

ESSB 5575 - S AMD 532

By Senators Braun, Ranker

ADOPTED 02/12/2016

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** This section is the tax preference
4 performance statement for the tax preference contained in sections 2
5 and 3 of this act. This performance statement is only intended to be
6 used for subsequent evaluation of the tax preference. It is not
7 intended to create a private right of action by any party or be used
8 to determine eligibility for preferential tax treatment.

9 (1) The legislature categorizes this tax preference as one
10 intended to create or retain jobs, as indicated in RCW
11 82.32.808(2)(c).

12 (2) It is the legislature's specific public policy objective to
13 retain jobs at existing coal-fired electric generation facilities by
14 providing a tax exemption to allow these facilities to convert into
15 natural gas-fired generation plants or biomass energy facilities
16 rather than shut down entirely. It is the legislature's intent to
17 provide a tax exemption for the conversion of a coal-fired electric
18 generation facility into a natural gas-fired generation plant or
19 biomass energy facility, in order to reduce the costs recently
20 imposed by the legislature on companies that operate coal-fired
21 electric generation facilities, thereby increasing the ability of
22 these companies to continue their operations in Washington state,
23 thereby retaining jobs that otherwise would be lost if a coal-fired
24 electric generation facility were to shut down.

25 (3) This tax preference is created to provide an opportunity for
26 coal-fired electric generation facilities to convert into natural
27 gas-fired generation plants or biomass energy facilities. This tax
28 preference is meant to expire and, therefore, the joint legislative
29 audit and review committee is exempt from reviewing this tax
30 preference as required in chapter 43.136 RCW.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08
2 RCW to read as follows:

3 (1) Subject to the requirements in subsection (2) of this
4 section, a taxpayer is eligible for an exemption from the tax imposed
5 by RCW 82.08.020 on the sale of or charge made for:

6 (a) Labor and services rendered in respect to the constructing of
7 new structures, and expansion or renovation of existing structures,
8 for the purpose of converting a coal-fired electric generation
9 facility into a natural gas-fired plant or biomass energy facility;

10 (b) Materials that will be incorporated as an ingredient or
11 component of new or existing structures during the course of such
12 constructing, expanding, or renovating; or

13 (c) Machinery and equipment that is required to convert a coal-
14 fired electric generation facility into a natural gas-fired plant or
15 biomass energy facility, including labor and services rendered in
16 respect to installing such machinery and equipment.

17 (2)(a) The exemption in this section is in the form of a
18 remittance. A purchaser claiming an exemption from the tax in the
19 form of a remittance under this section must pay all applicable state
20 and local sales taxes imposed under RCW 82.08.020 and chapter 82.14
21 RCW on all purchases qualifying for the exemption. After the
22 conversion of a coal-fired electric generation facility into a
23 natural gas-fired plant or biomass energy facility is operationally
24 complete, but not earlier than April 1, 2020, the purchaser may then
25 apply to the department for a remittance of one hundred percent of
26 the state and local sales taxes paid under RCW 82.08.020 and chapter
27 82.14 RCW for purchases qualifying under subsection (1) of this
28 section. The purchaser must specify the amount of exempted tax
29 claimed and the qualifying purchases for which the exemption is
30 claimed. The purchaser must retain, in adequate detail, records to
31 enable the department to determine whether the purchaser is entitled
32 to an exemption under this section, including: Invoices; proof of tax
33 paid; and construction contracts.

34 (b) The department may not accept any application for a
35 remittance that it does not receive by the later of July 1, 2020, or
36 within one year after the department determines that the conversion
37 of a coal-fired electric generation facility into a natural gas-fired
38 plant or biomass energy facility is operationally complete.

39 (c) The department must determine eligibility under this section
40 based on information provided by the purchaser, which is subject to

1 audit verification by the department. The department must remit
2 exempted amounts to qualifying purchasers who submitted timely
3 applications during the previous calendar quarter. No remittances may
4 be paid before July 1, 2020.

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

7 (a) "Biomass energy" means energy derived from solid organic
8 fuels from wood or forest or field residues.

9 (b)(i) "Machinery and equipment" means industrial fixtures,
10 devices, and support facilities that are integral and necessary to
11 the generation of electricity using natural gas or biomass, including
12 repair parts and replacement parts.

13 (ii) "Machinery and equipment" does not include: (A) Hand-powered
14 tools; (B) property with a useful life of less than one year; (C)
15 repair parts required to restore machinery and equipment to normal
16 working order; (D) replacement parts that do not increase
17 productivity, improve efficiency, or extend the useful life of
18 machinery and equipment; (E) buildings; or (F) building fixtures that
19 are not integral and necessary to the generation of electricity that
20 are permanently affixed to and become a physical part of a building.

21 (c) "Operationally complete" means constructed or improved to the
22 point of being functionally capable of generating electricity using
23 natural gas or biomass.

24 (4) This section expires July 1, 2026.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12
26 RCW to read as follows:

27 (1) Subject to the requirements in subsection (2) of this
28 section, a taxpayer is eligible for an exemption from the tax imposed
29 by RCW 82.12.020 on the use of:

30 (a) Materials that will be incorporated as an ingredient or
31 component of new or existing structures during the course of the
32 constructing of new structures, or expansion or renovation of
33 existing structures, for the purpose of converting a coal-fired
34 electric generation facility into a natural gas-fired plant or
35 biomass energy facility; and

36 (b) Machinery and equipment that is required to convert a coal-
37 fired electric generation facility into a natural gas-fired plant or
38 biomass energy facility, including labor and services rendered in
39 respect to installing such machinery and equipment.

1 (2)(a) A taxpayer is exempt from the tax imposed by RCW 82.12.020
2 on the use of materials, machinery and equipment, or installation
3 labor, if the taxpayer received a remittance under section 2 of this
4 act with respect to the purchase of the materials, machinery and
5 equipment, or installation labor.

6 (b) With respect to materials, machinery and equipment, or
7 installation labor qualifying for the exemption in this section and
8 acquired by the taxpayer without the payment of the sales tax imposed
9 by RCW 82.08.020, the exemption in this section is in the form of a
10 remittance of the state and local use taxes paid under RCW 82.12.020
11 and chapter 82.14 RCW. All of the provisions applicable to
12 remittances under section 2 of this act apply to remittances under
13 this section.

14 (3) The exemption in this section does not apply to the use of
15 materials, machinery and equipment, and installation labor for
16 machinery and equipment, when first use within this state of such
17 materials, machinery and equipment, and installation labor occurred
18 after June 30, 2026.

19 (4) The definitions in section 2 of this act apply to this
20 section.

21 (5) This section expires July 1, 2026.

22 **Sec. 4.** RCW 82.14.050 and 2014 c 216 s 403 are each amended to
23 read as follows:

24 (1) The counties, cities, and transportation authorities under
25 RCW 82.14.045, public facilities districts under chapters 36.100 and
26 35.57 RCW, public transportation benefit areas under RCW 82.14.440,
27 regional transportation investment districts, and transportation
28 benefit districts under chapter 36.73 RCW must contract, prior to the
29 effective date of a resolution or ordinance imposing a sales and use
30 tax, the administration and collection to the state department of
31 revenue, which must deduct a percentage amount, as provided by
32 contract, not to exceed two percent of the taxes collected for
33 administration and collection expenses incurred by the department.
34 The remainder of any portion of any tax authorized by this chapter
35 that is collected by the department of revenue must be deposited by
36 the state department of revenue in the local sales and use tax
37 account hereby created in the state treasury. Beginning January 1,
38 2013, the department of revenue must make deposits in the local sales
39 and use tax account on a monthly basis on the last business day of

1 the month in which distributions required in (a) of this subsection
2 are due. Moneys in the local sales and use tax account may be
3 withdrawn only for:

4 (a) Distribution to counties, cities, transportation authorities,
5 public facilities districts, public transportation benefit areas,
6 regional transportation investment districts, and transportation
7 benefit districts imposing a sales and use tax; and

8 (b) Making refunds of taxes imposed under the authority of this
9 chapter and RCW 81.104.170 and exempted under RCW 82.08.962,
10 82.12.962, 82.08.02565, ~~((and))~~, 82.12.02565, section 2 of this act,
11 or section 3 of this act.

12 (2) All administrative provisions in chapters 82.03, 82.08,
13 82.12, and 82.32 RCW, as they now exist or may hereafter be amended,
14 insofar as they are applicable to state sales and use taxes, are
15 applicable to taxes imposed pursuant to this chapter.

16 (3) Counties, cities, transportation authorities, public
17 facilities districts, and regional transportation investment
18 districts may not conduct independent sales or use tax audits of
19 sellers registered under the streamlined sales tax agreement.

20 (4) Except as provided in RCW 43.08.190 and subsection (5) of
21 this section, all earnings of investments of balances in the local
22 sales and use tax account must be credited to the local sales and use
23 tax account and distributed to the counties, cities, transportation
24 authorities, public facilities districts, public transportation
25 benefit areas, regional transportation investment districts, and
26 transportation benefit districts monthly.

27 (5) Beginning January 1, 2013, the state treasurer must determine
28 the amount of earnings on investments that would have been credited
29 to the local sales and use tax account if the collections had been
30 deposited in the account over the prior month. When distributions are
31 made under subsection (1)(a) of this section, the state treasurer
32 must transfer this amount from the state general fund to the local
33 sales and use tax account and must distribute such sums to the
34 counties, cities, transportation authorities, public facilities
35 districts, public transportation benefit areas, regional
36 transportation investment districts, and transportation benefit
37 districts.

38 **Sec. 5.** RCW 82.14.060 and 2014 c 216 s 404 are each amended to
39 read as follows:

1 (1)(a) Monthly, the state treasurer must distribute from the
2 local sales and use tax account to the counties, cities,
3 transportation authorities, public facilities districts, and
4 transportation benefit districts the amount of tax collected on
5 behalf of each taxing authority, less:

6 (i) The deduction provided for in RCW 82.14.050; and

7 (ii) The amount of any refunds of local sales and use taxes
8 exempted under RCW 82.08.962, 82.12.962, 82.08.02565, (~~and~~)
9 82.12.02565, section 2 of this act, or section 3 of this act, which
10 must be made without appropriation.

11 (b) The state treasurer must make the distribution under this
12 section without appropriation.

13 (2) In the event that any ordinance or resolution imposes a sales
14 and use tax at a rate in excess of the applicable limits contained
15 herein, such ordinance or resolution may not be considered void in
16 toto, but only with respect to that portion of the rate which is in
17 excess of the applicable limits contained herein."

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18 On page 1, line 4 of the title, after "facilities;" strike the
19 remainder of the title and insert "amending RCW 82.14.050 and
20 82.14.060; adding a new section to chapter 82.08 RCW; adding a new
21 section to chapter 82.12 RCW; creating a new section; and providing
22 expiration dates."

EFFECT: Pushes out the dates one year.

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