
HOUSE BILL 1729

State of Washington

68th Legislature

2023 Regular Session

By Representatives Abbarno, Klicker, Volz, Orcutt, Schmidt, and Cheney

Read first time 02/02/23. Referred to Committee on Finance.

1 AN ACT Relating to creating and expanding tax incentives for the
2 research, development, production, and sale of hydrogen fuel products
3 in Washington state; adding new sections to chapter 82.04 RCW;
4 creating a new section; and providing expiration dates.

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

6 NEW SECTION. **Sec. 1.** (1) This section is the tax preference
7 performance statement for the tax preferences contained in sections
8 2, 3, and 4, chapter . . ., Laws of 2023 (sections 2, 3, and 4 of
9 this act). This performance statement is only intended to be used for
10 subsequent evaluation of the tax preference. It is not intended to
11 create a private right of action by any party or be used to determine
12 eligibility for preferential tax treatment.

13 (2) The legislature categorizes these tax preferences as ones
14 intended to induce certain designated behavior by taxpayers, improve
15 industry competitiveness, and create or retain jobs, as indicated in
16 RCW 82.32.808(2) (a), (b), and (c).

17 (3) It is the legislature's specific public policy objective to
18 encourage hydrogen fuel product research, development, manufacture,
19 and sale in Washington to advance hydrogen fuel product technology,
20 production, and adoption in the state.

1 (4) If a review finds that the number of businesses in this state
2 focused on hydrogen fuel product research, development, manufacture,
3 or sale has increased as measured by the number of businesses
4 claiming the tax preferences in this act, or that Washington
5 businesses focused on hydrogen fuel product research, development,
6 and manufacturing in the state have made advancements in hydrogen
7 fuel product technology, then the legislature intends to extend the
8 expiration date of these tax preferences.

9 (5) In order to obtain the data necessary to perform the review
10 in subsection (4) of this section, the joint legislative audit and
11 review committee may access and use any relevant data collected by
12 the state.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04
14 RCW to read as follows:

15 PREFERENTIAL BUSINESS AND OCCUPATION TAX RATE. (1)(a) Beginning
16 January 1, 2024, upon every person engaging within this state in the
17 business of manufacturing hydrogen fuel products, as to such persons
18 the amount of tax with respect to such business is, in the case of
19 manufacturers, equal to the value of the product manufactured, or in
20 the case of processors for hire, equal to the gross income of the
21 business, multiplied by the rate of 0.2904 percent.

22 (b) Beginning January 1, 2024, upon every person engaging within
23 this state in the business of making sales, at retail or wholesale,
24 of hydrogen fuel products manufactured by the seller, as to such
25 persons the amount of tax with respect to such business is equal to
26 the gross proceeds of sales, multiplied by the rate of 0.2904
27 percent.

28 (2) For purposes of this section, the definitions in this
29 subsection apply.

30 (a) "Hydrogen electrolyzer" means a technology that uses an
31 electrochemical reaction to generate hydrogen by combining water and
32 electricity in the presence of a catalyst.

33 (b) "Hydrogen fuel cell" means a technology that uses an
34 electrochemical reaction to generate electric energy by combining
35 atoms of hydrogen and oxygen in the presence of a catalyst.

36 (c) "Hydrogen fuel product" means a hydrogen fuel cell or a
37 hydrogen electrolyzer.

38 (3) This section expires January 1, 2035.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04
2 RCW to read as follows:

3 BUSINESS AND OCCUPATION TAX CREDIT FOR HYDROGEN FUEL PRODUCT
4 RESEARCH AND DEVELOPMENT. (1)(a) In computing the tax imposed under
5 this chapter, a credit is allowed for each person for qualified
6 hydrogen fuel product development. For a person who is a manufacturer
7 or processor for hire of hydrogen fuel products, credit may be earned
8 for expenditures occurring after January 1, 2024.

9 (b) Any unused credits earned under this section may be accrued
10 and carried forward.

11 (2) The credit is equal to the amount of qualified hydrogen fuel
12 product development expenditures of a person, multiplied by the rate
13 of 1.75 percent.

14 (3) Except as provided in subsection (1)(b) of this section, the
15 credit under this section must be claimed against taxes due for the
16 same calendar year in which the qualified hydrogen fuel product
17 development expenditures are incurred. The credit for each calendar
18 year may not exceed the amount of tax otherwise due under this
19 chapter for the calendar year. Refunds may not be granted in the
20 place of a credit.

21 (4) Any person claiming the credit must file an electronic form
22 prescribed by the department that includes the amount of the credit
23 claimed, an estimate of the anticipated hydrogen fuel product
24 development expenditures during the calendar year for which the
25 credit is claimed, an estimate of the taxable amount during the
26 calendar year for which the credit is claimed, and such additional
27 information as the department may prescribe. A person whose reporting
28 period is less than annual must make an adjustment to the total
29 credit claimed for the calendar year using the person's actual
30 hydrogen fuel product development expenditures for the calendar year
31 when the person files its last return for the calendar year for which
32 the credit is claimed.

33 (5) The definitions in this subsection apply throughout this
34 section.

35 (a) "Hydrogen fuel product" has the same meaning as provided in
36 section 2 of this act.

37 (b) (i) "Hydrogen fuel product development" means:

38 (A) Research, design, and engineering activities performed in
39 relation to the development of hydrogen fuel products, hydrogen fuel

1 product technology, or of a product line of hydrogen fuel products,
2 including prototype development, testing, and certification;

3 (B) The discovery of technological information, the translating
4 of technological information into new or improved products,
5 processes, techniques, formulas, or inventions, and the adaptation of
6 existing products into new products; and

7 (C) Tool design and engineering design for the manufacturing
8 process.

9 (ii) "Hydrogen fuel product development" does not include:

10 (A) Surveys and studies, social science and humanities research,
11 market research or testing, quality control, sale promotion and
12 service, computer software developed for internal use, and research
13 in peripheral areas; or

14 (B) Manufacturing activities or other production-oriented
15 activities.

16 (c) "Qualified hydrogen fuel product development" means hydrogen
17 fuel product development performed within this state.

18 (d) (i) "Qualified hydrogen fuel product development expenditures"
19 means operating expenses, including wages, compensation of a
20 proprietor or a partner in a partnership as determined by the
21 department, benefits, supplies, and computer expenses, directly
22 incurred in qualified hydrogen fuel product development by a person
23 claiming the credit provided in this section.

24 (ii) "Qualified hydrogen fuel product development expenditures"
25 does not include amounts paid to a person or to the state and any of
26 its departments and institutions, other than a public educational or
27 research institution to conduct qualified hydrogen fuel product
28 development; or capital costs and overhead, such as expenses for
29 land, structures, or depreciable property.

30 (e) "Taxable amount" means the taxable amount subject to the tax
31 imposed in this chapter required to be reported on the person's tax
32 returns during the year in which the credit is claimed, less any
33 taxable amount for which a credit is allowed under RCW 82.04.440.

34 (6) In addition to all other requirements under this title, a
35 person claiming the credit under this section must file a complete
36 annual tax performance report with the department under RCW
37 82.32.534.

38 (7) Credit may not be claimed for expenditures for which a
39 similar credit is claimed under any other section of this chapter.

1 (8) Credits may be earned for tax reporting periods beginning on
2 or after January 1, 2024, and before December 31, 2033. Unused credit
3 may be carried over and claimed against the person's tax liability
4 for the next succeeding calendar year, but may not be carried over
5 for any calendar year thereafter. No credit may be claimed on tax
6 returns filed for reporting periods beginning on or after January 1,
7 2035.

8 (9) To claim a credit under this section a person must
9 electronically file with the department all returns, forms, and any
10 other information required by the department, in an electronic format
11 as provided or approved by the department.

12 (10) This section expires January 1, 2035.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.04
14 RCW to read as follows:

15 BUSINESS AND OCCUPATION TAX CREDIT FOR PROPERTY TAXES. (1) In
16 computing the tax imposed under this chapter, a credit is allowed for
17 property taxes and leasehold excise taxes paid during the calendar
18 year.

19 (2) The credit is equal to:

20 (a) (i) (A) Property taxes paid on buildings, and land upon which
21 the buildings are located, constructed after July 1, 2023, and used
22 primarily in manufacturing hydrogen fuel products; and

23 (B) Leasehold excise taxes paid with respect to buildings
24 constructed after July 1, 2023, the land upon which the buildings are
25 located, or both, if the buildings are used primarily in
26 manufacturing hydrogen fuel products; or

27 (ii) Property taxes attributable to an increase in assessed value
28 due to the renovation or expansion of a building after July 1, 2023,
29 used primarily in manufacturing hydrogen fuel products; and

30 (b) (i) An amount equal to property taxes paid, by persons taxable
31 under section 2 of this act, on machinery and equipment exempt under
32 RCW 82.08.02565 or 82.12.02565 and acquired after July 1, 2023;

33 (ii) For purposes of determining the amount eligible for credit
34 under (b) (i) of this subsection (2), the amount of property taxes
35 paid is multiplied by a fraction to be calculated as follows:

36 (A) The numerator of the fraction is the total taxable amount
37 subject to the tax imposed under section 2 of this act on the
38 applicable business activities of manufacturing hydrogen fuel
39 products.

1 (B) The denominator of the fraction is the total taxable amount
2 subject to the tax imposed under all manufacturing classifications in
3 this chapter.

4 (C) For purposes of both the numerator and denominator of the
5 fraction, the total taxable amount refers to the total taxable amount
6 required to be reported on the person's returns for the calendar year
7 before the calendar year in which the credit under this section is
8 earned. The department may provide for an alternative method for
9 calculating the numerator in cases where the tax rate provided in
10 section 2 of this act for manufacturing was not in effect during the
11 full calendar year before the calendar year in which the credit under
12 this section is earned.

13 (D) No credit is available under this subsection (2)(b) if either
14 the numerator or the denominator of the fraction is zero. If the
15 fraction is greater than or equal to 0.9, then the fraction is
16 rounded to one.

17 (3) The definitions in this subsection apply throughout this
18 section unless the context clearly indicates otherwise.

19 (a) "Hydrogen fuel product" has the same meaning as provided in
20 section 2 of this act.

21 (b) "Returns" means the tax returns for which the tax imposed
22 under this chapter is reported to the department.

23 (4) A credit earned during one calendar year may be carried over
24 to be credited against taxes incurred in subsequent calendar years.
25 No refunds may be granted for credits under this section.

26 (5) In addition to all other requirements under this title, a
27 person claiming the credit under this section must file a complete
28 annual tax performance report with the department under RCW
29 82.32.534.

30 (6) Credits may be earned for tax reporting periods beginning on
31 or after January 1, 2024, and before December 31, 2033. Unused credit
32 may be carried over and claimed against the person's tax liability
33 for the next succeeding calendar year, but may not be carried over
34 for any calendar year thereafter. No credit may be claimed on tax
35 returns filed for reporting periods beginning on or after January 1,
36 2035.

37 (7) To claim a credit under this section a person must
38 electronically file with the department all returns, forms, and any
39 other information required by the department, in an electronic format
40 as provided or approved by the department.

1 (8) This section expires January 1, 2035.

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