

SSB 6012 - S AMD 912
By Senator Hawkins

PULLED 02/05/2020

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

3 "Sec. 1. RCW 82.08.962 and 2019 c 288 s 18 are each amended to
4 read as follows:

5 (1)(a) Subject to the requirements of this section, the tax
6 imposed by RCW 82.08.020 does not apply to sales of machinery and
7 equipment used directly in generating electricity using fuel cells,
8 wind, fresh water, sun, biomass energy, tidal or wave energy,
9 geothermal resources, or technology that converts otherwise lost
10 energy from exhaust, as the principal source of power, or to sales of
11 or charges made for labor and services rendered in respect to
12 installing such machinery and equipment, but only if the purchaser
13 develops with such machinery, equipment, and labor a facility capable
14 of generating not less than one thousand watts AC of electricity.
15 Except as otherwise provided in this section, the purchaser must pay
16 the state and local sales tax on such sales and apply to the
17 department for a remittance of the tax paid.

18 (b) Beginning on July 1, 2011, through December 31, 2019, the
19 amount of the exemption under this subsection (1)(b) is equal to
20 seventy-five percent of the state and local sales tax paid. The
21 purchaser is eligible for an exemption under this subsection (1)(b)
22 in the form of a remittance.

23 (c) Beginning January 1, 2020, through December 31, 2029, the
24 purchaser is entitled to an exemption, in the form of a remittance,
25 under this subsection (1)(c) in an amount equal to:

26 (i) Fifty percent of the state and local sales tax paid, if:

27 (A) The exempt purchase is for machinery and equipment or labor
28 and services rendered in respect to installing such machinery and
29 equipment in (a) of this subsection, excluding qualified purchases
30 under subsection (c)(i)(B) of this subsection, and the department of
31 labor and industries certifies that the project includes: Procurement
32 from and contracts with women, minority, or veteran-owned businesses;

1 procurement from and contracts with entities that have a history of
2 complying with federal and state wage and hour laws and regulations;
3 apprenticeship utilization; and preferred entry for workers living in
4 the area where the project is being constructed. In the event that a
5 project is built without one or more of these standards, and a
6 project developer or its designated principal contractor demonstrates
7 that it has made all good faith efforts to meet the standards but was
8 unable to comply due to lack of availability of qualified businesses
9 or local hires, the department of labor and industries may certify
10 that the developer complied with that standard; or

11 (B) The exempt purchase is for machinery and equipment that is
12 used directly in the generation of electricity by a solar energy
13 system capable of generating more than one hundred kilowatts AC but
14 no more than five hundred kilowatts AC of electricity, and labor and
15 services rendered in respect to installing such machinery and
16 equipment, and the department of labor and industries certifies that
17 the project has met the requirements of (c)(i)(A) of this subsection,
18 and the purchaser provides the following documentation to the
19 department as part of the application for a remittance:

20 (I) A copy of the contractor's certificate of registration in
21 compliance with chapter 18.27 RCW;

22 (II) The contractor's current state unified business identifier
23 number;

24 (III) A copy of the contractor's proof of industrial insurance
25 coverage for the contractor's employees working in Washington as
26 required in Title 51 RCW; employment security department number as
27 required in Title 50 RCW; and a state excise tax registration number
28 as required in this title (~~(82-RCW)~~); and

29 (IV) Documentation of the contractor's history of compliance with
30 federal and state wage and hour laws and regulations, consistent with
31 (e)(ii)(D) of this subsection;

32 (ii) Seventy-five percent of the state and local sales tax paid,
33 if:

34 (A) The department of labor and industries certifies that the
35 project complies with (c)(i)(A) and (B) of this subsection and
36 compensates workers at prevailing wage rates determined by local
37 collective bargaining as determined by the department of labor and
38 industries; or

39 (B) The machinery and equipment, labor and services, or both,
40 otherwise qualify under (a) of this subsection and the purchase and

1 installation of the machinery and equipment is rendered with respect
2 to a contract executed prior to January 1, 2020, and such contract
3 compensates workers at prevailing wage rates based on rates in local
4 collective bargaining agreements as determined by the department of
5 labor and industries under RCW 39.12.015. This subsection (1)(c)(ii)
6 does not apply with respect to solar energy systems described in
7 (c)(i)(B) of this subsection; or

8 (iii) One hundred percent of the state and local sales tax paid,
9 if the department of labor and industries certifies that the project
10 is developed under a community workforce agreement or project labor
11 agreement. This subsection (1)(c)(iii) does not apply with respect to
12 solar energy systems described in (c)(i)(B) of this subsection.

13 (d) In order to qualify for the remittance under (c) of this
14 subsection, installation of the qualifying machinery and equipment
15 must commence no earlier than January 1, 2020, and be completed by
16 December 31, 2029.

17 (e) Beginning July 1, 2019, and through December 31, 2029, the
18 purchaser is entitled to an exemption under this subsection (1)(e) in
19 an amount equal to one hundred percent of the state and local sales
20 tax due on:

21 (i) Machinery and equipment that is used directly in the
22 generation of electricity by a solar energy system that is capable of
23 generating no more than one hundred kilowatts AC of electricity; or

24 (ii) Labor and services rendered in respect to installing
25 machinery and equipment exempt under (e)(i) of this subsection, and
26 the seller meets the following requirements at the time of the sale
27 for which the exemption is claimed:

28 (A) Has obtained a certificate of registration in compliance with
29 chapter 18.27 RCW;

30 (B) Has obtained a current state unified business identifier
31 number;

32 (C) Possesses proof of industrial insurance coverage for the
33 contractor's employees working in Washington as required in Title 51
34 RCW; employment security department number as required in Title 50
35 RCW; and a state excise tax registration number as required in this
36 title ((82-RCW)); and

37 (D) Has had no findings of violation of federal or state wage and
38 hour laws and regulations in a final and binding order by an
39 administrative agency or court of competent jurisdiction in the past
40 twenty-four months.

1 (f) Purchasers claiming an exemption under (e) of this subsection
2 must provide the seller with an exemption certificate in a form and
3 manner prescribed by the department.

4 (g) In order to qualify for the exemption under (e)(ii) of this
5 subsection, installation of the qualifying machinery and equipment
6 must commence no earlier than July 1, 2019, and be completed by
7 December 31, 2029.

8 (2)(a) The department of labor and industries must adopt
9 emergency and permanent rules to:

10 (i) Define and set minimum requirements for all labor standards
11 identified in subsection (1)(c) of this section; and

12 (ii) Set requirements for all good faith efforts under subsection
13 (1)(c)(i) and (ii) of this section, as well as documentation
14 requirements and a certification process. Requirements for all good
15 faith efforts must be designed to maximize the likelihood that the
16 project is completed with said standards and could include: Proactive
17 outreach to firms that are women, minority, and veteran-owned
18 businesses; advertising in local community publications and
19 publications appropriate to identified firms; participating in
20 community job fairs, conferences, and trade shows; and other
21 measures. The certification process and timeline must be designed to
22 prevent undue delay to project development.

23 (b) Emergency rules must be adopted by December 1, 2019, and take
24 effect January 1, 2020.

25 (3) For purposes of this section and RCW 82.12.962, the following
26 definitions apply:

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

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

39 (c)(i) "Machinery and equipment" means:

1 (A) Fixtures, devices, and support facilities that are integral
2 and necessary to the generation of electricity using fuel cells,
3 wind, sun, biomass energy, tidal or wave energy, geothermal
4 resources, or technology that converts otherwise lost energy from
5 exhaust; and

6 (B) Materials, parts, fixtures, devices, and support facilities
7 used directly in generating electricity from fresh water acquired or
8 used as part of a project to increase electricity output of the
9 facility through improvements in efficiency, increases in capacity,
10 or the extension of the useful life of the electrical generation
11 equipment.

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

20 (d) "Project labor agreement" and "community workforce agreement"
21 means a prehire collective bargaining agreement with one or more
22 labor organizations that establishes the terms and conditions of
23 employment for a specific construction project and is an agreement
24 described in 29 U.S.C. Sec. 158(f).

25 (4)(a) Machinery and equipment is "used directly" in generating
26 electricity by wind energy, hydropower energy, solar energy, biomass
27 energy, tidal or wave energy, geothermal resources, or technology
28 that converts otherwise lost energy from exhaust if it provides any
29 part of the process that captures the energy of the wind, water, sun,
30 biomass energy, tidal or wave energy, geothermal resources, or
31 technology that converts otherwise lost energy from exhaust, converts
32 that energy to electricity, and stores, transforms, or transmits that
33 electricity for entry into or operation in parallel with electric
34 transmission and distribution systems.

35 (b) Machinery and equipment is "used directly" in generating
36 electricity by fuel cells if it provides any part of the process that
37 captures the energy of the fuel, converts that energy to electricity,
38 and stores, transforms, or transmits that electricity for entry into
39 or operation in parallel with electric transmission and distribution
40 systems.

1 (5) (a) (i) A purchaser claiming an exemption in the form of a
2 remittance under subsection (1)(b) or (c) of this section must pay
3 the tax imposed by RCW 82.08.020 and all applicable local sales taxes
4 imposed under the authority of chapters 82.14 and 81.104 RCW. The
5 purchaser may then apply to the department for remittance in a form
6 and manner prescribed by the department. A purchaser may not apply
7 for a remittance under this section more frequently than once per
8 quarter. The purchaser must specify the amount of exempted tax
9 claimed and the qualifying purchases for which the exemption is
10 claimed. The purchaser must retain, in adequate detail, records to
11 enable the department to determine whether the purchaser is entitled
12 to an exemption under this section, including: Invoices; proof of tax
13 paid; and documents describing the machinery and equipment.

14 (ii) The application for remittance must include a copy of the
15 certificate issued for the project by the department of labor and
16 industries as prescribed by rule under subsection (2) of this
17 section.

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

23 (6) (a) Except as otherwise provided in (c) of this subsection,
24 from October 1, 2017, through December 31, 2019, the exemption
25 provided by this section does not apply to: (i) Machinery and
26 equipment that is used directly in the generation of electricity
27 using solar energy and capable of generating no more than five
28 hundred kilowatts AC of electricity; or (ii) sales of or charges made
29 for labor and services rendered in respect to installing such
30 machinery and equipment.

31 (b) The exemption provided by this section is reinstated for
32 machinery and equipment for solar energy systems capable of
33 generating more than one hundred kilowatts AC but no more than five
34 hundred kilowatts AC of electricity, or sales of or charges made for
35 labor and services rendered in respect to installing such machinery
36 and equipment, if installation of the machinery and equipment
37 commences on or after January 1, 2020.

38 (c) The exemption provided by this section is reinstated for
39 machinery and equipment for solar energy systems capable of
40 generating no more than one hundred kilowatts AC of electricity, or

1 sales of or charges made for labor and services rendered in respect
2 to installing such machinery and equipment, if installation of the
3 machinery and equipment commences on or after July 1, 2019.

4 (7) The exemption provided by this section for machinery and
5 equipment used directly in generating electricity from water does not
6 apply to local sales and use taxes imposed under chapter 82.14 RCW.

7 (8) This section expires January 1, 2030.

8 **Sec. 2.** RCW 82.12.962 and 2019 c 288 s 19 are each amended to
9 read as follows:

10 (1)(a) Subject to the requirements of this section, the tax
11 imposed by RCW 82.12.020 does not apply to machinery and equipment
12 used directly in generating electricity using fuel cells, wind,
13 water, sun, biomass energy, tidal or wave energy, geothermal
14 resources, or technology that converts otherwise lost energy from
15 exhaust, or to labor and services rendered in respect to installing
16 such machinery and equipment, but only if the purchaser develops with
17 such machinery, equipment, and labor a facility capable of generating
18 not less than one thousand watts AC of electricity. Except as
19 otherwise provided in this section, the consumer must pay the state
20 and local use tax on the use of such machinery and equipment and
21 labor and services, and apply to the department for a remittance of
22 the tax paid.

23 (b) Beginning on July 1, 2011, through December 31, 2019, the
24 amount of the exemption under this subsection (1) is equal to
25 seventy-five percent of the state and local use tax paid. The
26 consumer is eligible for an exemption under this subsection (1)(b) in
27 the form of a remittance.

28 (c) Beginning January 1, 2020, through December 31, 2029, the
29 purchaser is entitled to an exemption, in the form of a remittance,
30 under this subsection (1)(c) in an amount equal to:

31 (i) Fifty percent of the state and local use tax paid, if:

32 (A) The exempt purchase is for machinery and equipment or labor
33 and services rendered in respect to installing such machinery and
34 equipment in (a) of this subsection, excluding qualified purchases
35 under (c)(i)(B) of this subsection, and the department of labor and
36 industries certifies that the project includes: Procurement from and
37 contracts with women, minority, or veteran-owned businesses;
38 procurement from and contracts with entities that have a history of
39 complying with federal and state wage and hour laws and regulations;

1 apprenticeship utilization; and preferred entry for workers living in
2 the area where the project is being constructed. In the event that a
3 project is built without one or more of these standards, and a
4 project developer or its designated principal contractor demonstrates
5 that it has made all good faith efforts to meet the standards but was
6 unable to comply due to lack of availability of qualified businesses
7 or local hires, the department of labor and industries may certify
8 that the developer complied with that standard; or

9 (B) The exempt purchase is for machinery and equipment that is
10 used directly in the generation of electricity by a solar energy
11 system capable of generating more than one hundred kilowatts AC but
12 no more than five hundred kilowatts AC of electricity, or labor and
13 services rendered in respect to installing such machinery and
14 equipment, and the department of labor and industries certifies that
15 the project has met the requirements of (c)(i)(A) of this subsection,
16 and the purchaser has provided the following documentation to the
17 department as part of the application for a remittance:

18 (I) A copy of the contractor's certificate of registration in
19 compliance with chapter 18.27 RCW;

20 (II) The contractor's current state unified business identifier
21 number;

22 (III) A copy of the contractor's proof of industrial insurance
23 coverage for the contractor's employees working in Washington as
24 required in Title 51 RCW; employment security department number as
25 required in Title 50 RCW; and a state excise tax registration number
26 as required in this title (~~82-RCW~~); and

27 (IV) Documentation of the contractor's history of compliance with
28 federal and state wage and hour laws and regulations, consistent with
29 (e)(ii)(D) of this subsection;

30 (ii) Seventy-five percent of the state and local use tax paid,
31 if:

32 (A) The department of labor and industries certifies that the
33 project complies with (c)(i)(A) of this subsection and compensates
34 workers at prevailing wage rates determined by local collective
35 bargaining as determined by the department of labor and industries;
36 or

37 (B) The machinery and equipment, labor and services, or both,
38 otherwise qualify under (a) of this subsection and the purchase and
39 installation of the machinery and equipment is rendered with respect
40 to a contract executed prior to January 1, 2020, and such contract

1 compensates workers at prevailing wage rates based on rates in local
2 collective bargaining agreements as determined by the department of
3 labor and industries under RCW 39.12.015. This subsection (1)(c)(ii)
4 does not apply with respect to solar energy systems described in
5 (c)(i)(B) of this subsection; or

6 (iii) One hundred percent of the state and local use tax paid, if
7 the department of labor and industries certifies that the project is
8 developed under a community workforce agreement or project labor
9 agreement. This subsection (1)(c)(iii) does not apply with respect to
10 solar energy systems described in (c)(i)(B) of this subsection.

11 (d) In order to qualify for the remittance under (c) of this
12 subsection, installation of the qualifying machinery and equipment
13 must commence no earlier than January 1, 2020, and be completed by
14 December 31, 2029.

15 (e) Beginning July 1, 2019, and through December 31, 2029, the
16 consumer is entitled to an exemption under this subsection (1)(e) in
17 an amount equal to one hundred percent of the state and local use tax
18 due on:

19 (i) Machinery and equipment that is used directly in the
20 generation of electricity by a solar energy system that is capable of
21 generating no more than one hundred kilowatts AC of electricity; or

22 (ii) Labor and services rendered in respect to installing
23 machinery and equipment exempt under (e)(i) of this subsection, and
24 the seller meets the following requirements at the time of the
25 purchase for which the exemption is claimed:

26 (A) Has obtained a certificate of registration in compliance with
27 chapter 18.27 RCW;

28 (B) Has obtained a current state unified business identifier
29 number;

30 (C) Possesses proof of industrial insurance coverage for the
31 contractor's employees working in Washington as required in Title 51
32 RCW; employment security department number as required in Title 50
33 RCW; and a state excise tax registration number as required in this
34 title ((82-RCW)); and

35 (D) Has had no findings of violations of federal or state wage
36 and hour laws and regulations in a final and binding order by an
37 administrative agency or court of competent jurisdiction in the past
38 twenty-four months.

39 (f) In order to qualify for the exemption under (e)(ii) of this
40 subsection, installation of the qualifying machinery and equipment

1 must commence no earlier than July 1, 2019, and be completed by
2 December 31, 2029.

3 (2) The department of labor and industries must initiate an
4 emergency rule making on May 7, 2019, to be completed by December 1,
5 2019, to:

6 (a) Define and set minimum requirements for all labor standards
7 identified in subsection (1)(c) of this section; and

8 (b) Set requirements for all good faith efforts under subsection
9 (1)(c)(i) and (ii) of this section, as well as documentation
10 requirements and a certification process. Requirements for all good
11 faith efforts must be designed to maximize the likelihood that the
12 project is completed with said standards and could include: Proactive
13 outreach to firms that are women, minority, and veteran-owned
14 businesses; advertising in local community publications and
15 publications appropriate to identified firms; participating in
16 community job fairs, conferences, and trade shows; and other
17 measures. The certification process and timeline must be designed to
18 prevent undue delay to project development.

19 (3)(a)(i) A person claiming an exemption in the form of a
20 remittance under subsection (1)(b) and (c) of this section must pay
21 the tax imposed by RCW 82.12.020 and all applicable local use taxes
22 imposed under the authority of chapters 82.14 and 81.104 RCW. The
23 consumer may then apply to the department for remittance in a form
24 and manner prescribed by the department. A consumer may not apply for
25 a remittance under this section more frequently than once per
26 quarter. The consumer must specify the amount of exempted tax claimed
27 and the qualifying purchases or acquisitions for which the exemption
28 is claimed. The consumer must retain, in adequate detail, records to
29 enable the department to determine whether the consumer is entitled
30 to an exemption under this section, including: Invoices; proof of tax
31 paid; and documents describing the machinery and equipment.

32 (ii) The application for remittance must include a copy of the
33 certificate issued for the project by the department of labor and
34 industries under subsection (1) of this section.

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

1 (4) Purchases exempt under RCW 82.08.962 are also exempt from the
2 tax imposed under RCW 82.12.020.

3 (5) The definitions in RCW 82.08.962 apply to this section.

4 (6) The exemption provided in subsection (1) of this section does
5 not apply:

6 (a) To machinery and equipment used directly in the generation of
7 electricity using solar energy and capable of generating no more than
8 five hundred kilowatts AC of electricity, or to sales of or charges
9 made for labor and services rendered in respect to installing such
10 machinery and equipment, when first use within this state of such
11 machinery and equipment, or labor and services, occurs after
12 September 30, 2017, and before January 1, 2020, except as otherwise
13 provided in subsection (7) of this section; and

14 (b) To any other machinery and equipment described in subsection
15 (1)(a) of this section, or to sales of or charges made for labor and
16 services rendered in respect to installing such machinery or
17 equipment, when first use within this state of such machinery and
18 equipment, or labor and services, occurs after December 31, 2029.

19 (7) (a) The exemption provided by this section is reinstated for
20 machinery and equipment for solar energy systems capable of
21 generating more than one hundred kilowatts AC but no more than five
22 hundred kilowatts AC of electricity, or sales of or charges made for
23 labor and services rendered in respect to installing such machinery
24 and equipment, if first use within the state of the machinery and
25 equipment commences on or after January 1, 2020.

26 (b) The exemption provided by this section is reinstated for
27 machinery and equipment for solar energy systems capable of
28 generating no more than one hundred kilowatts AC of electricity, or
29 sales of or charges made for labor and services rendered in respect
30 to installing such machinery and equipment, if first use within the
31 state of the machinery and equipment commences on or after July 1,
32 2019.

33 (8) The exemption provided by this section for machinery and
34 equipment used directly in generating electricity from water does not
35 apply to local sales and use taxes imposed under chapter 82.14 RCW.

36 (9) This section expires January 1, 2030.

37 **Sec. 3.** RCW 82.14.455 and 2009 c 469 s 105 are each amended to
38 read as follows:

1 (1) Except as provided otherwise in subsection (2) of this
2 section, the exemptions in RCW 82.08.962, 82.12.962, 82.08.963, and
3 82.12.963 are for the state and local sales and use taxes and include
4 the sales and use taxes imposed under the authority of this chapter.

5 (2) Machinery and equipment used directly in generating
6 electricity using water are not exempt from the local sales and use
7 taxes imposed under the authority of this chapter.

8 NEW SECTION. Sec. 4. RCW 82.32.805 and 82.32.808 do not apply
9 to this act.

10 NEW SECTION. Sec. 5. This act takes effect July 1, 2020."

SSB 6012 - S AMD **912**
By Senator Hawkins

PULLED 02/05/2020

11 On page 1, line 2 of the title, after "incentives;" strike the
12 remainder of the title and insert "amending RCW 82.08.962, 82.12.962,
13 and 82.14.455; creating a new section; and providing an effective
14 date."

EFFECT: Allows a 75 percent exemption for renewable energy machinery and equipment purchased and installed as part of a contract in effect as of January 1, 2020, without having to meet the new labor standards other than a prevailing wage requirement.

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