
SECOND SUBSTITUTE HOUSE BILL 1009

State of Washington

61st Legislature

2009 Regular Session

By House Finance (originally sponsored by Representatives Morris, Chase, Lias, Anderson, Orcutt, Seaquist, Hudgins, and Moeller)

READ FIRST TIME 03/03/09.

1 AN ACT Relating to extending the expiration dates for existing
2 sales and use tax exemptions related to certain electricity generation;
3 amending RCW 82.08.02567 and 82.12.02567; providing an effective date;
4 providing expiration dates; and declaring an emergency.

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

6 **Sec. 1.** RCW 82.08.02567 and 2004 c 152 s 1 are each amended to
7 read as follows:

8 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a
9 qualifying utility, or to a person contracting with a qualifying
10 utility for the sale of electric power generated by a facility
11 containing machinery and equipment, of machinery and equipment used
12 directly in generating electricity using fuel cells, wind, sun, or
13 landfill gas as the principal source of power, or to sales of or
14 charges made for labor and services rendered in respect to installing
15 such machinery and equipment, but only if the purchaser develops with
16 such machinery, equipment, and labor a facility capable of generating
17 not less than two hundred watts of electricity and provides the seller
18 with an exemption certificate in a form and manner prescribed by the

1 department. The seller shall retain a copy of the certificate for the
2 seller's files.

3 (2) The exemption provided in this section is provided in the form
4 of a refund. Sellers must collect the tax on sales subject to this
5 exemption. The buyer must apply for a refund directly from the
6 department in a form and manner required by the department. The refund
7 is for twenty-five percent of the state sales tax.

8 (3) For purposes of this section and RCW 82.12.02567:

9 (a) "Landfill gas" means biomass fuel of the type qualified for
10 federal tax credits under 26 U.S.C. Sec. 29 collected from a landfill.
11 "Landfill" means a landfill as defined under RCW 70.95.030;

12 (b) "Machinery and equipment" means industrial fixtures, devices,
13 and support facilities that are integral and necessary to the
14 generation of electricity using fuel cells, wind, sun, or landfill gas
15 as the principal source of power;

16 (c) "Machinery and equipment" does not include: (i) Hand-powered
17 tools; (ii) property with a useful life of less than one year; (iii)
18 repair parts required to restore machinery and equipment to normal
19 working order; (iv) replacement parts that do not increase
20 productivity, improve efficiency, or extend the useful life of
21 machinery and equipment; (v) buildings; or (vi) building fixtures that
22 are not integral and necessary to the generation of electricity that
23 are permanently affixed to and become a physical part of a building;

24 (d) Machinery and equipment is "used directly" in generating
25 electricity with fuel cells or by wind energy, solar energy, or
26 landfill gas power if it provides any part of the process that captures
27 the energy of the wind, sun, or landfill gas, converts that energy to
28 electricity, and stores, transforms, or transmits that electricity for
29 entry into or operation in parallel with electric transmission and
30 distribution systems;

31 (e) "Fuel cell" means an electrochemical reaction that generates
32 electricity by combining atoms of hydrogen and oxygen in the presence
33 of a catalyst;

34 (f) "Qualifying utility" means an electric utility that is required
35 to use eligible renewable resources under RCW 19.285.040;

36 (g) "Person" means the same as person under RCW 82.04.030.

37 ((+3)) (4) This section expires June 30, ((2009)) 2020.

1 **Sec. 2.** RCW 82.12.02567 and 2004 c 152 s 2 are each amended to
2 read as follows:

3 (1) The provisions of this chapter shall not apply to a qualifying
4 utility, or to a person contracting with a qualifying utility for the
5 sale of electric power generated by a facility containing machinery and
6 equipment, with respect to machinery and equipment used directly in
7 generating not less than two hundred watts of electricity using fuel
8 cells, wind, sun, or landfill gas as the principal source of power, or
9 to the use of labor and services rendered in respect to installing such
10 machinery and equipment.

11 (2) The definitions, limitations, and refund requirements in RCW
12 82.08.02567 apply to this section.

13 (3) This section expires June 30, (~~2009~~) 2020.

14 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 June 30, 2009.

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