
HOUSE BILL 1768

State of Washington

68th Legislature

2023 Regular Session

By Representatives Shavers and Barnard

1 AN ACT Relating to exempting certain sales of electricity to
2 qualifying green businesses from the public utilities tax; adding a
3 new section to chapter 82.16 RCW; creating a new section; providing
4 an effective date; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.16
7 RCW to read as follows:

8 (1) Beginning October 1, 2023, and for 10 years from the date of
9 commercial operation of the business, the tax levied under this
10 chapter does not apply to sales of electricity made by a light and
11 power business to a qualifying business if:

12 (a) The commercial operation commences no later than July 1,
13 2033; and

14 (b) The contract for sale of electricity to the business contains
15 the following terms:

16 (i) The electricity to be used in the qualifying activities is
17 separately metered from the electricity used for general operations
18 of the business; and

19 (ii) The price charged for the electricity used in the qualifying
20 activities is reduced by an amount equal to the tax exemption
21 available to the light and power business under this section.

1 (2) The exemption provided for in this section does not apply to
2 amounts received from the remarketing or resale of electricity
3 originally obtained by contract for the qualifying activities.

4 (3) In order to claim an exemption under this section, a
5 qualifying business must provide the light and power business with an
6 exemption certificate in a form and manner prescribed by the
7 department.

8 (4) A person receiving the benefit of the exemption provided in
9 this section must file a complete annual tax performance report with
10 the department under RCW 82.32.534.

11 (5) The definitions in this subsection apply throughout this
12 section unless the context clearly requires otherwise.

13 (a) "Compression" means compressing a gas, or a gas compressed,
14 to a pressure above ambient atmospheric pressure for processing,
15 storage, or transportation.

16 (b) "Green electrolytic hydrogen" means hydrogen produced through
17 electrolysis and does not include hydrogen manufactured using steam
18 reforming or any other conversion technology that produces hydrogen
19 from a fossil fuel feedstock.

20 (c) "Qualifying activities" means the green electrolytic hydrogen
21 production process, the renewable hydrogen production process, and
22 the compression, liquification, storage, or dispensing of green
23 electrolytic hydrogen or renewable hydrogen.

24 (d) "Qualifying business" means a business using electricity in
25 qualifying activities for qualifying projects.

26 (e) "Qualifying projects" means projects where the use of the
27 hydrogen is included in the state energy strategy including, but not
28 limited to, high heat industry, fuel for decarbonization of
29 transportation, including aviation, maritime, and surface
30 transportation, storage or generation of electricity, or otherwise
31 for use as a fuel that can be demonstrated to have a carbon intensity
32 of less than one pursuant to chapter 70A.535 RCW and the rules
33 adopted under RCW 70A.535.025.

34 (f) "Renewable hydrogen" means hydrogen produced using renewable
35 resources both as the source for the hydrogen and the source for the
36 energy input into the production process.

37 (g) "Renewable natural gas" has the same meaning as provided in
38 RCW 54.04.190.

1 (h) "State energy strategy" means the document developed by the
2 department of commerce pursuant to RCW 43.21F.090 in effect at the
3 initiation of construction of a qualifying project.

4 (6) This section expires January 1, 2045.

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

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

15 (3) It is the legislature's specific public policy objective to
16 attract and retain renewable and clean hydrogen production facilities
17 whose production outputs will be used in place of fossil fuel derived
18 fuels and manufacturing feedstocks that they replace.

19 (4) To measure the effectiveness of the tax preference in section
20 1 of this act, the joint legislative audit and review committee must,
21 using calendar year 2022 as the baseline, evaluate the annual
22 volumetric quantity of renewable hydrogen and green electrolytic
23 hydrogen produced in the state, as well as the annual percentage of
24 hydrogen produced in the state that is either green electrolytic
25 hydrogen or renewable hydrogen.

26 (5) In order to obtain the data necessary to perform the
27 evaluation in subsection (4) of this section, the department of
28 revenue must provide data needed for the joint legislative audit and
29 review committee analysis. In addition to the data source described
30 under this subsection, the joint legislative audit and review
31 committee may use any other data it deems necessary.

32 NEW SECTION. **Sec. 3.** This act takes effect October 1, 2023.

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