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**SENATE BILL 6019**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Palumbo and Hawkins

Read first time 04/24/19. Referred to Committee on Environment,  
Energy & Technology.

1 AN ACT Relating to generating electricity from a facility powered  
2 by the combustion of solid waste; adding a new section to chapter  
3 82.04 RCW; adding a new section to chapter 82.16 RCW; adding new  
4 sections to chapter 82.08 RCW; adding new sections to chapter 82.12  
5 RCW; creating a new section; and providing expiration dates.

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

7 NEW SECTION. **Sec. 1.** (1) This section is the tax preference  
8 performance statement for the tax preference contained in sections 2  
9 through 7, chapter . . ., Laws of 2019 (sections 2 through 7 of this  
10 act). This performance statement is only intended to be used for  
11 subsequent evaluation of the tax preference. It is not intended to  
12 create a private right of action by any party or be used to determine  
13 eligibility for preferential tax treatment.

14 (2) The legislature categorizes this tax preference as one  
15 intended to induce certain designated behavior by taxpayers, as  
16 indicated in RCW 82.32.808(2)(a).

17 (3) It is the legislature's specific public policy objective to  
18 create a more coordinated waste-to-energy policy in Washington state.  
19 It is the legislature's intent to exempt the construction of energy  
20 recovery facilities and the sale of electricity from various state  
21 taxes when a facility is built within one mile of an existing

1 landfill, in order to encourage the development of waste-to-energy  
2 facilities, thereby increasing renewable energy resources and  
3 decreasing waste in existing landfills in Washington state.

4 (4) If a review finds that there is an increase in the number of  
5 waste-to-energy facilities and new manufacturing businesses using  
6 electricity generated by these facilities, then the legislature  
7 intends to extend the expiration date of the tax preference.

8 (5) In order to obtain the data necessary to perform the review  
9 in subsection (4) of this section, the joint legislative audit and  
10 review committee may refer to tax data available from the department  
11 of revenue.

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

14 (1) This chapter does not apply to amounts received by an energy  
15 recovery facility, where the facility is within one mile of an  
16 existing landfill and the facility is constructed after the effective  
17 date of this section.

18 (2) The definitions in this subsection apply throughout this  
19 section unless the context clearly requires otherwise.

20 (a) "Energy recovery" means a process operating under federal and  
21 state environmental laws and regulations for converting solid waste  
22 into usable energy and for reducing the volume of solid waste, except  
23 that permit actions to site an energy recovery facility may be exempt  
24 from compliance with chapter 43.21C RCW.

25 (b) "Landfill" means a disposal facility or part of a facility at  
26 which solid waste is placed in or on land and which is not a land  
27 treatment facility.

28 (3) This section expires January 1, 2030.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.16  
30 RCW to read as follows:

31 (1) This chapter does not apply to the sale of electricity made  
32 by a light and power business if the contract for sale of electricity  
33 to the manufacturer or processor for hire contains the following  
34 terms: The electricity to be used by the manufacturer or processor  
35 for hire is generated by an energy recovery facility, where the  
36 facility is within one mile of an existing landfill and the facility  
37 is constructed after the effective date of this section.

1 (2) The definitions in section 2 of this act apply to this  
2 section.

3 (3) This section expires January 1, 2030.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.08  
5 RCW to read as follows:

6 (1) The tax levied by RCW 82.08.020 does not apply to:

7 (a) The sales of machinery or equipment used to construct an  
8 energy recovery facility, where the facility is within one mile of an  
9 existing landfill and the facility is constructed after the effective  
10 date of this section; and

11 (b) The sales of or charge made for labor and services rendered  
12 in respect to installing such machinery and equipment in an energy  
13 recovery facility, where the facility is within one mile of an  
14 existing landfill and the facility is constructed after the effective  
15 date of this section.

16 (2) The definitions in section 2 of this act apply to this  
17 section.

18 (3) This section expires January 1, 2030.

19 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.12  
20 RCW to read as follows:

21 (1) The provisions of this chapter do not apply with respect to  
22 the use of:

23 (a) Machinery or equipment used to construct an energy recovery  
24 facility, where the facility is within one mile of an existing  
25 landfill and the facility is constructed after the effective date of  
26 this section; and

27 (b) Labor and services rendered in respect to installing such  
28 machinery and equipment in an energy recovery facility, where the  
29 facility is within one mile of an existing landfill and the facility  
30 is constructed after the effective date of this section.

31 (2) The definitions in section 2 of this act apply to this  
32 section.

33 (3) This section expires January 1, 2030.

34 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.08  
35 RCW to read as follows:

36 (1) The tax levied by RCW 82.08.020 does not apply to charges  
37 made for labor and services rendered in respect to the constructing

1 of new buildings used for manufacturing, to sales of tangible  
2 personal property that will be incorporated as an ingredient or  
3 component of such buildings during the course of the constructing, or  
4 to labor and services rendered in respect to installing, during the  
5 course of constructing, building fixtures not otherwise eligible for  
6 the exemption under RCW 82.08.02565(2)(b), where the buildings are  
7 using electricity generated by an energy recovery facility within  
8 five miles and that is receiving exemptions under this chapter and  
9 chapter 82.12 RCW. The exemption is available only when the buyer  
10 provides the seller with an exemption certificate in a form and  
11 manner prescribed by the department. The seller must retain a copy of  
12 the certificate for the seller's files.

13 (2) To be eligible under this section the manufacturer or  
14 processor for hire must meet the following requirements for a ten-  
15 year period, such period beginning the day the new building commences  
16 commercial production, or a portion of tax otherwise due will be  
17 immediately due and payable pursuant to subsection (3) of this  
18 section:

19 (a) The manufacturer or processor for hire must maintain at least  
20 twenty-five family living wage jobs at the new building for which the  
21 exemption under this section is claimed.

22 (b) Before commencing commercial production at a new facility the  
23 manufacturer or processor for hire must meet with the department to  
24 review projected employment levels in the new buildings. The  
25 department, using information provided by the taxpayer, must make a  
26 determination of the number of positions that would be family living  
27 wage jobs. This number must be used throughout the ten-year period to  
28 determine whether any tax is to be repaid. This information is not  
29 subject to the confidentiality provisions of RCW 82.32.330 and may be  
30 disclosed to the public upon request.

31 (c) No application is necessary for the tax exemption. The person  
32 is subject to all the requirements of chapter 82.32 RCW. A person  
33 claiming the exemption under this section must file a complete annual  
34 tax performance report with the department under RCW 82.32.534.

35 (3) If the employment requirement is not met for any one calendar  
36 year, one-tenth of the exempt sales and use taxes will be due and  
37 payable by April 1st of the following year. The department must  
38 assess interest to the date the tax was imposed, but not penalties,  
39 on the taxes for which the person is not eligible.

1 (4) The exemption applies to new buildings, or parts of  
2 buildings, that are used exclusively in the manufacturing.

3 (5) The definitions in this subsection and section 2 of this act  
4 apply to this section unless the context clearly requires otherwise.

5 (a) "Commencement of commercial production" is deemed to have  
6 occurred when the equipment and process qualifications in the new  
7 building are completed and production for sale has begun.

8 (b) "Family living wage job" has the same meaning as defined in  
9 RCW 84.25.030.

10 (6) This section expires January 1, 2030.

11 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.12  
12 RCW to read as follows:

13 (1) The provisions of this chapter do not apply with respect to  
14 the use of tangible personal property that will be incorporated as an  
15 ingredient or component of new buildings used for the manufacturing  
16 during the course of constructing such buildings or to labor and  
17 services rendered in respect to installing, during the course of  
18 constructing, building fixtures not otherwise eligible for the  
19 exemption under RCW 82.08.02565(2)(b), where the buildings are using  
20 electricity generated by an energy recovery facility within five  
21 miles and that is receiving exemptions under chapter 82.08 RCW and  
22 this chapter.

23 (2) The eligibility requirements, conditions, and definitions in  
24 section 6 of this act apply to this section, including the filing of  
25 a complete annual tax performance report with the department under  
26 RCW 82.32.534.

27 (3) This section expires January 1, 2030.

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