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SENATE BILL 5896

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State of Washington                      63rd Legislature                      2013 Regular Session

By Senators Hobbs, Litzow, Ranker, and Mullet

Read first time 04/04/13. Referred to Committee on Ways & Means.

1            AN ACT Relating to extending renewable energy sales and use tax  
2 exemptions; amending RCW 82.08.962 and 82.12.962; providing expiration  
3 dates; and declaring an emergency.

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

5            **Sec. 1.** RCW 82.08.962 and 2009 c 469 s 101 are each amended to  
6 read as follows:

7            (1)(a) Except as provided in RCW 82.08.963, purchasers who have  
8 paid the tax imposed by RCW 82.08.020 on machinery and equipment used  
9 directly in generating electricity using fuel cells, wind, sun, biomass  
10 energy, tidal or wave energy, geothermal resources, anaerobic  
11 digestion, technology that converts otherwise lost energy from exhaust,  
12 or landfill gas as the principal source of power, or to sales of or  
13 charges made for labor and services rendered in respect to installing  
14 such machinery and equipment, are eligible for an exemption as provided  
15 in this section, but only if the purchaser develops with such  
16 machinery, equipment, and labor a facility capable of generating not  
17 less than one thousand watts of electricity.

18            (b) Beginning on July 1, 2009, through June 30, 2011, the tax  
19 levied by RCW 82.08.020 does not apply to the sale of machinery and

1 equipment described in (a) of this subsection that are used directly in  
2 generating electricity or to sales of or charges made for labor and  
3 services rendered in respect to installing such machinery and  
4 equipment.

5 (c) Beginning on July 1, 2011, through June 30, (~~2013~~) 2017, the  
6 amount of the exemption under this subsection (1) is equal to seventy-  
7 five percent of the state and local sales tax paid. The purchaser is  
8 eligible for an exemption under this subsection (1)(c) in the form of  
9 a remittance.

10 (2) For purposes of this section and RCW 82.12.962, the following  
11 definitions apply:

12 (a) "Biomass energy" includes: (i) By-products of pulping and wood  
13 manufacturing process; (ii) animal waste; (iii) solid organic fuels  
14 from wood; (iv) forest or field residues; (v) wooden demolition or  
15 construction debris; (vi) food waste; (vii) liquors derived from algae  
16 and other sources; (viii) dedicated energy crops; (ix) biosolids; and  
17 (x) yard waste. "Biomass energy" does not include wood pieces that  
18 have been treated with chemical preservatives such as creosote,  
19 pentachlorophenol, or copper-chrome-arsenic; wood from old growth  
20 forests; or municipal solid waste.

21 (b) "Fuel cell" means an electrochemical reaction that generates  
22 electricity by combining atoms of hydrogen and oxygen in the presence  
23 of a catalyst.

24 (c) "Landfill gas" means biomass fuel, of the type qualified for  
25 federal tax credits under Title 26 U.S.C. Sec. 29 of the federal  
26 internal revenue code, collected from a "landfill" as defined under RCW  
27 70.95.030.

28 (d)(i) "Machinery and equipment" means fixtures, devices, and  
29 support facilities that are integral and necessary to the generation of  
30 electricity using fuel cells, wind, sun, biomass energy, tidal or wave  
31 energy, geothermal resources, anaerobic digestion, technology that  
32 converts otherwise lost energy from exhaust, or landfill gas as the  
33 principal source of power.

34 (ii) "Machinery and equipment" does not include: (A) Hand-powered  
35 tools; (B) property with a useful life of less than one year; (C)  
36 repair parts required to restore machinery and equipment to normal  
37 working order; (D) replacement parts that do not increase productivity,  
38 improve efficiency, or extend the useful life of machinery and

1 equipment; (E) buildings; or (F) building fixtures that are not  
2 integral and necessary to the generation of electricity that are  
3 permanently affixed to and become a physical part of a building.

4 (3)(a) Machinery and equipment is "used directly" in generating  
5 electricity by wind energy, solar energy, biomass energy, tidal or wave  
6 energy, geothermal resources, anaerobic digestion, technology that  
7 converts otherwise lost energy from exhaust, or landfill gas power if  
8 it provides any part of the process that captures the energy of the  
9 wind, sun, biomass energy, tidal or wave energy, geothermal resources,  
10 anaerobic digestion, technology that converts otherwise lost energy  
11 from exhaust, or landfill gas, converts that energy to electricity, and  
12 stores, transforms, or transmits that electricity for entry into or  
13 operation in parallel with electric transmission and distribution  
14 systems.

15 (b) Machinery and equipment is "used directly" in generating  
16 electricity by fuel cells if it provides any part of the process that  
17 captures the energy of the fuel, converts that energy to electricity,  
18 and stores, transforms, or transmits that electricity for entry into or  
19 operation in parallel with electric transmission and distribution  
20 systems.

21 (4)(a) A purchaser claiming an exemption in the form of a  
22 remittance under subsection (1)(c) of this section must pay the tax  
23 imposed by RCW 82.08.020 and all applicable local sales taxes imposed  
24 under the authority of chapters 82.14 and 81.104 RCW. The purchaser  
25 may then apply to the department for remittance in a form and manner  
26 prescribed by the department. A purchaser may not apply for a  
27 remittance under this section more frequently than once per quarter.  
28 The purchaser must specify the amount of exempted tax claimed and the  
29 qualifying purchases for which the exemption is claimed. The purchaser  
30 must retain, in adequate detail, records to enable the department to  
31 determine whether the purchaser is entitled to an exemption under this  
32 section, including: Invoices; proof of tax paid; and documents  
33 describing the machinery and equipment.

34 (b) The department must determine eligibility under this section  
35 based on the information provided by the purchaser, which is subject to  
36 audit verification by the department. The department must on a  
37 quarterly basis remit exempted amounts to qualifying purchasers who  
38 submitted applications during the previous quarter.

1 (5) This section expires July 1, (~~2013~~) 2017.

2 **Sec. 2.** RCW 82.12.962 and 2009 c 469 s 102 are each amended to  
3 read as follows:

4 (1)(a) Except as provided in RCW 82.12.963, consumers who have paid  
5 the tax imposed by RCW 82.12.020 on machinery and equipment used  
6 directly in generating electricity using fuel cells, wind, sun, biomass  
7 energy, tidal or wave energy, geothermal resources, anaerobic  
8 digestion, technology that converts otherwise lost energy from exhaust,  
9 or landfill gas as the principal source of power, or to sales of or  
10 charges made for labor and services rendered in respect to installing  
11 such machinery and equipment, are eligible for an exemption as provided  
12 in this section, but only if the purchaser develops with such  
13 machinery, equipment, and labor a facility capable of generating not  
14 less than one thousand watts of electricity.

15 (b) Beginning on July 1, 2009, through June 30, 2011, the  
16 provisions of this chapter do not apply in respect to the use of  
17 machinery and equipment described in (a) of this subsection that are  
18 used directly in generating electricity or to sales of or charges made  
19 for labor and services rendered in respect to installing such machinery  
20 and equipment.

21 (c) Beginning on July 1, 2011, through June 30, 2013, the amount of  
22 the exemption under this subsection (1) is equal to seventy-five  
23 percent of the state and local sales tax paid. The consumer is  
24 eligible for an exemption under this subsection (1)(c) in the form of  
25 a remittance.

26 (2)(a) A person claiming an exemption in the form of a remittance  
27 under subsection (1)(c) of this section must pay the tax imposed by RCW  
28 82.12.020 and all applicable local use taxes imposed under the  
29 authority of chapters 82.14 and 81.104 RCW. The consumer may then  
30 apply to the department for remittance in a form and manner prescribed  
31 by the department. A consumer may not apply for a remittance under  
32 this section more frequently than once per quarter. The consumer must  
33 specify the amount of exempted tax claimed and the qualifying purchases  
34 or acquisitions for which the exemption is claimed. The consumer must  
35 retain, in adequate detail, records to enable the department to  
36 determine whether the consumer is entitled to an exemption under this

1 section, including: Invoices; proof of tax paid; and documents  
2 describing the machinery and equipment.

3 (b) The department must determine eligibility under this section  
4 based on the information provided by the consumer, which is subject to  
5 audit verification by the department. The department must on a  
6 quarterly basis remit exempted amounts to qualifying consumers who  
7 submitted applications during the previous quarter.

8 (3) Purchases exempt under RCW 82.08.962 are also exempt from the  
9 tax imposed under RCW 82.12.020.

10 (4) The definitions in RCW 82.08.962 apply to this section.

11 (5) This section expires (~~June 30, 2013~~) July 1, 2017.

12 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
13 preservation of the public peace, health, or safety, or support of the  
14 state government and its existing public institutions, and takes effect  
15 July 1, 2013.

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