**6012-S.E AMH FIN H5385.1 - NOT FOR FLOOR USE**

**ESSB 6012** - H COMM AMD

By Committee on Finance

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  (1) The legislature finds that Washington, through implementation of the clean energy transformation act, is transforming its energy supply and modernizing its electricity system. In implementing this act, the state is prioritizing creation of family wage jobs and providing safeguards to ensure that the achievement of this policy does not impair the reliability of the electricity system or impose unreasonable costs on utility customers.

(2) The legislature finds that to accomplish the goals of chapter 288, Laws of 2019—promote energy independence; create high-quality jobs in the clean energy sector; maximize the value of hydropower, our principal renewable resource; maintain safe and reliable electricity to all customers at stable and affordable rates; and protect clean air and water in the Pacific Northwest—utilities will need to invest in new renewable energy sources and maximize the use of existing resources, especially renewable resources that can be called upon to produce electricity at all hours throughout the year.

(3) The legislature declares that the state has an important role to play in supporting the development of these new renewable energy resources, including the provision of incentives to support hydropower system investments that are specifically targeted to achieve the goals of this policy, provided said investments, and resulting operations maintain or enhance fish conservation mandates and responsibilities.

(4) It is the intent of the legislature to exempt from sales and use taxes hydropower system investments that directly support the goals of chapter 288, Laws of 2019. The total amount of exemption will be determined based on the prorated share of hydropower capacity owned by each utility in Washington state as of December 31, 2019.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the sales and use tax exemptions contained in sections 3 and 4, chapter . . ., Laws of 2020 (sections 3 and 4 of this act). This performance statement is only intended to be used for subsequent evaluation of these tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these sales and use tax exemptions as ones intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(3) If a review finds that the exemptions provided in sections 3 and 4, chapter . . ., Laws of 2020 (sections 3 and 4 of this act) support the goals of chapter 288, Laws of 2019—to promote energy independence; create high-quality jobs in the clean energy sector; maximize the value of hydropower, our principal renewable resource; maintain safe and reliable electricity to all customers at stable and affordable rates; and protect clean air and water in the Pacific Northwest—then the legislature intends to extend the expiration date of these tax preferences.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the joint legislative audit and review committee may refer to any data collected by the state.

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

(1) Beginning July 1, 2020, the tax imposed by RCW 82.08.020 does not apply to the following:

(a) The sale of or charge made for machinery and equipment, and labor and services, that will provide additional support for the transition to clean energy through incremental increases in production, capacity, flexibility, or efficiency of operation or performance from the refurbishment or replacement of existing machinery and equipment, or purchase of new machinery and equipment, for an existing hydroelectric generation facility; and

(b) The sale of or charge made for machinery and equipment, and labor and services, necessary for an existing hydroelectric generation facility to develop self-lubricating adjustable turbine blade hubs for further evaluation and testing.

(2) In order to qualify for the exemption provided in subsection (1) of this section:

(a) Machinery and equipment must be received by the purchaser after June 30, 2020, and before July 1, 2031; and

(b) Labor and services, as described in subsection (1) of this section, must be rendered after June 30, 2020, and before July 1, 2031.

(3)(a)(i) The total exemption from the state sales and use tax under this section and section 4 of this act is subject to the following biennial limits:

(A) For fiscal year 2021, two million five hundred thousand dollars; and

(B) For each biennium beginning on or after July 1, 2021, five million dollars.

(ii) Unclaimed exempted amounts from fiscal year 2021 or a given biennium must be carried over and added to the limit of the following biennium.

(b) Each generating utility in the state is eligible for a proportional amount of the total tax preference over eleven years. This figure will be based on the prorated share of total hydropower generator capacity owned by each generating utility in Washington state as of December 31, 2019. The department of commerce must calculate the prorated shares based on information provided by the utilities and provide this information to the department of revenue.

(c) A generating utility may claim an exemption at any time during the eleven-year period that this exemption is in effect, up to its prorated share and subject to the statutory time limitations in RCW 82.32.060. Applications for remittance will be processed on a first-in-time basis. If funds are not available in the biennium in which the application is submitted to the department, the generating utility will be eligible to claim funds the following biennium before any new applicants.

(4)(a) The exemption provided under this section is in the form of a remittance and applies only to the state portion of the tax. A generating utility claiming an exemption from the state portion of the sales tax for eligible projects under this section must pay all state and local sales and use taxes. The buyer may then apply to the department for remittance on an annual basis for one hundred percent of the state sales and use tax paid on qualifying purchases subject to the requirements of this section.

(b) The department must determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer must submit an application, in a form and manner as required by the department, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer must retain, in adequate detail to enable the department to determine whether the charges made for machinery and equipment, and labor and services, meet the criteria under this section: Invoices; proof of tax paid; documents describing the equipment; and construction invoices and documents.

(c) As part of the application for a remittance under this section, the generating utility must attest:

(i)(A) That the contractors on the project have a history of complying with federal and state wage and hour laws and regulations; or

(B) That the project is developed under a community workforce agreement or project labor agreement; or

(ii) That, if the contract for refurbishment or upgrade of a hydroelectric generation facility or machinery and equipment therein under subsection (1)(a) or (b) of this section was executed prior to July 1, 2020, and the remaining machinery and equipment, and labor and services, will be delivered or rendered on or after July 1, 2020, either of the conditions in (c)(i) of this subsection (4) is met and wages consistent with chapter 39.12 RCW are paid on the project.

(d) If the department determines that any of the facts attested to as required under (c) of this subsection are not true, the department must deny the application for remittance. However, nothing in this section requires the department to endeavor to determine the veracity of the facts attested to as required under (c) of this subsection. Upon the department's request, state agencies must provide assistance to the department in reviewing the information submitted by a generating utility as required by (c) of this subsection.

(e) Upon approval of an application for remittance under this section, the department must remit exempted amounts to the generating utility. Remittances under this section are subject to repayment if the department subsequently determines, through audit or other information, that the generating utility was not eligible for the remittance.

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

(a) "Eligible project" means a project meeting the requirements in subsection (1) of this section within a hydroelectric facility designed to generate at least one thousand kilowatts of electricity using the energy of falling or flowing fresh water.

(b)(i) "Generating utility" means public and private utilities regulated under the laws of Washington state that own and operate hydroelectric facilities located within the state.

(ii) "Generating utility" does not include hydroelectric facilities owned by the federal government.

(c) "Labor and services" means work associated with demolition, removal, and deconstruction of an existing turbine or generation machinery and equipment; and the construction, installation, alteration, replacement, repair, cleaning, conversion, or assembly of the self-lubricating adjustable turbine blade hub or other machinery and equipment that is acquired or used as part of an eligible project.

(d)(i) "Machinery and equipment" means fixtures, devices, control systems, and support facilities that are integral and necessary to the generation of electricity using the energy of falling or flowing fresh water.

(ii) "Machinery and equipment" does not include: (A) Hand-powered tools; (B) property with a useful life of less than one year; (C) repair parts required to restore machinery and equipment to normal working order; (D) replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment; (E) buildings and other structures, such as dams, powerhouses, fish ladders, and transmission towers; and (F) building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.

(e) "Self-lubricating adjustable turbine blade hub" means a type of horizontal or vertical hydroelectric turbine with adjustable blades that use alternative technology to lubricate the internal components.

(6) This section expires July 1, 2031.

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

(1) The tax imposed by RCW 82.12.020 does not apply to the use of:

(a) Machinery and equipment, and labor and services, that will provide additional support for the transition to clean energy through incremental increases in production, capacity, flexibility, or efficiency of operation or performance from the refurbishment or replacement of existing machinery and equipment, or purchase of new machinery and equipment, for an existing hydroelectric generation facility; and

(b) Machinery and equipment, and labor and services, necessary for an existing hydroelectric generation facility to develop self-lubricating adjustable turbine blade hubs for further evaluation and testing.

(2) In order to qualify for the exemption provided in subsection (1) of this section:

(a) First use of the machinery and equipment, as described in subsection (1) of this section, must occur after June 30, 2020, and before July 1, 2031; and

(b) Labor and services, as described in subsection (1) of this section, must be rendered after June 30, 2020, and before July 1, 2031.

(3) The definitions, conditions, and requirements under section 3 of this act apply to this section.

(4) This section expires July 1, 2031.

NEW SECTION. **Sec.**  This act takes effect July 1, 2020."

Correct the title.

EFFECT: (1) Provides that the exemption is for the sale of or charge made for machinery and equipment, and labor and services, that will provide additional support for the transition to clean energy through incremental increases in production, capacity, flexibility, or efficiency of operation or performance from the refurbishment or replacement of existing machinery and equipment, or purchase of new machinery and equipment, for an existing hydroelectric generation facility. Further provides that the exemption is for the sale of or charge made for machinery and equipment, and labor and services, necessary for an existing hydroelectric generation facility to develop self-lubricating adjustable turbine blade hubs for further evaluation and testing.

(2) Extends the expiration of the exemption to July 1, 2031.

(3) Provides that the remittance is made on an annual basis.

(4) Requires that goods or services be received or rendered after June 30, 2020, but before July 1, 2031.

(5) Limits the exemption to $2.5 million in fiscal year 2021 and $5 million per biennium ongoing. Provides that generating utilities are eligible for a share of the exemption proportionally equal to the prorated share of total hydropower generator capacity owned by the utility as of December 31, 2019.

(6) Requires that applicants attest that certain labor standards are met in order for a project to be eligible for the exemption.

(7) Makes several changes to administrative provisions of the exemption. Provides additional definitions. Provides findings of the legislature. Modifies the tax preference performance statement to direct the joint legislative audit and review committee to examine whether the exemption supports the goals of chapter 288, Laws of 2019.

(8) Removes the null and void clause.