
HOUSE BILL 1856

State of Washington

63rd Legislature

2013 Regular Session

By Representatives Morris and Pollet

Read first time 02/12/13. Referred to Committee on Finance.

1 AN ACT Relating to fossil fuel production; amending RCW 43.180.260
2 and 43.30.385; adding a new section to chapter 84.36 RCW; adding a new
3 chapter to Title 82 RCW; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Gas" means natural gas and casinghead gas, or other gaseous
8 hydrocarbons from any lands or waters of this state, regardless of
9 whether it is produced from a gas well or from a well producing oil or
10 other liquid hydrocarbons.

11 (2) "Oil" means crude oil, condensate, distillate, or other oil, or
12 other liquid hydrocarbons extracted from any lands or waters of this
13 state, regardless of gravity.

14 (3) "Operating producer" means a producer who shares in the
15 production expenses of the severed product, and who conducts,
16 personally or by lease or contract, the daily operations of the
17 business of producing the product including, but not limited to, the
18 sale of the product, receipt of proceeds of the sale, and the payment
19 of expenses.

1 (4) "Person" has the meaning provided in RCW 82.04.030.

2 (5) "Point of production" means:

3 (a) For oil, the point where it is severed and is first metered or
4 measured in a manner approved by the department;

5 (b) For gas recovered from, or in association with, oil, where it
6 is severed and is first metered or measured in a manner approved by the
7 department after separation from the oil; and

8 (c) For gas not recovered from, or in association with, oil, where
9 it is severed and is first metered or measured in a manner approved by
10 the department.

11 (6) "Producer" means any person having an economic interest in the
12 severed product, whether engaged in the business of producing or
13 extracting oil or gas or not, who has, as a result of the ownership of
14 such interests, a right to receive a part or all of the oil and gas
15 produced or has a right to receive all or a part of the proceeds of the
16 oil or gas severed. Such persons include, but are not limited to,
17 persons owning a royalty interest, an overriding royalty interest, a
18 working or operating interest, a net profit interest, or any
19 combination thereof, but does not include laborers or employees working
20 on or at the production site.

21 (7) "Severance" means the taking from the lands or waters of this
22 state of any oil and gas in any manner, except that the withdrawal of
23 gas from underground storage, as underground storage is defined in RCW
24 80.40.010, may not constitute severance.

25 (8) "Value" means the fair market value of the oil or gas when
26 first metered and at the point of production.

27 NEW SECTION. **Sec. 2.** (1) In addition to any other tax, an excise
28 tax of twelve percent is imposed upon the severance of oil and gas from
29 any lands or waters of this state, less the value of any part of the
30 oil or gas, the ownership or right to which is exempt from taxation
31 under section 4 of this act.

32 (2) The measure of the tax is the value of the oil and gas at the
33 time and point of production.

34 NEW SECTION. **Sec. 3.** (1) The taxes imposed by this chapter on the
35 severance of oil and gas are the liability of the producer or
36 producers. The operating producer must file the return with the

1 department, must pay the tax due, and must deduct and withhold the
2 ratable share of the tax from payments made to other producers in
3 proportion to their interest.

4 (2) If oil or gas on which the severance and conservation taxes are
5 due is not sold at the time of production but is retained by the
6 producer, the operating producer must pay to the department the taxes
7 due with respect to the oil and gas severed but not sold and must
8 deduct or withhold the ratable share of the tax from payments made to
9 other producers in proportion to their interest.

10 (3) The department may require taxes to be paid upon the basis of
11 the prevailing price being paid when first metered and point of
12 production of other oil or gas of like kind, character, quality, or
13 comparable source when the value reported to the department does not
14 represent the market value of oil or gas sold or retained.

15 NEW SECTION. **Sec. 4.** The following are exempt from the taxes
16 imposed under this chapter:

17 (1) The value of any oil or gas reinjected for storage, provided
18 that any subsequent removal of oil or gas produced in this state from
19 storage for sale, use, or other retention constitutes a severance
20 within the meaning of this chapter;

21 (2) The value of any oil or gas owned by a producer or producers
22 exempt from tax by reason of federal law or a compact negotiated by the
23 state with a tribal government; and

24 (3) The value of liquid hydrocarbons that are a byproduct of carbon
25 sequestration.

26 NEW SECTION. **Sec. 5.** All of chapter 82.32 RCW applies to the tax
27 imposed by this chapter. The department must provide for the effective
28 administration of this chapter by rules which must include, but are not
29 limited to, the value at the time and point of production and a
30 determination of metering methods, and measuring the severance of oil
31 and gas.

32 NEW SECTION. **Sec. 6.** (1) The department must deposit eighty
33 percent of the amount collected under section 2 of this act in the park
34 land trust revolving fund under RCW 43.30.385 reduced by the amount
35 contributed by the taxpayer under subsection (2) of this section.

1 (2) A person may choose to contribute up to forty percent of the
2 tax due under section 2 of this act that would otherwise be deposited
3 into the park land trust revolving fund under RCW 43.30.385 to the
4 sustainable energy trust account created in section 7 of this act.

5 NEW SECTION. **Sec. 7.** (1) In computing tax owed under this
6 chapter, a person may take a credit for contributions made to the
7 sustainable energy trust account. Contributions must be deposited into
8 the sustainable energy trust account created in this section.

9 (2) A person may take a credit under this section for up to forty
10 percent of the person's tax liability in the amount of the contribution
11 made to the sustainable energy trust account.

12 (3) A credit claimed under this section may not exceed the person's
13 tax liability under this chapter in the tax reporting period in which
14 the credit is claimed. Unused credits may be carried forward until
15 used.

16 (4) The sustainable energy trust account is hereby created in the
17 state treasury. The account must be administered by the housing
18 finance commission. Only the commission may authorize expenditures
19 from the account.

20 NEW SECTION. **Sec. 8.** The department must deposit twenty percent
21 of the amount collected under section 2 of this act in the local
22 government severance taxation account established in the state
23 treasury. Moneys in the account may be spent only after appropriation.
24 Expenditures from this account must be used solely for making
25 distributions to those local governments in which impacts from oil and
26 gas production activities occur, after appropriation by statute.

27 **Sec. 9.** RCW 43.180.260 and 2009 c 65 s 3 are each amended to read
28 as follows:

29 (1) If economically feasible, the commission (~~shall~~) must develop
30 and implement a sustainable energy trust program to provide financing
31 for qualified improvement projects. In developing the sustainable
32 energy trust program, the commission (~~shall~~) must establish
33 eligibility criteria for financing that will enable it to choose
34 eligible applicants who are likely to repay loans made or acquired by
35 the commission and funded from the proceeds of commission bonds.

1 (2) The commission (~~shall~~) must, if economically feasible:

2 (a) Issue bonds, as defined in RCW 43.180.020, for the purpose of
3 financing loans for qualified energy efficiency and renewable energy
4 improvement projects in accordance with RCW 43.180.150;

5 (b) Participate fully in federal and other governmental programs
6 and take actions that are necessary and consistent with this chapter to
7 secure to itself and the people of the state the benefits of programs
8 to promote energy efficiency and renewable energy technologies;

9 (c) Contract with a certifying authority to accept applications for
10 energy efficiency and renewable energy improvement projects, to review
11 applications, including binding fixed price bids for the improvements,
12 and to approve qualified improvements for financing by the commission.
13 For solar electric systems, the certifying authority must use an
14 application certification process similar to the investment cost
15 recovery incentive application process provided under RCW 82.16.120.
16 No work by a certifying authority may commence under this section until
17 a request has been made by the commission; and

18 (d) Before entering into a contract with a certifying authority as
19 defined in RCW 43.180.020(2)(b), consult with the Washington State
20 University (~~energy~~) extension (~~{extension-energy}~~) energy program
21 to determine which potential improvement technologies are appropriate.

22 (3) The commission may accept contributions made by a person to the
23 sustainable energy trust account created in section 7 of this act.

24 (4) No general fund resources may be expended to implement this
25 section.

26 NEW SECTION. Sec. 10. A new section is added to chapter 84.36 RCW
27 to read as follows:

28 (1) The following real or personal property is exempt from property
29 taxation: Oil or gas reserves and leases on the rights to develop and
30 operate upon or within any lands and waters of this state for oil or
31 gas and the property rights attached to or inherent therein.

32 (2) This section does not in any way exempt the land, improvements,
33 or other real or personal property from property taxation.

34 Sec. 11. RCW 43.30.385 and 2012 c 166 s 8 are each amended to read
35 as follows:

36 (1) The park land trust revolving fund is to be utilized by the

1 department for the purpose of acquiring real property, including all
2 reasonable costs associated with these acquisitions, as a replacement
3 for the property transferred to the state parks and recreation
4 commission, as directed by the legislature in order to maintain the
5 land base of the affected trusts or under RCW 79.22.060 and to receive
6 voluntary contributions for the purpose of operating and maintaining
7 public use and recreation facilities, including trails, managed by the
8 department.

9 (2) In addition to the other purposes identified in this section,
10 the park land trust revolving fund may be utilized by the department to
11 hold funding for future acquisition of lands for the community forest
12 trust program from willing sellers under RCW 79.155.040.

13 (3)(a) Proceeds from transfers of real property to the state parks
14 and recreation commission or other proceeds identified from transfers
15 of real property as directed by the legislature (~~shall~~) must be
16 deposited in the park land trust revolving fund.

17 (b) Except as otherwise provided in this subsection, the proceeds
18 from real property transferred or disposed under RCW 79.22.060 must be
19 used solely to purchase replacement forest land, that must be actively
20 managed as a working forest, within the same county as the property
21 transferred or disposed. If the real property was transferred under
22 RCW 79.22.060 (1)(c) and (2)(c) from within a county participating in
23 the state forest land pool created under RCW 79.22.140, replacement
24 forest land may be located within any county participating in the land
25 pool.

26 (c) Disbursement from the park land trust revolving fund to acquire
27 replacement property and for operating and maintaining public use and
28 recreation facilities (~~shall~~) must be on the authorization of the
29 department.

30 (d) The proceeds from the recreation access pass account created in
31 RCW 79A.80.090 must be solely used for the purpose of operating and
32 maintaining public use and recreation facilities, including trails,
33 managed by the department.

34 (4) In order to maintain an effective expenditure and revenue
35 control, the park land trust revolving fund is subject in all respects
36 to chapter 43.88 RCW, but no appropriation is required to permit
37 expenditures and payment of obligations from the fund.

1 (5) The department is authorized to solicit and receive voluntary
2 contributions for the purpose of operating and maintaining public use
3 and recreation facilities, including trails, managed by the department.
4 The department may seek voluntary contributions from individuals and
5 organizations for this purpose. Voluntary contributions (~~will~~) must
6 be deposited into the park land trust revolving fund and used solely
7 for the purpose of public use and recreation facilities operations and
8 maintenance. Voluntary contributions are not considered a fee for use
9 of these facilities.

10 (6) A portion of the moneys from this fund collected from the oil
11 and gas severance tax may be used to recover the cost of oil and gas
12 regulation as contained in the budget of the department of natural
13 resources.

14 NEW SECTION. Sec. 12. Sections 1 through 8 of this act constitute
15 a new chapter in Title 82 RCW.

16 NEW SECTION. Sec. 13. If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

20 NEW SECTION. Sec. 14. This act takes effect January 1, 2014.

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