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SENATE BILL 6012

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State of Washington

66th Legislature

2019 Regular Session

By Senators Hawkins and Palumbo

1 AN ACT Relating to promoting renewable energy through modifying  
2 tax incentives; amending RCW 82.08.962, 82.12.962, and 82.14.455;  
3 creating a new section; and providing expiration dates.

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

5 **Sec. 1.** RCW 82.08.962 and 2018 c 164 s 5 are each amended to  
6 read as follows:

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

18 (b) Beginning on July 1, 2011, through January 1, ((2020)) 2030,  
19 the amount of the exemption under this subsection (1) is equal to  
20 seventy-five percent of the state and local sales tax paid. The

1 purchaser is eligible for an exemption under this subsection (1)(b)  
2 in the form of a remittance.

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

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

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

17 (c)(i) "Machinery and equipment" means fixtures, devices, and  
18 support facilities that are integral and necessary to the generation  
19 of electricity using fuel cells, wind, water, sun, biomass energy,  
20 tidal or wave energy, geothermal resources, or technology that  
21 converts otherwise lost energy from exhaust.

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

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

1 (b) Machinery and equipment is "used directly" in generating  
2 electricity by fuel cells if it provides any part of the process that  
3 captures the energy of the fuel, converts that energy to electricity,  
4 and stores, transforms, or transmits that electricity for entry into  
5 or operation in parallel with electric transmission and distribution  
6 systems.

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

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

25 (5) The exemption provided by this section expires September 30,  
26 2017, as it applies to: (a) Machinery and equipment that is used  
27 directly in the generation of electricity using solar energy and  
28 capable of generating no more than five hundred kilowatts of  
29 electricity; or (b) sales of or charges made for labor and services  
30 rendered in respect to installing such machinery and equipment.

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

34 (7) This section expires January 1, ((2020)) 2030.

35 **Sec. 2.** RCW 82.12.962 and 2018 c 164 s 7 are each amended to  
36 read as follows:

37 (1) (a) ~~((Except as provided in RCW 82.12.963,))~~ Consumers who  
38 have paid the tax imposed by RCW 82.12.020 on machinery and equipment  
39 used directly in generating electricity using fuel cells, wind,

1 water, sun, biomass energy, tidal or wave energy, geothermal  
2 resources, or technology that converts otherwise lost energy from  
3 exhaust, or to sales of or charges made for labor and services  
4 rendered in respect to installing such machinery and equipment, are  
5 eligible for an exemption as provided in this section, but only if  
6 the purchaser develops with such machinery, equipment, and labor a  
7 facility capable of generating not less than one thousand watts of  
8 electricity.

9 (b) Beginning on July 1, 2011, through January 1, (~~2020~~) 2030,  
10 the amount of the exemption under this subsection (1) is equal to  
11 seventy-five percent of the state and local sales tax paid. The  
12 consumer is eligible for an exemption under this subsection (1)(b) in  
13 the form of a remittance.

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

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

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

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

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

37 (a) To machinery and equipment used directly in the generation of  
38 electricity using solar energy and capable of generating no more than  
39 five hundred kilowatts of electricity, or to sales of or charges made  
40 for labor and services rendered in respect to installing such

1 machinery and equipment, when first use within this state of such  
2 machinery and equipment, or labor and services, occurs after  
3 September 30, 2017; and

4 (b) To any other machinery and equipment described in subsection  
5 (1)(a) of this section, or to sales of or charges made for labor and  
6 services rendered in respect to installing such machinery or  
7 equipment, when first use within this state of such machinery and  
8 equipment, or labor and services, occurs after December 31, 2019.

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

12 (7) This section expires January 1, ((2020)) 2030.

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

15 (1) Except as provided otherwise in subsection (2) of this  
16 section, the exemptions in RCW 82.08.962, 82.12.962, 82.08.963, and  
17 82.12.963 are for the state and local sales and use taxes and include  
18 the sales and use taxes imposed under the authority of this chapter.

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

22 NEW SECTION. **Sec. 4.** The provisions of RCW 82.32.808 do not  
23 apply to this act.

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