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**HOUSE BILL 1619**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Fey, Duerr, and Wylie

AN ACT Relating to incentivizing development and acquisition of renewable energy resources; amending RCW 80.28.385; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 80.28 RCW; creating new sections; and providing expiration dates.

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

NEW SECTION. **Sec.**  The legislature finds that renewable energy resources are a critical component to reducing overall carbon emissions. The legislature further finds it prudent to incentivize development of multiple types of renewable energy infrastructure in order to maintain energy reliability, resiliency, and security as the state transitions toward decarbonizing its energy resources. Therefore, it is the intent of the legislature to incentivize the development of renewable natural gas and green hydrogen and assist with the provision of decarbonized energy as a service.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference contained in sections 3 and 4, chapter . . ., Laws of 2023 (sections 3 and 4 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

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

(3) It is the legislature's specific public policy objective to promote the development of renewable natural gas projects.

(4) If the review finds that the total number of methane emission capture projects increase in number over the time of adoption of this exemption and the majority of those projects process the methane into renewable natural gas that is sold in Washington the legislature intends to extend the expiration date of this tax preference.

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

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

(1)(a) Beginning January 1, 2024, and subject to the requirements of this section, the tax imposed by RCW 82.08.020 does not apply to sales of machinery and equipment used directly in generating renewable natural gas, or the charges made for labor and services rendered in respect to installing such machinery and equipment including, but not limited to, machinery, equipment, and labor for a facility capable of connecting to the existing natural gas infrastructure.

(b) Beginning January 1, 2024, and subject to the requirements of this section, the tax imposed by RCW 82.08.020 does not apply to sales of machinery and equipment used directly in connecting a renewable natural gas facility to an end user of the renewable natural gas or to the existing natural gas infrastructure, or the charges made for labor and services rendered in respect to installing such machinery and equipment.

(2) A person claiming an exemption under this section must keep records necessary for the department to verify eligibility under this section. Sellers may make tax exempt sales under this section if the buyer provides the seller with an exemption certification in a form and manner prescribed by the department. The seller must retain a copy of the certification for the seller's files.

(3) The definitions in this subsection apply throughout this section and section 3 of this act unless the context clearly requires otherwise.

(a)(i) "Machinery and equipment" means fixtures, devices, and support facilities that are integral and necessary to the generation of renewable natural gas or the connecting to the existing natural gas infrastructure. "Machinery and equipment" does not include: (A) Hand-powered tools; (B) property with a useful life of less than one year; (C) repair parts required to restore machinery and equipment to normal working order; (D) replacement parts that do not increase productivity, improve efficacy, or extend the useful life of machinery and equipment; (E) buildings; or (F) building fixtures that are not integral and necessary to the generation of renewable natural gas or connecting to existing natural gas infrastructure that are permanently affixed to and become a physical part of a building.

(ii)(A) Machinery and equipment is "used directly" in the generation of renewable natural gas if it gathers and processes methane into a usable form of natural gas that would otherwise be released into the atmosphere.

(B) Machinery and equipment is "used directly" in the connection to existing natural gas infrastructure if it provides a mechanism to link a renewable natural gas facility to a natural gas pipeline.

(b) "Renewable natural gas" has the same meaning as defined in RCW 19.405.020.

(4) A person claiming the retail sales tax exemption under this section must file an annual tax preference report with the department as required in RCW 82.32.534.

(5) This section expires January 1, 2035.

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

(1)(a) Beginning January 1, 2024, the provisions of this chapter do not apply to the use of machinery and equipment used directly in generating renewable natural gas, and labor and services rendered in respect to installing such machinery and equipment including, but not limited to, machinery, equipment, and labor at a facility capable of connecting to the existing natural gas infrastructure.

(b) Beginning January 1, 2024, the provisions of this chapter do not apply to the use of machinery and equipment used directly in connecting a renewable natural gas facility to an end user of the renewable natural gas or to the existing natural gas infrastructure, and labor and services rendered in respect to installing such machinery and equipment.

(2) The eligibility requirements, conditions, and definitions in section 3 of this act apply to this section, including the filing of an annual tax preference report with the department under RCW 82.32.534.

(3) This section expires January 1, 2035.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

Each gas company may construct and maintain facilities and projects that reduce greenhouse gas emissions from the full combustion of natural gas delivered to customers in the state and from the consumption of electricity generated from fossil fuels by retail electric customers in the state, and each gas company may seek recovery of these investments in rates from the commission pursuant to this chapter. These investments may include, but are not limited to:

(1) Residential and commercial rooftop solar, including battery storage and supplemental solar;

(2) Community solar projects designed to offset carbon associated with the use of conventional natural gas;

(3) Ground source heat pumps as a compliance strategy under chapter 70A.65 RCW for district heating and targeted load reduction in new buildings;

(4) Renewable gaseous fuels projects, including renewable natural gas and green electrolytic hydrogen, along with associated facility and pipeline infrastructure, upgrades, and improvements for industrial and heavy duty transportation;

(5) Carbon capture and sequestration projects associated with natural gas projects and facilities; and

(6) Research, development, and pilot efforts pertaining to nonemitting natural gas equipment and technologies.

**Sec.**  RCW 80.28.385 and 2019 c 285 s 13 are each amended to read as follows:

(1) A natural gas company may propose a renewable natural gas program under which the company would supply renewable natural gas for a portion of the natural gas sold or delivered to its retail customers. The renewable natural gas program is subject to review and approval by the commission. ((~~The customer charge for a renewable natural gas program may not exceed five percent of the amount charged to retail customers for natural gas.~~))

(2) The environmental attributes of renewable natural gas provided under this section must be retired using procedures established by the commission and may not be used for any other purpose. The commission must approve procedures for banking and transfer of environmental attributes.

(3) As used in this section, "renewable natural gas" includes renewable natural gas as defined in RCW 54.04.190. The commission may approve inclusion of other sources of gas if those sources are produced without consumption of fossil fuels.

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