
SENATE BILL 5910

State of Washington

67th Legislature

2022 Regular Session

By Senators Carlyle, Billig, Conway, Hawkins, Hunt, Mullet, Saldaña, and Stanford

Read first time 01/19/22. Referred to Committee on Environment, Energy & Technology.

1 AN ACT Relating to accelerating the availability and use of
2 renewable hydrogen in Washington state; amending RCW 80.50.020,
3 54.04.190, 35.92.050, 82.08.816, 82.12.816, and 82.29A.125; adding
4 new sections to chapter 43.330 RCW; adding a new section to chapter
5 82.16 RCW; creating new sections; making an appropriation; providing
6 an expiration date; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** INTENT AND FINDINGS. (1) The legislature
9 finds that while hydrogen fuel has been used in a variety of
10 applications in the state, the source of hydrogen has been derived
11 from fossil fuel feedstocks, such as natural gas. Hydrogen is an
12 essential building block molecule that is necessary in the production
13 of conventional and renewable fuels and a valuable decarbonization
14 tool when used in sectors such as marine, aviation, steel, and
15 cement, as well as surface transportation including light to heavy-
16 duty trucking and drayage equipment. Hydrogen can be a carbon-free
17 fuel with an energy per unit mass that is three to four times greater
18 than jet fuel, whose energy can be extracted either through
19 thermochemical (combustion) or electrochemical (fuel cell) processes.
20 In both cases, the only by-product is water, instead of the

1 greenhouse gases and other conventional and toxic pollutants that are
2 emitted from using fossil fuels.

3 (2) The legislature further finds that the use of renewable
4 hydrogen and hydrogen produced from carbon-free electrolysis is an
5 essential tool to a clean energy ecosystem and emissions reduction
6 for challenging infrastructure needs. Clean hydrogen fuel can be
7 produced or "charged" when the electrical supply grid has surplus
8 renewable energy, at times of low electricity use such as evenings,
9 then made available at times of higher need and convenient locations
10 without having to build a major larger electrical supply system to
11 meet higher peak demand for electricity.

12 (3) Therefore, the legislature intends by this act to establish
13 policies and a framework for the state to become a national and
14 global leader in the production and use of these hydrogen fuels. This
15 act will create an office of renewable fuels to: Promote partnerships
16 among industrial, transportation, agriculture, and commercial
17 interests as well as fuel producers, the technology research sector,
18 and public sector agencies; identify barriers to and opportunities
19 for market development; provide greater clarity and certainty in
20 regulatory and siting standards; provide incentives and financial
21 assistance in the deployment of hydrogen fuel infrastructure; support
22 a clean and just energy transition; help create good quality, clean
23 energy jobs; and improve air quality in degraded areas, particularly
24 in communities that have borne disproportionate levels of air
25 pollution from the combustion of fossil fuels.

26 **Part 1**

27 **OFFICE OF RENEWABLE FUELS**

28 NEW SECTION. **Sec. 101.** The definitions in this section apply
29 throughout sections 102, 103, and 409 of this act unless the context
30 clearly requires otherwise.

31 (1) "Department" means the department of commerce.

32 (2) "Electrolytic hydrogen" means hydrogen produced through
33 electrolysis and does not include hydrogen manufactured using steam
34 reforming or any other conversion technology that produces hydrogen
35 from a fossil fuel feedstock.

36 (3) "Office" means the statewide office of renewable fuels
37 established in section 102 of this act.

1 (4) "Overburdened communities" has the same meaning as defined in
2 RCW 70A.02.010.

3 (5) "Renewable fuel" means fuel produced using renewable
4 resources.

5 (6) "Renewable resource" has the same meaning as defined in RCW
6 19.405.020.

7 NEW SECTION. **Sec. 102.** A new section is added to chapter 43.330
8 RCW to read as follows:

9 (1) The statewide office of renewable fuels is established. The
10 director of the office must be appointed by the governor. The office
11 may employ staff as necessary to carry out the office's duties as
12 prescribed by this act, subject to the availability of amounts
13 appropriated for this specific purpose.

14 (2) The purpose of the office is to leverage, support, and
15 integrate with other state agencies to:

16 (a) Accelerate comprehensive market development with assistance
17 along the entire life cycle of renewable fuel projects;

18 (b) Support research into and development and deployment of
19 renewable fuel production as well as distribution;

20 (c) Drive job creation, improve economic vitality, and support
21 the transition to clean energy;

22 (d) Enhance resiliency by using renewable fuels to support
23 climate change mitigation and adaptation; and

24 (e) Partner with overburdened communities to ensure communities
25 equitably benefit from renewable fuels efforts.

26 NEW SECTION. **Sec. 103.** A new section is added to chapter 43.330
27 RCW to read as follows:

28 (1) The office shall:

29 (a) Coordinate with local government, state agencies, federal
30 agencies, private entities, the state's public four-year institutions
31 of higher education, and others to facilitate and promote multi-
32 institution collaborations to drive research, development, and
33 deployment efforts in the production, distribution, and use of
34 renewable fuels including, but not limited to, electrolytic hydrogen;

35 (b) Review existing renewable fuels initiatives, policies, and
36 public and private investments;

1 (c) Consider funding opportunities that provide for the
2 coordination of public, private, state, and federal funds for the
3 purposes of developing and deploying renewable fuels;

4 (d) Assess opportunities for and barriers to deployment of
5 renewable fuels in hard to decarbonize sectors of the state economy;

6 (e) Request recommendations from the Washington state association
7 of fire marshals regarding fire and other safety standards adopted by
8 the United States department of energy and recognized national and
9 international fire and safety code development authorities;

10 (f) By July 1, 2024, develop a plan and recommendations for
11 consideration by the legislature and governor on renewable fuels
12 policy and public funding including, but not limited to, project
13 permitting, state procurement, and pilot projects; and

14 (g) Encourage new and support existing public-private
15 partnerships to increase coordinated planning and deployment of
16 renewable fuels.

17 (2) The office may take all appropriate steps to seek and apply
18 for federal funds for which the office is eligible, and other grants,
19 and accept donations, and must deposit these funds in the renewable
20 fuels accelerator account created in section 409 of this act.

21 (3) In carrying out its duties, the office must collaborate with
22 the department, the department of ecology, the department of
23 transportation, the utilities and transportation commission, the
24 Washington State University extension energy program, and all other
25 relevant state agencies.

26 (4) The office may cooperate with other state agencies in
27 compiling data regarding the use of renewable fuels in state
28 operations, including motor vehicle fleets, the state ferry system,
29 and nonroad equipment.

30 **Part 2**

31 **FEDERAL FUNDING**

32 NEW SECTION. **Sec. 201.** (1)(a) The legislature finds that the
33 federal infrastructure investment and jobs act, P.L. 117-58, provides
34 \$8,000,000,000 over five years to support the development of regional
35 clean hydrogen hubs. The federal infrastructure investment and jobs
36 act requires the United States secretary of energy to establish a
37 program to fund at least four regional hubs to aid in achieving a
38 hydrogen fuel production carbon intensity standard provided in that

1 legislation; to demonstrate the production, processing, delivery,
2 storage, and end use of hydrogen; and that can be developed into a
3 national network to facilitate a clean hydrogen economy. The federal
4 infrastructure investment and jobs act requires the secretary of
5 energy to select regional hubs that demonstrate a diversity of
6 feedstocks, a diversity of end uses, and a diversity of geographic
7 regions of the country. The federal infrastructure investment and
8 jobs act requires the secretary of energy to solicit proposals for
9 regional hubs by May 15, 2022, and to make selections of the hubs
10 within one year after the deadline for submission of proposals.

11 (b) The legislature further finds that Washington state is
12 strongly positioned to develop a regional clean energy hub meeting
13 the criteria of the federal infrastructure investment and jobs act
14 because the state:

15 (i) Has adopted a state energy strategy that recognizes hydrogen
16 as an integral part of the state's decarbonization pathway;

17 (ii) Has an abundance of low-cost, reliable electricity as the
18 primary feedstock for production of clean hydrogen;

19 (iii) Already hosts several hydrogen fuel production facilities
20 as well as production facilities in planning and design phases;

21 (iv) Has numerous industrial, maritime, and freight shipping
22 concerns that are moving toward cleaner fuels and would help provide
23 demand for hydrogen, as well as state and local governments currently
24 considering hydrogen uses; and

25 (v) Has a demonstrated track record of building partnerships
26 across the public and private sector to advance clean energy
27 technologies.

28 (c) The legislature further finds that the state may help to
29 promote and strengthen applications for regional hydrogen hub federal
30 funding through state funding assistance to bring together multiple
31 interests for the purpose of timely submitting applications to the
32 United States secretary of energy for development of a regional
33 hydrogen hub in Washington state.

34 (2) Subject to amounts appropriated for this specific purpose,
35 the director of the department of commerce may provide funding to a
36 port district, a public utility district, a city, a county, or any
37 combination of such local governments, to assist in the preparation
38 of an application to secure federal funding to develop a regional
39 clean hydrogen hub in Washington state. If the director determines
40 that a single application from a strong partnership in Washington

1 state representing public and private sectors will make the
2 application more competitive than supporting multiple applications,
3 the director may not make more than one award of funding. The
4 director shall solicit proposals that:

5 (a) Demonstrate a broad assembly of participants in developing
6 and implementing the infrastructure of a regional hydrogen hub;

7 (b) Demonstrate that a strong and timely application will be
8 submitted to the United States department of energy; and

9 (c) Include commitments from manufacturing industries,
10 transportation, utilities, and other sectors to incorporate hydrogen
11 fuels into their transition to cleaner energy.

12 (3) In addition to the assistance in applying for federal funding
13 provided through subsection (2) of this section, the legislature
14 intends that the state fully support a regional clean energy hub in
15 the state, including further direct financial assistance in
16 developing the hub and the acquisition of hydrogen fuels for state
17 agency and local government uses.

18 NEW SECTION. **Sec. 202.** The sum of \$500,000, or as much thereof
19 as may be necessary, is appropriated for the biennium ending June 30,
20 2023, from the renewable fuels accelerator account created in section
21 409 of this act to the department of commerce for the purposes of
22 section 201 of this act.

23 **Part 3**

24 **UTILITIES AND TRANSPORTATION COMMISSION REPORT**

25 NEW SECTION. **Sec. 301.** (1) By December 1, 2024, the utilities
26 and transportation commission must submit to the appropriate
27 committees of the senate and house of representatives a report
28 addressing the following regarding advancing the production and use
29 of hydrogen fuel in the state:

30 (a) Whether the production and distribution of hydrogen fuels is
31 a matter affected with the public interest in which the regulation of
32 the rates and services should be assigned by the legislature to the
33 utilities and transportation commission, as such regulation is
34 provided for other public service companies such as natural gas
35 companies;

1 (b) Whether electric utilities regulated by the commission should
2 be required to analyze the costs and benefits of adopting special
3 tariffs for the electrolytic production of hydrogen fuels;

4 (c) The adoption of safety standards for hydrogen fuel
5 distribution, including ensuring consistency and clarity of standards
6 applicable to distribution and end-use dispensing infrastructure
7 throughout the state;

8 (d) Recommended standards for blending of hydrogen into natural
9 gas distribution infrastructure; and

10 (e) The role that hydrogen fuel may serve as the state reduces
11 greenhouse gas emissions from fossil natural gas, including findings
12 and recommendations included in the commission's decarbonization
13 inquiry required under section 143, chapter 334, Laws of 2021.

14 (2) This section expires June 30, 2025.

15 **Part 4**

16 **ELECTROLYTIC HYDROGEN**

17 **Sec. 401.** RCW 80.50.020 and 2021 c 317 s 17 are each amended to
18 read as follows:

19 The definitions in this section apply throughout this chapter
20 unless the context clearly requires otherwise.

21 (1) "Alternative energy resource" includes energy facilities of
22 the following types: (a) Wind; (b) solar energy; (c) geothermal
23 energy; (d) ~~((landfill))~~ renewable natural gas; (e) wave or tidal
24 action; ~~((or))~~ (f) biomass energy based on solid organic fuels from
25 wood, forest, or field residues, or dedicated energy crops that do
26 not include wood pieces that have been treated with chemical
27 preservatives such as creosote, pentachlorophenol, or copper-chrome-
28 arsenic; (g) renewable or electrolytic hydrogen; or (h) facilities
29 that retain energy, storing it by chemical, thermal, mechanical, or
30 other means for a period of time, then delivering energy after
31 storage.

32 (2) "Applicant" means any person who makes application for a site
33 certification pursuant to the provisions of this chapter.

34 (3) "Application" means any request for approval of a particular
35 site or sites filed in accordance with the procedures established
36 pursuant to this chapter, unless the context otherwise requires.

37 (4) "Associated facilities" means storage, transmission,
38 handling, or other related and supporting facilities connecting an

1 energy plant with the existing energy supply, processing, or
2 distribution system, including, but not limited to, communications,
3 controls, mobilizing or maintenance equipment, instrumentation, and
4 other types of ancillary transmission equipment, off-line storage or
5 venting required for efficient operation or safety of the
6 transmission system and overhead, and surface or subsurface lines of
7 physical access for the inspection, maintenance, and safe operations
8 of the transmission facility and new transmission lines constructed
9 to operate at nominal voltages of at least 115,000 volts to connect a
10 thermal power plant or alternative energy facilities to the northwest
11 power grid. However, common carrier railroads or motor vehicles shall
12 not be included.

13 (5) "Biofuel" means a liquid or gaseous fuel derived from organic
14 matter intended for use as a transportation fuel including, but not
15 limited to, biodiesel, renewable diesel, ethanol, renewable natural
16 gas, and renewable propane.

17 (6) "Certification" means a binding agreement between an
18 applicant and the state which shall embody compliance to the siting
19 guidelines, in effect as of the date of certification, which have
20 been adopted pursuant to RCW 80.50.040 as now or hereafter amended as
21 conditions to be met prior to or concurrent with the construction or
22 operation of any energy facility.

23 (7) "Construction" means on-site improvements, excluding
24 exploratory work, which cost in excess of two hundred fifty thousand
25 dollars.

26 (8) "Council" means the energy facility site evaluation council
27 created by RCW 80.50.030.

28 (9) "Counsel for the environment" means an assistant attorney
29 general or a special assistant attorney general who shall represent
30 the public in accordance with RCW 80.50.080.

31 (10) "Electrical transmission facilities" means electrical power
32 lines and related equipment.

33 (11) "Energy facility" means an energy plant or transmission
34 facilities: PROVIDED, That the following are excluded from the
35 provisions of this chapter:

36 (a) Facilities for the extraction, conversion, transmission or
37 storage of water, other than water specifically consumed or
38 discharged by energy production or conversion for energy purposes;
39 and

1 (b) Facilities operated by and for the armed services for
2 military purposes or by other federal authority for the national
3 defense.

4 (12) "Energy plant" means the following facilities together with
5 their associated facilities:

6 (a) Any nuclear power facility where the primary purpose is to
7 produce and sell electricity;

8 (b) Any nonnuclear stationary thermal power plant with generating
9 capacity of (~~three hundred fifty thousand~~) 350,000 kilowatts or
10 more, measured using maximum continuous electric generating capacity,
11 less minimum auxiliary load, at average ambient temperature and
12 pressure, and floating thermal power plants of (~~one hundred~~
13 ~~thousand~~) 100,000 kilowatts or more suspended on the surface of
14 water by means of a barge, vessel, or other floating platform;

15 (c) Facilities which will have the capacity to receive liquefied
16 natural gas in the equivalent of more than (~~one hundred million~~)
17 100,000,000 standard cubic feet of natural gas per day, which has
18 been transported over marine waters;

19 (d) Facilities which will have the capacity to receive more than
20 an average of (~~fifty thousand~~) 50,000 barrels per day of crude or
21 refined petroleum or liquefied petroleum gas which has been or will
22 be transported over marine waters, except that the provisions of this
23 chapter shall not apply to storage facilities unless occasioned by
24 such new facility construction;

25 (e) Any underground reservoir for receipt and storage of natural
26 gas as defined in RCW 80.40.010 capable of delivering an average of
27 more than (~~one hundred million~~) 100,000,000 standard cubic feet of
28 natural gas per day;

29 (f) Facilities capable of processing more than (~~twenty-five~~
30 ~~thousand~~) 25,000 barrels per day of petroleum or biofuel into
31 refined products except where such biofuel production is undertaken
32 at existing industrial facilities; and

33 (g) Facilities capable of producing more than (~~one thousand five~~
34 ~~hundred~~) 1,500 barrels per day of refined biofuel but less than
35 (~~twenty-five thousand~~) 25,000 barrels of refined biofuel.

36 (13) "Independent consultants" means those persons who have no
37 financial interest in the applicant's proposals and who are retained
38 by the council to evaluate the applicant's proposals, supporting
39 studies, or to conduct additional studies.

1 (14) "Land use plan" means a comprehensive plan or land use
2 element thereof adopted by a unit of local government pursuant to
3 chapter 35.63, 35A.63, 36.70, or 36.70A RCW, or as otherwise
4 designated by chapter 325, Laws of 2007.

5 (15) "Person" means an individual, partnership, joint venture,
6 private or public corporation, association, firm, public service
7 company, political subdivision, municipal corporation, government
8 agency, public utility district, or any other entity, public or
9 private, however organized.

10 (16) "Preapplicant" means a person considering applying for a
11 site certificate agreement for any transmission facility.

12 (17) "Preapplication process" means the process which is
13 initiated by written correspondence from the preapplicant to the
14 council, and includes the process adopted by the council for
15 consulting with the preapplicant and with cities, towns, and counties
16 prior to accepting applications for all transmission facilities.

17 (18) "Secretary" means the secretary of the United States
18 department of energy.

19 (19) "Site" means any proposed or approved location of an energy
20 facility, alternative energy resource, or electrical transmission
21 facility.

22 (20) "Thermal power plant" means, for the purpose of
23 certification, any electrical generating facility using any fuel for
24 distribution of electricity by electric utilities.

25 (21) "Transmission facility" means any of the following together
26 with their associated facilities:

27 (a) Crude or refined petroleum or liquid petroleum product
28 transmission pipeline of the following dimensions: A pipeline larger
29 than six inches minimum inside diameter between valves for the
30 transmission of these products with a total length of at least
31 (~~fifteen~~) 15 miles;

32 (b) Natural gas, synthetic fuel gas, or liquefied petroleum gas
33 transmission pipeline of the following dimensions: A pipeline larger
34 than (~~fourteen~~) 14 inches minimum inside diameter between valves,
35 for the transmission of these products, with a total length of at
36 least (~~fifteen~~) 15 miles for the purpose of delivering gas to a
37 distribution facility, except an interstate natural gas pipeline
38 regulated by the United States federal power commission.

39 (22) "Zoning ordinance" means an ordinance of a unit of local
40 government regulating the use of land and adopted pursuant to chapter

1 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state
2 Constitution, or as otherwise designated by chapter 325, Laws of
3 2007.

4 (23) (a) "Electrolytic hydrogen" means hydrogen produced through
5 electrolysis.

6 (b) "Electrolytic hydrogen" does not include hydrogen
7 manufactured using steam reforming or any other conversion technology
8 that produces hydrogen from a fossil fuel feedstock.

9 (24) "Renewable hydrogen" means hydrogen produced using renewable
10 resources both as the source for the hydrogen and the source for the
11 energy input into the production process.

12 (25) "Renewable natural gas" means a gas consisting largely of
13 methane and other hydrocarbons derived from the decomposition of
14 organic material in landfills, wastewater treatment facilities, and
15 anaerobic digesters.

16 **Sec. 402.** RCW 54.04.190 and 2019 c 24 s 1 are each amended to
17 read as follows:

18 (1) In addition to any other authority provided by law, public
19 utility districts are authorized to produce and distribute biodiesel,
20 ethanol, and ethanol blend fuels, including entering into crop
21 purchase contracts for a dedicated energy crop for the purpose of
22 generating electricity or producing biodiesel produced from
23 Washington feedstocks, cellulosic ethanol, and cellulosic ethanol
24 blend fuels for use in internal operations of the electric utility
25 and for sale or distribution.

26 (2) In addition to any other authority provided by law:

27 (a) Public utility districts are authorized to produce renewable
28 natural gas, electrolytic hydrogen, and renewable hydrogen and
29 utilize the renewable natural gas, electrolytic hydrogen, or
30 renewable hydrogen they produce for internal operations.

31 (b) Public utility districts may sell renewable natural gas,
32 electrolytic hydrogen, or renewable hydrogen that is delivered into a
33 gas transmission pipeline located in the state of Washington or
34 delivered in pressurized containers:

35 (i) At wholesale;

36 (ii) To an end-use customer; or

37 (iii) If delivered in a pressurized container, or if the end-use
38 customer takes delivery of the renewable natural gas, electrolytic
39 hydrogen, or renewable hydrogen through a pipeline, and the end-use

1 customer is an eligible purchaser of natural gas from sellers other
2 than the gas company from which that end-use customer takes
3 transportation service and:

4 (A) When the sale is made to an end-use customer in the state of
5 Washington, the sale is made pursuant to a transportation tariff
6 approved by the Washington utilities and transportation commission;
7 or

8 (B) When the sale to an end-use customer is made outside of the
9 state of Washington, the sale is made pursuant to a transportation
10 tariff approved by the state agency which regulates retail sales of
11 natural gas.

12 (c) Public utility districts may sell renewable natural gas,
13 electrolytic hydrogen, or renewable hydrogen at wholesale or to an
14 end-use customer through a pipeline directly from renewable natural
15 gas, electrolytic hydrogen, or renewable hydrogen production
16 facilities to facilities that compress, liquefy, or dispense
17 compressed natural gas, liquefied natural gas, electrolytic hydrogen,
18 or renewable hydrogen fuel for end use as a transportation fuel.

19 (d) Public utility districts may sell electrolytic hydrogen or
20 renewable hydrogen at wholesale or to an end-use customer in
21 pressurized containers directly from electrolytic hydrogen or
22 renewable hydrogen production facilities to facilities that utilize
23 electrolytic hydrogen or renewable hydrogen as a nonutility related
24 input for a manufacturing process.

25 (3) Except as provided in subsection (2)(b)(iii) of this section,
26 nothing in this section authorizes a public utility district to sell
27 renewable natural gas, electrolytic hydrogen, or renewable hydrogen
28 delivered by pipeline to an end-use customer of a gas company.

29 (4)(a) Except as provided in this subsection (4), nothing in this
30 section authorizes a public utility district to own or operate
31 natural gas distribution pipeline systems used to serve retail
32 customers.

33 (b) For the purposes of subsection (2)(b) of this section, public
34 utility districts are authorized to own and operate interconnection
35 pipelines that connect renewable natural gas, electrolytic hydrogen,
36 or renewable hydrogen production facilities to gas transmission
37 pipelines.

38 (c) For the purposes of subsection (2)(c) of this section, public
39 utility districts may own and/or operate pipelines to supply, and/or
40 compressed natural gas, liquefied natural gas, electrolytic hydrogen,

1 or renewable hydrogen facilities to provide, renewable natural gas,
2 electrolytic hydrogen, or renewable hydrogen for end use as a
3 transportation fuel if all such pipelines and facilities are located
4 in the county in which the public utility district is authorized to
5 provide utility service.

6 (5) Exercise of the authorities granted under this section to
7 public utility districts does not subject them to the jurisdiction of
8 the utilities and transportation commission, except that public
9 utility districts are subject only to administration and enforcement
10 by the commission of state and federal requirements related to
11 pipeline safety and fees payable to the commission that are
12 applicable to such administration and enforcement.

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

15 (a) "Electrolytic hydrogen" means hydrogen produced through
16 electrolysis, and does not include hydrogen manufactured using steam
17 reforming or any other conversion technology that produces hydrogen
18 from a fossil fuel feedstock.

19 (b) "Renewable natural gas" means a gas consisting largely of
20 methane and other hydrocarbons derived from the decomposition of
21 organic material in landfills, wastewater treatment facilities, and
22 anaerobic digesters.

23 ~~((b))~~ (c) "Renewable hydrogen" means hydrogen produced using
24 renewable resources both as the source for the hydrogen and the
25 source for the energy input into the production process.

26 ~~((e))~~ (d) "Renewable resource" means: (i) Water; (ii) wind;
27 (iii) solar energy; (iv) geothermal energy; (v) renewable natural
28 gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power;
29 (viii) biodiesel fuel that is not derived from crops raised on land
30 cleared from old growth or first growth forests; or (ix) biomass
31 energy.

32 ~~((d))~~ (e) "Gas company" has the same meaning as in RCW
33 80.04.010.

34 **Sec. 403.** RCW 35.92.050 and 2002 c 102 s 3 are each amended to
35 read as follows:

36 A city or town may also construct, condemn and purchase,
37 purchase, acquire, add to, alter, maintain, and operate works,
38 plants, facilities for the purpose of furnishing the city or town and
39 its inhabitants, and any other persons, with gas, electricity,

1 electrolytic hydrogen as defined in RCW 54.04.190, renewable hydrogen
2 as defined in RCW 54.04.190, and other means of power and facilities
3 for lighting, including streetlights as an integral utility service
4 incorporated within general rates, heating, fuel, and power purposes,
5 public and private, with full authority to regulate and control the
6 use, distribution, and price thereof, together with the right to
7 handle and sell or lease, any meters, lamps, motors, transformers,
8 and equipment or accessories of any kind, necessary and convenient
9 for the use, distribution, and sale thereof; authorize the
10 construction of such plant or plants by others for the same purpose,
11 and purchase gas, electricity, or power from either within or without
12 the city or town for its own use and for the purpose of selling to
13 its inhabitants and to other persons doing business within the city
14 or town and regulate and control the use and price thereof.

15 **Sec. 404.** RCW 82.08.816 and 2019 c 287 s 11 are each amended to
16 read as follows:

17 (1) The tax imposed by RCW 82.08.020 does not apply to:

18 (a) The sale of batteries or fuel cells for electric vehicles,
19 including batteries or fuel cells sold as a component of an electric
20 bus at the time of the vehicle's sale;

21 (b) The sale of or charge made for labor and services rendered in
22 respect to installing, repairing, altering, or improving electric
23 vehicle batteries or fuel cells;

24 (c) The sale of or charge made for labor and services rendered in
25 respect to installing, constructing, repairing, or improving battery
26 or fuel cell electric vehicle infrastructure, including hydrogen
27 fueling stations;

28 (d) The sale of tangible personal property that will become a
29 component of battery or fuel cell electric vehicle infrastructure
30 during the course of installing, constructing, repairing, or
31 improving battery or fuel cell electric vehicle infrastructure; and

32 (e) The sale of zero emissions buses.

33 (2) Sellers may make tax exempt sales under this section only if
34 the buyer provides the seller with an exemption certificate in a form
35 and manner prescribed by the department. The seller must retain a
36 copy of the certificate for the seller's files.

37 (3) On the last day of January, April, July, and October of each
38 year, the state treasurer, based upon information provided by the
39 department, must transfer from the multimodal transportation account

1 to the general fund a sum equal to the dollar amount that would
2 otherwise have been deposited into the general fund during the prior
3 calendar quarter but for the exemption provided in this section.
4 Information provided by the department to the state treasurer must be
5 based on the best available data, except that the department may
6 provide estimates of taxes exempted under this section until such
7 time as retailers are able to report such exempted amounts on their
8 tax returns.

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

11 (a) "Battery charging station" means an electrical component
12 assembly or cluster of component assemblies designed specifically to
13 charge batteries within electric vehicles, which meet or exceed any
14 standards, codes, and regulations set forth by chapter 19.28 RCW and
15 consistent with rules adopted under RCW 19.27.540.

16 (b) "Battery exchange station" means a fully automated facility
17 that will enable an electric vehicle with a swappable battery to
18 enter a drive lane and exchange the depleted battery with a fully
19 charged battery through a fully automated process, which meets or
20 exceeds any standards, codes, and regulations set forth by chapter
21 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

22 (c) "Electric vehicle infrastructure" means structures,
23 machinery, and equipment necessary and integral to support a battery
24 or fuel cell electric vehicle, including battery charging stations,
25 rapid charging stations, battery exchange stations, fueling stations
26 that provide hydrogen for fuel cell electric vehicles, electrolytic
27 hydrogen production facilities, and renewable hydrogen production
28 facilities.

29 (d) "Electrolytic hydrogen" means hydrogen produced through
30 electrolysis, but does not include hydrogen manufactured using steam
31 reforming or any other conversion technology that produces hydrogen
32 from a fossil fuel feedstock.

33 (e) "Rapid charging station" means an industrial grade electrical
34 outlet that allows for faster recharging of electric vehicle
35 batteries through higher power levels, which meets or exceeds any
36 standards, codes, and regulations set forth by chapter 19.28 RCW and
37 consistent with rules adopted under RCW 19.27.540.

38 ((-e)) (f) "Renewable hydrogen" means hydrogen produced using
39 renewable resources both as the source for hydrogen and the source
40 for the energy input into the production process.

1 (~~(f)~~) (g) "Renewable resource" means (i) water; (ii) wind;
2 (iii) solar energy; (iv) geothermal energy; (v) renewable natural
3 gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power;
4 (viii) biodiesel fuel that is not derived from crops raised on land
5 cleared from old growth or first growth forests; or (ix) biomass
6 energy.

7 (~~(g)~~) (h) "Zero emissions bus" means a bus that emits no
8 exhaust gas from the onboard source of power, other than water vapor.

9 (5) This section expires July 1, 2025.

10 **Sec. 405.** RCW 82.12.816 and 2019 c 287 s 12 are each amended to
11 read as follows:

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

14 (a) Electric vehicle batteries or fuel cells, including batteries
15 or fuel cells sold as a component of an electric bus at the time of
16 the vehicle's sale;

17 (b) Labor and services rendered in respect to installing,
18 repairing, altering, or improving electric vehicle batteries or fuel
19 cells;

20 (c) Tangible personal property that will become a component of
21 battery or fuel cell electric vehicle infrastructure during the
22 course of installing, constructing, repairing, or improving battery
23 or fuel cell electric vehicle infrastructure; and

24 (d) Zero emissions buses.

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

27 (a) "Battery charging station" means an electrical component
28 assembly or cluster of component assemblies designed specifically to
29 charge batteries within electric vehicles, which meet or exceed any
30 standards, codes, and regulations set forth by chapter 19.28 RCW and
31 consistent with rules adopted under RCW 19.27.540.

32 (b) "Battery exchange station" means a fully automated facility
33 that will enable an electric vehicle with a swappable battery to
34 enter a drive lane and exchange the depleted battery with a fully
35 charged battery through a fully automated process, which meets or
36 exceeds any standards, codes, and regulations set forth by chapter
37 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

38 (c) "Electric vehicle infrastructure" means structures,
39 machinery, and equipment necessary and integral to support a battery

1 or fuel cell electric vehicle, including battery charging stations,
2 rapid charging stations, battery exchange stations, fueling stations
3 that provide hydrogen for fuel cell electric vehicles, electrolytic
4 hydrogen production facilities, and renewable hydrogen production
5 facilities.

6 (d) "Electrolytic hydrogen" means hydrogen produced through
7 electrolysis, but does not include hydrogen manufactured using steam
8 reforming or any other conversion technology that produces hydrogen
9 from a fossil fuel feedstock.

10 (e) "Rapid charging station" means an industrial grade electrical
11 outlet that allows for faster recharging of electric vehicle
12 batteries through higher power levels, which meets or exceeds any
13 standards, codes, and regulations set forth by chapter 19.28 RCW and
14 consistent with rules adopted under RCW 19.27.540.

15 (~~(e)~~) (f) "Renewable hydrogen" means hydrogen produced using
16 renewable resources both as the source for hydrogen and the source
17 for the energy input into the production process.

18 (~~(f)~~) (g) "Renewable resource" means (i) water; (ii) wind;
19 (iii) solar energy; (iv) geothermal energy; (v) renewable natural
20 gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power;
21 (viii) biodiesel fuel that is not derived from crops raised on land
22 cleared from old growth or first growth forests; or (ix) biomass
23 energy.

24 (~~(g)~~) (h) "Zero emissions bus" means a bus that emits no
25 exhaust gas from the onboard source of power, other than water vapor.

26 (3) On the last day of January, April, July, and October of each
27 year, the state treasurer, based upon information provided by the
28 department, must transfer from the multimodal transportation account
29 to the general fund a sum equal to the dollar amount that would
30 otherwise have been deposited into the general fund during the prior
31 calendar quarter but for the exemption provided in this section.
32 Information provided by the department to the state treasurer must be
33 based on the best available data, except that the department may
34 provide estimates of taxes exempted under this section until such
35 time as retailers are able to report such exempted amounts on their
36 tax returns.

37 (4) This section expires July 1, 2025.

38 **Sec. 406.** RCW 82.29A.125 and 2019 c 287 s 14 are each amended to
39 read as follows:

1 (1) Leasehold excise tax may not be imposed on leases to tenants
2 of public lands for purposes of installing, maintaining, and
3 operating electric vehicle infrastructure.

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

6 (a) "Battery charging station" means an electrical component
7 assembly or cluster of component assemblies designed specifically to
8 charge batteries within electric vehicles, which meet or exceed any
9 standards, codes, and regulations set forth by chapter 19.28 RCW and
10 consistent with rules adopted under RCW 19.27.540.

11 (b) "Battery exchange station" means a fully automated facility
12 that will enable an electric vehicle with a swappable battery to
13 enter a drive lane and exchange the depleted battery with a fully
14 charged battery through a fully automated process, which meets or
15 exceeds any standards, codes, and regulations set forth by chapter
16 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

17 (c) "Electric vehicle infrastructure" means structures,
18 machinery, and equipment necessary and integral to support an
19 electric vehicle, including battery charging stations, rapid charging
20 stations, battery exchange stations, fueling stations that provide
21 hydrogen for fuel cell electric vehicles, electrolytic hydrogen
22 production facilities, and renewable hydrogen production facilities.

23 (d) "Electrolytic hydrogen" means hydrogen produced through
24 electrolysis, but does not include hydrogen manufactured using steam
25 reforming or any other conversion technology that produces hydrogen
26 from a fossil fuel feedstock.

27 (e) "Rapid charging station" means an industrial grade electrical
28 outlet that allows for faster recharging of electric vehicle
29 batteries through higher power levels, which meets or exceeds any
30 standards, codes, and regulations set forth by chapter 19.28 RCW and
31 consistent with rules adopted under RCW 19.27.540.

32 (~~(e)~~) (f) "Renewable hydrogen" means hydrogen produced using
33 renewable resources both as the source for hydrogen and the source
34 for energy input into the production process.

35 (~~(f)~~) (g) "Renewable resource" means (i) water; (ii) wind;
36 (iii) solar energy; (iv) geothermal energy; (v) renewable natural
37 gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power;
38 (viii) biodiesel fuel that is not derived from crops raised on land
39 cleared from old growth or first growth forests; or (ix) biomass
40 energy.

1 (3) This section expires July 1, 2025.

2 NEW SECTION. **Sec. 407.** A new section is added to chapter 82.16
3 RCW to read as follows:

4 (1) Beginning July 1, 2022, the tax levied under this chapter
5 does not apply to sales of electricity made by a light and power
6 business to an electrolytic hydrogen production business, a renewable
7 hydrogen production business, or a business compressing, liquifying,
8 or dispensing electrolytic hydrogen or renewable hydrogen, for 25
9 years from the date of commercial operation of the business, provided
10 the commercial operation commences no later than July 1, 2032, and
11 provided the contract for sale of electricity to the business
12 contains the following terms:

13 (a) The electricity to be used in the electrolytic hydrogen
14 production process, the renewable hydrogen production process, or the
15 compression, liquification, or dispensing of the electrolytic
16 hydrogen or renewable hydrogen is separately metered from the
17 electricity used for general operations of the business; and

18 (b) The price charged for the electricity used in the
19 electrolytic hydrogen production process, the renewable hydrogen
20 production process, or the compression, liquification, or dispensing
21 of electrolytic hydrogen or renewable hydrogen is reduced by an
22 amount equal to the tax exemption available to the light and power
23 business under this section.

24 (2) The exemption provided for in this section does not apply to
25 amounts received from the remarketing or resale of electricity
26 originally obtained by contract for the production of electrolytic
27 hydrogen, the production of renewable hydrogen, or the compression,
28 liquification, or dispensing of electrolytic hydrogen or renewable
29 hydrogen.

30 (3) In order to claim an exemption under this section, a business
31 engaged in the production of electrolytic hydrogen, the production of
32 renewable hydrogen, or the compression, liquification, or dispensing
33 of electrolytic hydrogen or renewable hydrogen must provide the light
34 and power business with an exemption certificate in a form and manner
35 prescribed by the department.

36 (4) A person receiving the benefit of the exemption provided in
37 this section must file a complete annual tax performance report with
38 the department under RCW 82.32.534.

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

3 (a) "Electrolytic hydrogen" means hydrogen produced through
4 electrolysis, but does not include hydrogen manufactured using steam
5 reforming or any other conversion technology that produces hydrogen
6 from a fossil fuel feedstock.

7 (b) "Renewable hydrogen" means hydrogen produced using renewable
8 resources both as the source for the hydrogen and the source for the
9 energy input into the production process.

10 NEW SECTION. **Sec. 408.** This section is the tax preference
11 performance statement for the tax preference contained in section
12 407, chapter . . ., Laws of 2022 (section 407 of this act). The
13 performance statement is only intended to be used for subsequent
14 evaluation of the tax preference. It is not intended to create a
15 private right of action by any party or be used to determine
16 eligibility for preferential tax treatment.

17 (1) The legislature categorizes the tax preference as one
18 intended to induce certain designated behavior by taxpayers, as
19 indicated in RCW 82.32.808(2) (a).

20 (2) It is the legislature's specific public policy objective to:
21 Promote the construction and operation of renewable hydrogen and
22 electrolytic hydrogen production and dispensing facilities in
23 Washington; and provide tax treatment parity for electricity
24 available to produce hydrogen from all of Washington's utilities
25 serving the clean fuels markets, and tax treatment parity with the
26 electricity used to charge and serve other storage technologies and
27 transportation fuel markets. It is the legislature's intent to meet
28 these public policy objectives by providing a public utility excise
29 tax exemption on the sale of electricity used in the production of
30 electrolytic hydrogen, the production of renewable hydrogen, and the
31 compression, liquification, and dispensing of electrolytic hydrogen
32 and renewable hydrogen, to reduce the average cost of electricity,
33 which represents between 70 and 75 percent of the overall cost of
34 operation of hydrogen electrolyzers and related infrastructure.

35 (3) To measure the effectiveness of the tax preferences in
36 section 407, chapter . . ., Laws of 2022 (section 407 of this act) in
37 achieving the public policy objectives described in subsection (2) of
38 this section, the joint legislative audit and review committee must,
39 using calendar year 2021 as the baseline, evaluate the annual

1 volumetric quantity of renewable hydrogen and electrolytic hydrogen
2 produced in the state, as well as the annual percentage of hydrogen
3 produced in the state that is either electrolytic hydrogen or
4 renewable hydrogen.

5 (4) In order to obtain the data necessary to perform the review
6 in subsection (3) of this section, the department of revenue must
7 provide data needed for the joint legislative audit and review
8 committee analysis. In addition to the data source described under
9 this subsection, the joint legislative audit and review committee may
10 use any other data it deems necessary.

11 NEW SECTION. **Sec. 409.** A new section is added to chapter 43.330
12 RCW to read as follows:

13 The renewable fuels accelerator account is created in the state
14 treasury. Revenues to the account consist of appropriations made by
15 the legislature, federal funds, gifts or grants from the private
16 sector or foundations, and other sources deposited in the account.
17 Moneys in the account may be spent only after appropriation.
18 Expenditures from the account may be used only for purposes
19 designated in sections 102 and 103 of this act. Only the director of
20 the office or the director's designee may authorize expenditures from
21 the account.

22 **Part 5**

23 **MISCELLANEOUS**

24 NEW SECTION. **Sec. 501.** Sections 201, 202, and 409 of this act
25 are necessary for the immediate preservation of the public peace,
26 health, or safety, or support of the state government and its
27 existing public institutions, and take effect immediately.

28 NEW SECTION. **Sec. 502.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

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