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**SECOND SUBSTITUTE SENATE BILL 5689**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Stanford, Braun, Keiser, Rolfes, and Saldaña)

1 AN ACT Relating to providing a sales and use tax exemption  
2 related to internet and telecommunications infrastructure projects  
3 involving a federally recognized Indian tribe; adding new sections to  
4 chapter 82.08 RCW; adding a new section to chapter 82.12 RCW;  
5 creating a new section; and providing expiration dates.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08  
8 RCW to read as follows:

9 (1) The tax levied by RCW 82.08.020 does not apply to sales of  
10 building materials, telecommunications equipment, or any personal  
11 property used or incorporated into a qualified infrastructure  
12 project. This exemption also applies to charges made for the labor  
13 and services related to the construction of a qualified  
14 infrastructure project or the installation of any equipment or other  
15 personal property incorporated into a qualified infrastructure  
16 project.

17 (2)(a) In order to obtain an exemption certificate under this  
18 section, a taxpayer working on a qualified infrastructure project  
19 must submit an application to the department for an exemption  
20 certificate. The application must include the information necessary,  
21 as required by the department to determine that the taxpayer

1 qualifies for the exemption under this section. The application must  
2 also include certification from the owner of the qualified  
3 infrastructure project that the taxpayer is associated with the  
4 qualified infrastructure project and any other information as  
5 required by the department. The department must issue an exemption  
6 certificate to qualified taxpayers.

7 (b) A qualified taxpayer claiming the exemption under this  
8 section must present the seller with an exemption certificate in a  
9 form and manner prescribed by the department. The seller must retain  
10 a copy of the certificate for the seller's files.

11 (c) The exemption certificate is effective on the date the  
12 application is received by the department, which is the date of  
13 issuance. Only purchases on or after the date of issuance qualify for  
14 the exemption under this section. No tax refunds are authorized for  
15 purchases made before the effective date of the exemption.

16 (d) An exemption certificate expires on the date the project is  
17 certified as complete by the qualified infrastructure project owner  
18 or December 31, 2029, whichever is first.

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

21 (a) "Qualified infrastructure project" means the construction of  
22 buildings and utilities related to the deployment of modern global  
23 internet and telecommunications infrastructure that occurs in part in  
24 a distressed county located on the coast of Washington. The  
25 infrastructure may include, but is not limited to, cable landing  
26 stations, communications hubs, buried utility connections and  
27 extension, and any related equipment and buildings that will add  
28 broadband capacity and infrastructure to the area.

29 (b) "Qualified infrastructure project owner" means a federally  
30 recognized tribe and an indigenous-owned business entity that is  
31 deploying an internet and telecommunications infrastructure in at  
32 least one distressed county on the coast of Washington.

33 (4) The total amount of state sales and use tax exempted under  
34 this section and section 2 of this act may not exceed \$8,000,000. A  
35 qualified infrastructure project owner within 60 days of the  
36 expiration of the exemption certificate under subsection (2)(d) of  
37 this section must pay any tax due under this subsection. The  
38 department may not assess penalties and interest as provided in  
39 chapter 82.32 RCW on the amount due if the amount due is paid within  
40 the 60-day period, or any extension thereof. The department may

1 require a qualified infrastructure project owner to periodically  
2 submit documentation, as specified by the department, prior to the  
3 expiration of the exemption certificate to allow the department to  
4 track the total amount of sales and use tax exempted under this  
5 section and section 2 of this act.

6 (5) This section expires December 31, 2029.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12  
8 RCW to read as follows:

9 (1) Provided an exemption certificate has been issued pursuant to  
10 section 1 of this act, the provisions of this chapter do not apply  
11 with respect to the use of building materials as well as charges made  
12 for the labor and services related to the construction of a qualified  
13 infrastructure project. This exemption also applies to charges made  
14 for the labor and services related to the construction of a qualified  
15 infrastructure project or the installation of any equipment or other  
16 personal property incorporated into a qualified infrastructure  
17 project.

18 (2) The definitions and requirements in section 1 of this act  
19 apply to this section.

20 (3) This section expires December 31, 2029.

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

23 (1) From the effective date of this section, in order to obtain  
24 the exemptions provided in sections 1 and 2 of this act, a qualified  
25 infrastructure project owner must certify to the department of labor  
26 and industries that, for new construction work to be performed on the  
27 site of the qualified infrastructure project, the project will be  
28 performed under the terms of a community workforce agreement or  
29 project labor agreement negotiated prior to the start of the  
30 qualified infrastructure project. The agreement must include worker  
31 compensation requirements consistent with the payment of area  
32 standard prevailing wages in accordance with chapter 39.12 RCW,  
33 apprenticeship utilization requirements, and tribal employment and  
34 contracting opportunities, provided the following apply:

35 (a) The owner and the prime contractor and all of its  
36 subcontractors regardless of tier have the absolute right to select  
37 any qualified and responsible bidder for the award of contracts on a  
38 specified project without reference to the existence or nonexistence

1 of any agreements between such bidder and any party to such project  
2 labor agreement, and only when such bidder is willing, ready, and  
3 able to become a party to, signs a letter of assent, and complies  
4 with such agreement or agreements, should it be designated the  
5 successful bidder; and

6 (b) It is understood that this is a self-contained, stand-alone  
7 agreement, and that by virtue of having become bound to such  
8 agreement or agreements, neither the project contractor nor the  
9 subcontractors are obligated to sign any other local, area, or  
10 national agreement.

11 (2) This section expires December 31, 2029.

12 NEW SECTION. **Sec. 4.** RCW 82.32.808 does not apply to this act.

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