

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5111

Chapter 301, Laws of 2005

59th Legislature
2005 Regular Session

SOLAR ENERGY--TAX CREDITS

EFFECTIVE DATE: 7/1/05

Passed by the Senate April 20, 2005
YEAS 46 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 13, 2005
YEAS 96 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 6, 2005.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5111** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 6, 2005 - 11:17 a.m.

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5111

AS AMENDED BY THE HOUSE

Passed Legislature - 2005 Regular Session

State of Washington **59th Legislature** **2005 Regular Session**

By Senate Committee on Ways & Means (originally sponsored by Senators Morton, Poulsen, Parlette, Roach, Schmidt, Oke, Hewitt, Zarelli, Finkbeiner, Stevens, Swecker, Deccio, Honeyford, Mulliken, Kline and Sheldon)

READ FIRST TIME 03/08/05.

1 AN ACT Relating to providing incentives to support the renewable
2 energy industry in Washington state; reenacting and amending RCW
3 82.04.440; adding a new section to chapter 82.04 RCW; adding a new
4 section to chapter 82.32 RCW; creating new sections; providing an
5 effective date; providing an expiration date; and declaring an
6 emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that the welfare of
9 the people of the state of Washington is positively impacted through
10 the encouragement and expansion of key growth industries in the state.
11 The legislature further finds that targeting tax incentives to focus on
12 key growth industries is an important strategy to enhance the state's
13 business climate.

14 A recent report by the Washington State University energy program
15 recognized the solar electric industry as one of the state's important
16 growth industries. It is of great concern that businesses in this
17 industry have been increasingly expanding and relocating their
18 operations elsewhere. The report indicates that additional incentives

1 for the solar electric industry are needed in recognition of the unique
2 forces and issues involved in business decisions in this industry.

3 Therefore, the legislature intends to enact comprehensive tax
4 incentives for the solar electric industry that address activities of
5 the manufacture of these products and to encourage these industries to
6 locate in Washington. Tax incentives for the solar electric industry
7 are important in both retention and expansion of existing business and
8 attraction of new businesses, all of which will strengthen this growth
9 industry within our state, will create jobs, and will bring many
10 indirect benefits to the state.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW
12 to read as follows:

13 (1) Beginning October 1, 2005, upon every person engaging within
14 this state in the business of manufacturing solar energy systems using
15 photovoltaic modules, or silicon components of such systems; as to such
16 persons the amount of tax with respect to such business shall, in the
17 case of manufacturers, be equal to the value of the product
18 manufactured, or in the case of processors for hire, be equal to the
19 gross income of the business, multiplied by the rate of 0.2904 percent.

20 (2) Beginning October 1, 2005, upon every person engaging within
21 this state in the business of making sales at wholesale of solar energy
22 systems using photovoltaic modules, or silicon components of such
23 systems, manufactured by that person; as to such persons the amount of
24 tax with respect to such business shall be equal to the gross proceeds
25 of sales of the solar energy systems using photovoltaic modules
26 multiplied by the rate of 0.2904 percent.

27 (3) The definitions in this subsection apply throughout this
28 section.

29 (a) "Module" means the smallest nondivisible self-contained
30 physical structure housing interconnected photovoltaic cells and
31 providing a single direct current electrical output.

32 (b) "Photovoltaic cell" means a device that converts light directly
33 into electricity without moving parts.

34 (c) "Solar energy system" means any device or combination of
35 devices or elements that rely upon direct sunlight as an energy source
36 for use in the generation of electricity.

37 (4) This section expires June 30, 2014.

1 **Sec. 3.** RCW 82.04.440 and 2004 c 174 s 5 and 2004 c 24 s 7 are
2 each reenacted and amended to read as follows:

3 (1) Every person engaged in activities which are within the purview
4 of the provisions of two or more of sections RCW 82.04.230 to
5 82.04.298, inclusive, shall be taxable under each paragraph applicable
6 to the activities engaged in.

7 (2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270,
8 section 2(2) of this act, or 82.04.260 (4) or (13) with respect to
9 selling products in this state shall be allowed a credit against those
10 taxes for any (a) manufacturing taxes paid with respect to the
11 manufacturing of products so sold in this state, and/or (b) extracting
12 taxes paid with respect to the extracting of products so sold in this
13 state or ingredients of products so sold in this state. Extracting
14 taxes taken as credit under subsection (3) of this section may also be
15 taken under this subsection, if otherwise allowable under this
16 subsection. The amount of the credit shall not exceed the tax
17 liability arising under this chapter with respect to the sale of those
18 products.

19 (3) Persons taxable under RCW 82.04.240 or 82.04.260(1)(b) shall be
20 allowed a credit against those taxes for any extracting taxes paid with
21 respect to extracting the ingredients of the products so manufactured
22 in this state. The amount of the credit shall not exceed the tax
23 liability arising under this chapter with respect to the manufacturing
24 of those products.

25 (4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1),
26 section 2(1) of this act, or 82.04.260 (1), (2), (4), (6), or (13) with
27 respect to extracting or manufacturing products in this state shall be
28 allowed a credit against those taxes for any (i) gross receipts taxes
29 paid to another state with respect to the sales of the products so
30 extracted or manufactured in this state, (ii) manufacturing taxes paid
31 with respect to the manufacturing of products using ingredients so
32 extracted in this state, or (iii) manufacturing taxes paid with respect
33 to manufacturing activities completed in another state for products so
34 manufactured in this state. The amount of the credit shall not exceed
35 the tax liability arising under this chapter with respect to the
36 extraction or manufacturing of those products.

37 (5) For the purpose of this section:

38 (a) "Gross receipts tax" means a tax:

1 (i) Which is imposed on or measured by the gross volume of
2 business, in terms of gross receipts or in other terms, and in the
3 determination of which the deductions allowed would not constitute the
4 tax an income tax or value added tax; and

5 (ii) Which is also not, pursuant to law or custom, separately
6 stated from the sales price.

7 (b) "State" means (i) the state of Washington, (ii) a state of the
8 United States other than Washington, or any political subdivision of
9 such other state, (iii) the District of Columbia, and (iv) any foreign
10 country or political subdivision thereof.

11 (c) "Manufacturing tax" means a gross receipts tax imposed on the
12 act or privilege of engaging in business as a manufacturer, and
13 includes (i) the taxes imposed in RCW 82.04.240, 82.04.2909(1), (~~and~~)
14 82.04.260 (1), (2), (4), and (13), and section 2(1) of this act; and
15 (ii) similar gross receipts taxes paid to other states.

16 (d) "Extracting tax" means a gross receipts tax imposed on the act
17 or privilege of engaging in business as an extractor, and includes the
18 tax imposed in RCW 82.04.230 and similar gross receipts taxes paid to
19 other states.

20 (e) "Business", "manufacturer", "extractor", and other terms used
21 in this section have the meanings given in RCW 82.04.020 through
22 82.04.212, notwithstanding the use of those terms in the context of
23 describing taxes imposed by other states.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.32 RCW
25 to read as follows:

26 (1) The legislature finds that accountability and effectiveness are
27 important aspects of setting tax policy. In order to make policy
28 choices regarding the best use of limited state resources the
29 legislature needs information on how a tax incentive is used.

30 (2)(a) A person who reports taxes under section 2 of this act shall
31 make an annual report to the department detailing employment, wages,
32 and employer-provided health and retirement benefits per job at the
33 manufacturing site. The report shall not include names of employees.
34 The report shall also detail employment by the total number of full-
35 time, part-time, and temporary positions. The first report filed under
36 this subsection shall include employment, wage, and benefit information
37 for the twelve-month period immediately before first use of a

1 preferential tax rate under section 2 of this act. The report is due
2 by March 31st following any year in which a preferential tax rate under
3 section 2 of this act is used. This information is not subject to the
4 confidentiality provisions of RCW 82.32.330.

5 (b) If a person fails to submit an annual report under (a) of this
6 subsection, the department shall declare the amount of taxes reduced
7 for the previous calendar year to be immediately due and payable.
8 Excise taxes payable under this subsection are subject to interest, but
9 not penalties, at the rate provided for delinquent taxes, as provided
10 under this chapter. The department shall assess interest,
11 retroactively to the date the preferential tax rate under section 2 of
12 this act, was used. The interest shall be assessed at the rate
13 provided for delinquent excise taxes under this chapter, and shall
14 accrue until the taxes for which the preferential tax rate was used are
15 repaid. This information is not subject to the confidentiality
16 provisions of RCW 82.32.330.

17 NEW SECTION. **Sec. 5.** (1) Using existing sources of information,
18 the department shall report to the house appropriations committee, the
19 house committee dealing with energy issues, the senate committee on
20 ways and means, and the senate committee dealing with energy issues by
21 December 1, 2013. The report shall measure the impacts of this act,
22 including the total number of solar energy system manufacturing
23 companies in the state, any change in the number of solar energy system
24 manufacturing companies in the state, and, where relevant, the effect
25 on job creation, the number of jobs created for Washington residents,
26 and any other factors the department selects.

27 (2) The department shall not conduct any new surveys to provide the
28 report in subsection (1) of this section.

29 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and takes effect
32 July 1, 2005.

Passed by the Senate April 20, 2005.

Passed by the House April 13, 2005.

Approved by the Governor May 6, 2005.

Filed in Office of Secretary of State May 6, 2005.