

SSB 6012 - S AMD TO S AMD (S-4494.1/19) **891**  
By Senator Keiser

**NOT CONSIDERED 12/11/2019**

1 Beginning on page 1, line 3, strike all of sections 1 and 2 and  
2 insert the following:

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

5 (1)(a) Qualifying utilities are eligible for an exemption from  
6 the tax imposed in RCW 82.08.020. The exemption in this section is in  
7 the form of a refund of a portion of the state retail sales tax paid  
8 by the qualifying utility on:

9 (i) Machinery and equipment used directly in generating  
10 electricity using fresh water as the principal source of power; and

11 (ii) Labor and services rendered in respect to installing  
12 machinery and equipment described in (a)(i) of this subsection.

13 (b) Beginning January 1, 2020, through December 31, 2029, the  
14 purchaser is entitled to a remittance in an amount equal to:

15 (i) Fifty percent of the state sales tax paid, if the exempt  
16 purchase is for machinery and equipment or labor and services  
17 rendered in respect to installing such machinery and equipment in  
18 (a)(i) of this subsection and the department of labor and industries  
19 certifies that the project includes: Procurement from and contracts  
20 with women, minority, or veteran-owned businesses; procurement from  
21 and contracts with entities that have a history of complying with  
22 federal and state wage and hour laws and regulations; apprenticeship  
23 utilization; and preferred entry for workers living in the area where  
24 the project is being constructed. In the event that a project is  
25 built without one or more of these standards, and a project developer  
26 or its designated principal contractor demonstrates that it has made  
27 all good faith efforts to meet the standards but was unable to comply  
28 due to lack of availability of qualified businesses or local hires,  
29 the department of labor and industries may certify that the developer  
30 complied with that standard;

31 (ii) Seventy-five percent of the state sales tax paid, if the  
32 department of labor and industries certifies that the project

1 complies with (b)(i) of this subsection and compensates workers at  
2 prevailing wage rates determined by local collective bargaining as  
3 determined by the department of labor and industries; or

4 (iii) One hundred percent of the state sales tax paid, if the  
5 department of labor and industries certifies that the project is  
6 developed under a community workforce agreement or project labor  
7 agreement.

8 (c) In order to qualify for the refund under (b) of this  
9 subsection, installation of the qualifying machinery and equipment  
10 must commence no earlier than January 1, 2020, and be completed by  
11 December 31, 2029.

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

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

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

27 (b) Emergency rules under this subsection (2) must be adopted by  
28 December 1, 2019, and must take effect January 1, 2020.

29 (3) Machinery and equipment is "used directly" in generating  
30 electricity using fresh water as the principal source of power, if  
31 the machinery and equipment provides any part of the process that  
32 captures the energy of fresh water, and stores, transforms, or  
33 transmits that electricity for entry into or operation in parallel  
34 with electric transmission and distribution systems.

35 (4) The exemption under subsection (1) of this section applies  
36 only with respect to machinery and equipment and installation labor  
37 and services, received by the qualifying utility on or after January  
38 1, 2020, and before January 1, 2030. For purposes of this subsection,  
39 "received" has the same meaning as "receive" and "receipt" in RCW  
40 82.32.730.

1 (5) (a) A qualifying utility claiming an exemption in the form of  
2 a refund under subsection (1) of this section must first pay the tax  
3 imposed by RCW 82.08.020 and all applicable local sales taxes imposed  
4 under the authority of chapters 82.14 and 81.104 RCW on purchases  
5 qualifying for the exemption.

6 (b) (i) The qualifying utility may then apply to the department  
7 for a refund in a form and manner prescribed by the department. A  
8 qualifying utility may not apply for a refund under this section more  
9 frequently than once per calendar quarter. The qualifying utility  
10 must specify the amount of exempted tax claimed and the qualifying  
11 purchases for which the exemption is claimed. The qualifying utility  
12 must retain, in adequate detail, records to enable the department to  
13 determine whether the qualifying utility is entitled to an exemption  
14 under this section, including: Invoices; proof of tax paid; and  
15 documents describing the machinery and equipment.

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

20 (c) The department must determine eligibility under this section  
21 based on the information provided by the qualifying utility, which is  
22 subject to audit verification by the department. The department must  
23 on a quarterly basis refund exempted amounts to qualifying utilities  
24 that submitted complete applications during the previous calendar  
25 quarter.

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

28 (a) "Increase electricity output" means improvements in  
29 efficiency, increases in capacity, or the extension of the useful  
30 life of the facility.

31 (b) (i) "Machinery and equipment" means fixtures, devices, and  
32 support facilities that are integral and necessary to the generation  
33 of electricity using fresh water, and that increase electricity  
34 output, including component parts of such fixtures, devices, and  
35 support facilities. "Machinery and equipment" includes but is not  
36 limited to turbines, generators, pipes, control gates, pumps,  
37 transformers, and power lines.

38 (ii) "Machinery and equipment" does not include: (A) Hand-powered  
39 tools; (B) property with a useful life of less than one year; (C)  
40 buildings and other structures, such as dams, power houses, and fish

1 ladders, and transmission towers; and (D) building fixtures that are  
2 not integral and necessary to the generation of electricity that are  
3 permanently affixed to and become a physical part of a building.

4 (c) "Project labor agreement" and "community workforce agreement"  
5 have the same meanings as provided in RCW 82.08.962.

6 (d) "Qualifying utility" means a light and power business, as  
7 defined in RCW 82.16.010, that owns and operates a hydroelectric  
8 power generation plant.

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

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12  
11 RCW to read as follows:

12 (1)(a) Qualifying utilities are eligible for an exemption from  
13 the tax imposed in RCW 82.12.020 in the form of a refund of a portion  
14 of the state use tax paid by the qualifying utility on:

15 (i) Machinery and equipment used directly in generating  
16 electricity using fresh water as the principal source of power; and

17 (ii) Labor and services rendered in respect to the installing of  
18 machinery and equipment described in (a)(i) of this subsection.

19 (b) Beginning January 1, 2020, through December 31, 2029, the  
20 purchaser is entitled to a remittance in an amount equal to:

21 (i) Fifty percent of the state use tax paid, if the exempt  
22 purchase is for machinery and equipment or labor and services  
23 rendered in respect to installing such machinery and equipment in  
24 (a)(i) of this subsection and the department of labor and industries  
25 certifies that the project includes: Procurement from and contracts  
26 with women, minority, or veteran-owned businesses; procurement from  
27 and contracts with entities that have a history of complying with  
28 federal and state wage and hour laws and regulations; apprenticeship  
29 utilization; and preferred entry for workers living in the area where  
30 the project is being constructed. In the event that a project is  
31 built without one or more of these standards, and a project developer  
32 or its designated principal contractor demonstrates that it has made  
33 all good faith efforts to meet the standards but was unable to comply  
34 due to lack of availability of qualified businesses or local hires,  
35 the department of labor and industries may certify that the developer  
36 complied with that standard;

37 (ii) Seventy-five percent of the state use tax paid, if the  
38 department of labor and industries certifies that the project  
39 complies with (b)(i) of this subsection and compensates workers at

1 prevailing wage rates determined by local collective bargaining as  
2 determined by the department of labor and industries; or

3 (iii) One hundred percent of the state use tax paid, if the  
4 department of labor and industries certifies that the project is  
5 developed under a community workforce agreement or project labor  
6 agreement.

7 (c) In order to qualify for the refund under (b) of this  
8 subsection, installation of the qualifying machinery and equipment  
9 must commence no earlier than January 1, 2020, and be completed by  
10 December 31, 2029.

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

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

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

26 (b) Emergency rules under this subsection (2) must be adopted by  
27 December 1, 2019, and must take effect January 1, 2020.

28 (3) Machinery and equipment is "used directly" in generating  
29 electricity using fresh water as the principal source of power, if  
30 the machinery and equipment provides any part of the process that  
31 captures the energy of fresh water, and stores, transforms, or  
32 transmits that electricity for entry into or operation in parallel  
33 with electric transmission and distribution systems.

34 (4) The exemption under subsection (1) of this section applies  
35 only with respect to machinery and equipment and installation labor  
36 and services, first used within this state by the qualifying utility  
37 on or after January 1, 2020, and before January 1, 2030.

38 (5)(a) A qualifying utility claiming an exemption in the form of  
39 a refund under subsection (1) of this section must first pay the tax  
40 imposed by RCW 82.12.020 and all applicable local use taxes imposed

1 under the authority of chapters 82.14 and 81.104 RCW on machinery and  
2 equipment and labor and services qualifying for the exemption.

3 (b) (i) The qualifying utility may then apply to the department  
4 for a refund in a form and manner prescribed by the department. A  
5 qualifying utility may not apply for a refund under this section more  
6 frequently than once per calendar quarter. The qualifying utility  
7 must specify the amount of exempted tax claimed and the qualifying  
8 purchases for which the exemption is claimed. The qualifying utility  
9 must retain, in adequate detail, records to enable the department to  
10 determine whether the qualifying utility is entitled to an exemption  
11 under this section, including: Invoices; proof of tax paid; and  
12 documents describing the machinery and equipment.

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

17 (c) The department must determine eligibility under this section  
18 based on the information provided by the qualifying utility, which is  
19 subject to audit verification by the department. The department must  
20 on a quarterly basis refund exempted amounts to qualifying utilities  
21 that submitted complete applications during the previous calendar  
22 quarter.

23 (6) Purchases exempt under section 1 of this act are also exempt  
24 from the tax imposed under RCW 82.12.020.

25 (7) The definitions in section 1 of this act apply to this  
26 section.

27 (8) This section expires January 1, 2030."

EFFECT: (1) Establishes a stand-alone exemption for a portion of  
the state sales and use tax for qualifying utilities on machinery and  
equipment used directly in generating electricity using fresh water  
and on labor and services rendered in respect to installing such  
machinery and equipment.

(2) Includes the labor standards in E2SSB 5116 to qualify for the  
sales and use tax exemption. If the department of labor and  
industries certifies that the project contracts with certain  
businesses, including women, minority, or veteran-owned businesses,  
the taxpayer is eligible for a 50 percent exemption. Additionally, if  
the project pays prevailing wage rates, the taxpayer is eligible for  
a 75 percent exemption. A 100 percent exemption is authorized if L&I  
certifies that the project is developed under a community workforce  
agreement or project labor agreement.

(3) Provides that the machinery and equipment must increase electricity output as defined herein.

--- **END** ---