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**SENATE BILL 5659**

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

**By** Senators Boehnke, Liias, Torres, and Wellman

AN ACT Relating to incentivizing gas companies to develop and acquire 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; adding a new section to chapter 19.27A RCW; adding a new section to chapter 70A.65 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. Incentivizing development of renewable and sustainable energy resources includes both electric and gaseous fuel resources and should be made widely available to all interests, regardless of business structure or type. The legislature further finds that gaseous fuels are an important energy resource and intends to support the development of this resource as part of a diversified clean energy strategy that utilizes existing infrastructure that has been built out over the years through the regulated utility compact embodied in chapter 80.24 RCW. Therefore, it is the intent of the legislature to provide tax incentives to encourage the development of increased methane capture and processing for use as renewable natural gas and provide explicit regulatory certainty that will encourage utilities invest in carbon reduction, capture, and offset efforts on behalf of their customers.

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 a 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:

(1) Every 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 every gas company may factor investments into these facilities and projects into rates and charges. These investments may include, but are not limited to:

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

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

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

(d) Renewable gaseous fuels projects, including renewable natural gas and hydrogen, along with associated facility and pipeline infrastructure, upgrades, and improvements;

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

(f) Research, development, and pilot efforts pertaining to carbon neutral natural gas equipment and technologies.

(2) The commission shall consider purchases of energy derived from and investments in projects outlined in subsection (1) of this section as being in the state's interest, including investments in projects located outside of Washington state, if the carbon emissions from these projects are booked and claimed only in Washington state.

NEW SECTION. **Sec.**  A new section is added to chapter 19.27A RCW to read as follows:

(1) Any state or local restrictions or limitations on the use of natural gas in buildings do not apply to buildings where:

(a) The amount of natural gas consumed in the building is equal to an amount of renewable natural gas acquired by the natural gas utility serving the site of the building;

(b) There is a real estate covenant on the building provided to the county from the builder confirming that only renewable natural gas will be provided to the building; and

(c) There is a certification provided to the utilities and transportation commission from the gas company serving the building confirming that the gas company will provide only renewable natural gas to the building.

(2) Dual fuel heat pumps that use both natural gas and electricity may be installed in any building for use as a peaking resource alternative under chapter 19.405 RCW when natural gas space and water heating supplements electric space and water heat pumps in a manner to reduce the consumption of electricity when ambient temperatures fall below 40 degrees Fahrenheit.

**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.

NEW SECTION. **Sec.**  A new section is added to chapter 70A.65 RCW to read as follows:

(1) A gas company may claim investments in residential and commercial rooftop solar, including associated battery storage, and community solar projects undertaken in section 5 of this act as reductions against its carbon compliance obligations under this chapter.

(2) In order to claim investments in residential and commercial rooftop solar, including associated battery storage, and community solar projects as a reduction in greenhouse gas emissions required under this chapter, a gas company must surrender renewable energy credits produced by the utility's investments made under this section. One renewable energy credit equates to one ton of carbon dioxide equivalent.

(3) For the purposes of this section, "renewable energy credit" means a tradable certificate of proof of one megawatt-hour of a renewable resource. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity and the certificate is verified by a renewable energy credit tracking system that has been selected by the department of commerce.

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