

HOUSE BILL REPORT

SHB 1756

As Passed House:
March 16, 2023

Title: An act relating to supporting clean energy through tax changes that increase revenue to local governments, schools, and impacted communities.

Brief Description: Supporting clean energy through tax changes that increase revenue to local governments, schools, and impacted communities.

Sponsors: House Committee on Finance (originally sponsored by Representatives Ramel, Klicker, Duerr, Rude, Schmidt, Reed, Kloba, Doglio, Senn, Ryu and Macri).

Brief History:

Committee Activity:

Finance: 2/7/23, 3/9/23 [DPS].

Floor Activity:

Passed House: 3/16/23, 81-12.

Brief Summary of Substitute Bill

- Provides a property tax exemption from the state property tax levy for personal property used for the generation of renewable energy and owned by a qualified taxpayer.
- Imposes a production excise tax on the nameplate capacity of qualified renewable energy generating systems.
- Creates the Renewable Energy Local Benefit Account.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Berg, Chair; Street, Vice Chair; Barnard, Ramel, Santos, Springer, Thai, Walen and Wylie.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Without recommendation. Signed by 4 members: Representatives Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Chopp and Stokesbary.

Staff: Tracey Taylor (786-7152).

Background:

Property Tax.

All real and personal property in the state is subject to property tax each year based on its value, unless specific exemption is provided by law.

Real property includes land, buildings, improvements and structures. Personal property includes machinery, equipment, supplies of businesses, non-attached mobile homes, state-assessed commercial vessels and utility property, or other movable items. Business inventories and intangible personal property, including stocks, are exempt from personal property taxes. In addition, household items owned by an individual are exempt from personal property taxes.

Property taxes are levied by the state and many local jurisdictions, including counties, cities, and local school, fire, park, and library districts. Property taxes are collected by the county and distributed to the levying jurisdiction. The county assessor determines the value of real and personal property for tax purposes, and calculates and certifies levy rates for most taxing districts. The Washington Constitution (Constitution) requires that taxes be uniform within a class of property.

The annual growth of all regular property tax levy revenue is limited as follows:

- For jurisdictions with a population of less than 10,000, revenue growth is limited to 1 percent.
- For jurisdictions with a population of 10,000 or more, revenue growth is limited to the lesser of inflation or 1 percent plus the value of new construction.

The Constitution also provides for a levy rate limit of \$10 per \$1,000 of assessed value, referred to as the constitutional \$10 limit.

Tax Preferences.

State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire

after 10 years unless an alternative expiration date is provided.

Summary of Substitute Bill:

Personal Property Tax Exemption.

Beginning with tax levied for collection in calendar year 2025, as long as a taxpayer fulfills the requirements of this act, all qualified personal property owned by a taxpayer and used for the generation of renewable energy is exempt from the state property tax levy.

For taxpayers who are not assessed as a public utility, the taxpayers must apply for the exemption with the applicable county assessor. If a taxpayer is assessed as a public utility, the application for an exemption must be filed with the Department of Revenue (DOR). In either case, applications are due by March 31 in order to claim the exemption for property taxes due and payable in the upcoming calendar year.

The application must include an attestation that the taxpayer has registered with the DOR to pay the production excise tax and designate if the exemption is for 10 or 15 years. After the initial application, only an annual attestation is required to continue the exemption.

The term "qualified personal property" means personal property that is used exclusively for the generation or storage of renewable energy in a facility, the construction of which began on or after July 1, 2023.

The term "renewable energy" means energy produced by a solar or wind facility with nameplate capacity sufficient to generate at least 1 megawatt of nameplate capacity of alternating current power.

Production Excise Tax.

Taxpayers granted a personal property tax exemption under this act are subject to a production excise tax for the privilege of using qualified renewable energy generating systems as an electric power source in Washington. The production excise tax rates are:

- \$80 per month per megawatt of nameplate capacity of alternating current for a qualified renewable energy generating system that uses solar energy to generate electricity and was granted a personal property tax exemption for 10 years;
- \$75 per month per megawatt of nameplate capacity of alternating current for a qualified renewable energy generating system that uses solar energy to generate electricity and was granted a personal property tax exemption for 15 years;
- \$150 per month per megawatt of nameplate capacity of alternating current for a qualified renewable energy generating system that uses wind energy to generate electricity and was granted a personal property tax exemption for 10 years;
- \$130 per month per megawatt of nameplate capacity of alternating current for a qualified renewable energy generating system that uses wind energy to generate electricity and was granted a personal property tax exemption for 15 years;
- \$19 per month per megawatt hour of renewable energy storage capacity and was

- granted a personal property tax exemption for 10 years; and
- \$14 per month per megawatt hour of renewable energy storage capacity and was granted a personal property tax exemption of 15 years.

To ensure the rate structures reflect the current market and technology, the DOR may recommend changes to the Legislature in the production excise tax rate structure.

Renewable Energy Local Benefit Account.

The Renewable Energy Local Benefit Account (Account) is created in the State Treasury and the revenues from the production excise tax must be deposited in this Account. Subject to appropriations, the Account may be used for expenditures to qualified local counties, qualified school districts, and qualified federal recognized Indian tribes. Apportionment of the revenues collected must be distributed as follows:

- 42.5 percent of excise tax paid by a renewable energy system located in a county must go to the county;
- 15 percent to a qualified federally recognized Indian tribe with rights or lands reserved or protected by federal treaty, statute, or executive order that are potentially impacted by a renewable energy system; and
- 42.5 percent to qualified school districts in the county, in proportion to number of students being served by the school district.

For the purposes of this act, the following definitions apply:

- "Qualified personal property" means personal property that is used exclusively for the generation or storage of renewable energy in a facility, the construction of which began on or after July 1, 2023.
- "Renewable energy" means energy produced by a solar or wind facility with nameplate capacity sufficient to generate at least one megawatt of nameplate capacity of alternating current power.

This act is exempt from the Tax Preference Performance Statement, a Joint Legislative Audit and Review Committee review, and the automatic 10-year expiration requirements. The provisions of Chapter 82.32 RCW apply to this act.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 13, 2023.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Too many rural communities are not seeing the direct benefit from the siting of renewable energy facilities in their area. In addition, the depreciation schedule for the

personal property tax for these types of facilities does not result in long-term economic benefit for the local governments. This bill provides a mechanism for the same amount of revenue to be collected, but it provides a steadier schedule of payments and directs the funds directly back to the locals. It is an opt-in program and only exempts the personal property from the state property tax levy.

Due to the sales and use tax exemption for the construction and rehabilitation of these types of facilities, local governments forgo a significant amount of revenues. This bill provides a mechanism for the local government to earn back some of those lost revenues in a time where some of the local communities are struggling to meet the cost of inflation on their budgets.

(Opposed) None.

(Other) This is an exciting opportunity to provide a direct benefit to local communities while helping to develop the state's renewable energy industry. There is a challenge to right size the rate options and we look forward to working on this bill. There are some concerns that other industries will seek similar state-shared exemptions.

Persons Testifying: (In support) Representative Alex Ramel, prime sponsor; Maddy Symm, Cypress Creek Renewables; and Carla Rowe, Columbia County.

(Other) Kate Brouns, Renewable Northwest; Glenn Blackmon, Washington State Department of Commerce; and Steve Ewing, Department of Revenue.

Persons Signed In To Testify But Not Testifying: None.