

# HOUSE BILL REPORT

## 2SHB 2130

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### As Amended by the Senate

**Title:** An act relating to tax incentives for renewable energy manufacturing facilities.

**Brief Description:** Concerning tax incentives for renewable energy manufacturing facilities.

**Sponsors:** House Committee on Finance (originally sponsored by Representatives Probst, Jacks, Morris, Morrell, Kenney, Conway and Ormsby).

#### **Brief History:**

##### **Committee Activity:**

Technology, Energy & Communications: 2/18/09, 2/19/09 [DPS];

Finance: 2/24/09, 3/2/09 [DP2S(w/o sub TEC)].

##### **Floor Activity**

Passed House: 3/9/09, 97-0.

Senate Amended.

Passed Senate: 4/26/09, 44-2.

#### **Brief Summary of Second Substitute Bill**

- Creates a business & occupation (B&O) credit for capital invested in renewable energy manufacturing expenditures.
- Allows a B&O credit for renewable energy manufacturing expenditures to be sold or transferred to a third party.

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### HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives McCoy, Chair; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Carlyle, Condotta, Eddy, Finn, Hasegawa, Herrera, Jacks, McCune, Morris, Takko and Van De Wege.

**Minority Report:** Do not pass. Signed by 1 member: Representative Hudgins.

**Staff:** Kara Durbin (786-7133)

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

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## HOUSE COMMITTEE ON FINANCE

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Technology, Energy & Communications. Signed by 9 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Condotta, Conway, Ericks, Santos and Springer.

**Staff:** Joseph Archuleta (786-7192)

### **Background:**

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state without any deduction for the costs of doing business. Revenues are deposited in the State General Fund. A business may have more than one B&O tax rate, depending on the type of activities conducted. There are a number of different rates. The main rates are: 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for professional and personal services, and activities not classified elsewhere.

Preferential manufacturing B&O tax rates have been provided by the Legislature in recent years for aerospace, semiconductor microchips and materials, biodiesel fuel, aluminum smelting, solar energy systems, and timber/wood products.

### Semiconductor Cluster Incentives.

In 2003 the Legislature enacted a package of tax incentives for manufacturers of semiconductor materials, including silicon crystals, silicon ingots, raw polished wafers, compound semiconductors, integrated circuits, and microchips. These incentives were contingent upon an investment of at least \$1 billion in a semiconductor microchip fabrication facility in the state. This package included: (1) a preferential B&O tax rate of 0.275 percent; (2) an exemption for gases and chemicals used in semiconductor manufacturing from retail sales and use tax; (3) an exemption for the construction of new semiconductor manufacturing buildings from retail sales and use tax; (4) a B&O tax credit of \$3,000 for each employment position in semiconductor manufacturing production; and (5) an exemption for machinery and equipment used in manufacturing semiconductor materials from property taxation. This contingency criterion was never met.

In 2006 another package of tax incentives was provided for manufacturers of certain semiconductor materials. These incentives were contingent upon an investment of at least \$350 million in new or expanded semiconductor manufacturing facilities in the state. This package included: (1) a preferential B&O tax rate of 0.275 percent; and (2) an exemption from retail sales and use taxes on the acquisition of gases and chemicals used in the production of semiconductor materials. This contingency was met, and the reduced tax rate became effective on December 1, 2006.

### Solar Energy Systems.

In 2005 B&O tax rate reductions were provided for certain types of solar energy manufacturing. The B&O tax rate was lowered to 0.2904 percent for businesses that: (1)

manufacture or sell at wholesale solar energy systems using photovoltaic modules; or (2) manufacture or sell at wholesale solar grade silicon to be used in the components of a solar energy system. Taxes paid in manufacturing these systems are granted a B&O tax credit. These solar energy manufacturing tax provisions expire on June 30, 2014.

#### **Summary of Second Substitute Bill:**

A business and occupation (B&O) tax credit is created for renewable energy manufacturing. A credit of 50 percent of capital invested in renewable energy manufacturing expenditures is allowed, up to a maximum of \$15 million of credit per person, per year.

The amount of statewide credits that may be claimed per year is \$30 million. No credit may be claimed before July 1, 2010. A project may not claim in any year more than 20 percent of the total amount of credits earned.

The person claiming a credit must be the owner of a renewable energy manufacturing facility or must have purchased the credit from a person who is the owner of such a facility.

A person may sell or transfer the value of their credits at a rate equal to 70 percent of the total amount of credit being sold or transferred. The purchaser of the credit may apply the full value of the credits being purchased to satisfy the purchaser's B&O tax due for the tax reporting period. The purchaser may not seek a refund for any credits purchased in excess of their B&O tax liability.

The Department of Revenue (Department), in coordination with the Department of Community, Trade and Economic Development, must adopt rules to implement the B&O tax credit system.

A person using the B&O tax credit is required to provide an annual report detailing employment, wages, and employer provided health and retirement benefits per job at the manufacturing site. If a person using the B&O tax credit fails to submit an annual report, the Department must declare the amount of taxes credited to be immediately due and payable. The fiscal committees of the Legislature must evaluate the effectiveness of the tax credit in 2011 and 2017.

#### **EFFECT OF SENATE AMENDMENT(S):**

##### Renewable Energy.

A sales and use tax exemption in the form of a refund is allowed for 100 percent of the sales tax paid on machinery and equipment used to create certain types of renewable energy from July 1, 2009, to June 30, 2011. The sales tax exemption is reduced to 75 percent from July 1, 2011, to June 30, 2013. The exemption expires June 30, 2013.

A full sales and use tax exemption is provided for machinery and equipment used to produce solar energy generating not more than 10 kilowatts of electricity. The exemption expires on June 30, 2013.

##### Radioactive Waste Cleanup.

The B&O tax rate is reduced from 1.5 percent to 0.471 percent for persons providing certain support services, which are either within the scope of work under a cleanup contract with the U.S. Department of Energy, or which assist in the requirement of a cleanup subcontract for radioactive waste cleanup.

#### Hog Fuel Incentives.

A sales and use tax exemption is provided for hog fuel used to produce electricity, steam, heat, or biofuel. The exemption expires on June 30, 2013.

#### Biomass Energy Incentives.

A B&O credit is provided for harvesters of harvested green ton of forest-derived biomass sold or used for production of electricity, steam, heat or biofuel. The credit expires June 30, 2015.

A sales tax and use exemption is provided for the sale of forest derived biomass used to produce electricity, steam, heat or biofuel. The exemption expires on June 30, 2013.

#### Solar Energy and Semiconductor Incentives.

Beginning October 1, 2009, the bill reduces the B&O tax rate from 0.2904 percent to 0.275 percent for businesses that manufacture or sell at wholesale either: (1) solar energy systems using photovoltaic modules; or (2) solar grade silicon and an expanded list of materials to be used exclusively in the components solar systems or semiconductors. The lower B&O tax rate expires on June 30, 2014.

A sales tax and use exemption is provided for gases and chemicals used in the production of solar energy equipment. The exemption expires December 1, 2018.

The PUT cost-recovery incentive program for renewable energy systems is extended to "community solar projects". Community solar projects are eligible for incentives of 30 cents for each kilowatt-hour of energy produced. Each applicant in a community solar project is eligible for annual incentives of \$5,000 per year.

The credit for a utility providing cost-recovery incentive payments is increased to \$100,000 or 1 percent of the utility's taxable power sales, whichever is greater. Incentive payments to participants in a utility-owned community solar project may only account for up to 25 percent of the total allowable credit. The expiration date of the cost-recovery program is extended from June 30, 2015, to June 30, 2020.

#### Livestock Nutrient Incentives.

The nutrient management sales and use tax exemption is expressed as a fixed list of equipment and facilities.

#### Log Hauling.

This bill reduces the PUT rate from 1.926 percent to 1.3696 percent on the hauling of logs over public highways. The exemption expires on June 30, 2013.

#### Hybrid Vehicles.

The sales tax exemption on hybrid vehicles is repealed on August 1, 2009. Hybrid vehicles are not subject to the 0.3 percent sales tax on vehicles through January 1, 2011.

Renewable Energy Manufacturing Projects.

Provides 4-year sales/use tax deferral for eligible investment projects in a county that is not qualified for the rural county investment project incentives under chapter 82.60 RCW, does not have a community empowerment zone (CEZ), is not one of the 3 most populous counties in the state, and meets population density requirements.

Provides a credit against the B&O tax for renewable energy manufacturers for eligible investment projects in a county that is not qualified for the rural county investment project incentives under chapter 82.60 RCW, does not have a community empowerment zone (CEZ), is not one of the 3 most populous counties in the state, and meets population density requirements.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony (Technology, Energy & Communications):**

(In support) This bill is about creating jobs. The renewable energy industry is growing very quickly. Washington should be very competitive in this market. Our operating costs for renewable energy manufacturing are lower than most other parts of the country. In the next 10 years, the industry is going to more than triple. These estimates were made before the federal stimulus package passed. Other states tend to get these manufacturing facilities because of their incentives. This bill will encourage many renewable energy companies to look at Washington as a place to invest.

This bill is a game changer. It creates a significant tax credit for renewable energy facilities. It addresses two major impediments: crunched cash flow and capitalization. Some of these tools are offered in other states and we're competing against them. We do want to make sure we have strong clawback provisions in the bill.

(In support with concerns) A tighter definition for the term "renewable energy manufacturing facility" would be helpful. It is not clear whether it only includes the manufacture of a finished product, or if it also includes the manufacture of key components of a finished renewable energy product.

(Opposed) None.

**Staff Summary of Public Testimony (Finance):**

(In support) We are in a recession, and this is one industry that is creating jobs quickly. In 2007 this was a \$77 billion industry, and it is supposed to triple over the next 10 years. Those projections were done before the federal stimulus package created even greater demand on this industry. So this is one place jobs are being created, and we can get people jobs during a recession. Also, they are green jobs and long lasting high-tech jobs. In the last

year Oregon took four projects from Washington. They got 1,300 jobs and \$500 million in private investment that Vancouver did not get. In the last 18 months 19 other projects also went to other states, because they have better incentive packages. If Washington is not incentivizing in a manner that monetizes quickly, our recent history would indicate that we will not be getting these projects or jobs. This incentive only happens after a new plant or a major expansion happens so only avenue jobs and new tax base are created.

(Opposed) None.

**Persons Testifying** (Technology, Energy & Communications): (In support) Representative Probst, prime sponsor; Jerry Smedes, Infinia Corporation; Bart Phillips, Columbia River Economic Development Council; and Robert Schaefer, SEH America, Inc.

(In support with concerns) Tim Boyd, Columbia Rural Electric Association.

**Persons Testifying** (Finance): Representative Probst, prime sponsor; Jerry Smedes, Infinia Corp; Bart Phillips, Columbia River Economic Development Council; and Amber Carter, Association of Washington Businesses.

**Persons Signed In To Testify But Not Testifying** (Technology, Energy & Communications): None.

**Persons Signed In To Testify But Not Testifying** (Finance): None.