise tax rates in subsection (1) of this section to ensure a balance between the value of the exemptions granted pursuant to section 1 of this act and the production excise tax rate imposed pursuant to this section. The goal is to optimize revenues for local communities while maintaining a rate and tax incentive program that is attractive to project developers.

(3) For taxpayers not assessed under chapter 84.12 RCW, the county assessor must provide a list of taxpayers granted an exemption under section 1 of this act for the following year, along with any other information required, to the department by August 1st each year.

(4) A taxpayer applying for an exemption under section 1 of this act for the following year must register with the department prior to submitting an application under section 1 of this act. If the application for an exemption under section 1 of this act is granted for any calendar year, payment of the taxes imposed under this section are due.

(5) The taxpayer claiming an exemption under section 1 of this act and paying the production excise tax under this section must file an annual attestation in the manner and form prescribed by the department.

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

(a) "Qualified renewable energy generating system" means a set of devices whose primary purpose is to produce electricity by means of any combination of collecting, transferring, or converting renewable energy and that is receiving an exemption under section 1 of this act.

(b) "Renewable energy" means energy produced by a solar or wind facility with nameplate capacity sufficient to generate at least 10 megawatts of nameplate capacity of alternating current power.

(c) "Renewable energy storage capacity" means the battery storage capacity per megawatt hour.

(d) "Renewable energy storage system" means battery storage or battery energy storage system that can store renewable energy when production exceeds demand and release energy when energy demand increases.

NEW SECTION. **Sec.**  (1) The renewable energy local benefit account is created in the state treasury. All receipts from the production excise tax in section 2 of this act must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for qualified local counties and qualified school districts.

(2) The total amount appropriated to qualified counties and the qualified school districts within those counties must be in proportion to the amount of production excise tax paid by renewable energy systems located in those counties and must be distributed as follows:

(a) Each qualified county must receive an appropriation equal to 42.5 percent of the production excise tax paid by a renewable energy system located in the county.

(b) Qualified federally recognized Indian tribes must receive an appropriation totaling 15 percent of the production excise tax paid by a renewable energy system impacting the tribes' resources or rights.

(c) Each qualified school district must receive an appropriation from the remaining 42.5 percent of the production excise tax paid by a renewable energy system located in the same county in proportion to the number of students being served by that district.

(3) For the purposes of this section, the definitions in this subsection apply unless the context clearly requires otherwise.

(a) "Qualified county" means a county that has a renewable energy system that receives a tax exemption under section 1 of this act and pays the production excise tax under section 2 of this act.

(b) "Qualified federally recognized Indian tribe" means a federally recognized Indian tribe with rights or lands reserved or protected by federal treaty, statute, or executive order that are potentially impacted by a renewable energy system that receives a tax exemption under section 1 of this act and pays the production excise tax under section 2 of this act.

(c) "Qualified school district" means a school district that is located in a county that has a renewable energy system that receives a tax exemption under section 1 of this act and pays the production excise tax under section 2 of this act.

NEW SECTION. **Sec.**  All of the provisions contained in chapter 82.32 RCW not inconsistent with the provisions of this chapter have full force and application with respect to taxes imposed under the provisions of this chapter.

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

NEW SECTION. **Sec.**  Sections 2 through 4 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. **Sec.**  This act applies to taxes levied for collection in 2025 and thereafter.

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Passed by the House March 16, 2023.

Passed by the Senate April 19, 2023.

Approved by the Governor May 11, 2023.

Filed in Office of Secretary of State May 11, 2023.