

PSSB 5575
Blue paper

1 AN ACT Relating to providing sales and use tax exemptions, in the
2 form of a remittance of tax paid, to encourage coal-fired electric
3 generation plants to convert to natural gas-fired plants; amending
4 RCW 82.14.050 and 82.14.060; adding a new section to chapter 82.08
5 RCW; adding a new section to chapter 82.12 RCW; creating a new
6 section; and providing expiration dates.

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

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

14 (1) The legislature categorizes this tax preference as one
15 intended to create or retain jobs, as indicated in RCW
16 82.32.808(2)(c).

17 (2) It is the legislature's specific public policy objective to
18 retain jobs at existing coal-fired electric generation facilities by
19 providing a tax exemption to allow these facilities to convert into
20 natural gas-fired generation plants rather than shut down
21 entirely. It is the legislature's intent to provide a tax exemption

1 for the conversion of a coal-fired electric generation facility into
2 a natural gas-fired generation plant, in order to reduce the costs
3 recently imposed by the legislature on companies that operate coal-
4 fired electric generation facilities, thereby increasing the ability
5 of these companies to continue their operations in Washington state,
6 thereby retaining jobs that otherwise would be lost if a coal-fired
7 electric generation facility were to shut down.

8 (3) This tax preference is created to provide an opportunity for
9 coal-fired electric generation facilities to convert into natural
10 gas-fired generation plants. This tax preference is meant to expire
11 and, therefore, the joint legislative audit and review committee is
12 exempt from reviewing this tax preference as required in chapter
13 43.136 RCW.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08
15 RCW to read as follows:

16 (1) Subject to the requirements in subsection (2) of this
17 section, a taxpayer is eligible for an exemption from the tax imposed
18 by RCW 82.08.020 on the sale of or charge made for:

19 (a) Labor and services rendered in respect to the constructing of
20 new structures, and expansion or renovation of existing structures,
21 for the purpose of converting a coal-fired electric generation
22 facility into a natural gas-fired plant;

23 (b) Materials that will be incorporated as an ingredient or
24 component of new or existing structures during the course of such
25 constructing, expanding, or renovating; or

26 (c) Machinery and equipment that is required to convert a coal-
27 fired electric generation facility into a natural gas-fired plant,
28 including labor and services rendered in respect to installing such
29 machinery and equipment.

30 (2)(a) The exemption in this section is in the form of a
31 remittance. A purchaser claiming an exemption from the tax in the
32 form of a remittance under this section must pay all applicable state
33 and local sales taxes imposed under RCW 82.08.020 and chapter 82.14
34 RCW on all purchases qualifying for the exemption. After the
35 conversion of a coal-fired electric generation facility into a
36 natural gas-fired plant is operationally complete, but not earlier
37 than April 1, 2019, the purchaser may then apply to the department
38 for a remittance of one hundred percent of the state and local sales
39 taxes paid under RCW 82.08.020 and chapter 82.14 RCW for purchases

1 qualifying under subsection (1) of this section. The purchaser must
2 specify the amount of exempted tax claimed and the qualifying
3 purchases for which the exemption is claimed. The purchaser must
4 retain, in adequate detail, records to enable the department to
5 determine whether the purchaser is entitled to an exemption under
6 this section, including: Invoices; proof of tax paid; and
7 construction contracts.

8 (b) The department may not accept any application for a
9 remittance that it does not receive by the later of July 1, 2019, or
10 within one year after the department determines that the conversion
11 of a coal-fired electric generation facility into a natural gas-fired
12 plant is operationally complete.

13 (c) The department must determine eligibility under this section
14 based on information provided by the purchaser, which is subject to
15 audit verification by the department. The department must remit
16 exempted amounts to qualifying purchasers who submitted timely
17 applications during the previous calendar quarter. No remittances may
18 be paid before July 1, 2019.

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

21 (a)(i) "Machinery and equipment" means industrial fixtures,
22 devices, and support facilities that are integral and necessary to
23 the generation of electricity using natural gas, including repair
24 parts and replacement parts.

25 (ii) "Machinery and equipment" does not include: (A) Hand-powered
26 tools; (B) property with a useful life of less than one year; (C)
27 repair parts required to restore machinery and equipment to normal
28 working order; (D) replacement parts that do not increase
29 productivity, improve efficiency, or extend the useful life of
30 machinery and equipment; (E) buildings; or (F) building fixtures that
31 are not integral and necessary to the generation of electricity that
32 are permanently affixed to and become a physical part of a building.

33 (b) "Operationally complete" means constructed or improved to the
34 point of being functionally capable of generating electricity using
35 natural gas.

36 (4) This section expires July 1, 2025.

37 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12
38 RCW to read as follows:

1 (1) Subject to the requirements in subsection (2) of this
2 section, a taxpayer is eligible for an exemption from the tax imposed
3 by RCW 82.12.020 on the use of:

4 (a) Materials that will be incorporated as an ingredient or
5 component of new or existing structures during the course of the
6 constructing of new structures, or expansion or renovation of
7 existing structures, for the purpose of converting a coal-fired
8 electric generation facility into a natural gas-fired plant; and

9 (b) Machinery and equipment that is required to convert a coal-
10 fired electric generation facility into a natural gas-fired plant,
11 including labor and services rendered in respect to installing such
12 machinery and equipment.

13 (2)(a) A taxpayer is exempt from the tax imposed by RCW 82.12.020
14 on the use of materials, machinery and equipment, or installation
15 labor, if the taxpayer received a remittance under section 2 of this
16 act with respect to the purchase of the materials, machinery and
17 equipment, or installation labor.

18 (b) With respect to materials, machinery and equipment, or
19 installation labor qualifying for the exemption in this section and
20 acquired by the taxpayer without the payment of the sales tax imposed
21 by RCW 82.08.020, the exemption in this section is in the form of a
22 remittance of the state and local use taxes paid under RCW 82.12.020
23 and chapter 82.14 RCW. All of the provisions applicable to
24 remittances under section 2 of this act apply to remittances under
25 this section.

26 (3) The exemption in this section does not apply to the use of
27 materials, machinery and equipment, and installation labor for
28 machinery and equipment, when first use within this state of such
29 materials, machinery and equipment, and installation labor occurred
30 after June 30, 2025.

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

33 (5) This section expires July 1, 2025.

34 **Sec. 4.** RCW 82.14.050 and 2014 c 216 s 403 are each amended to
35 read as follows:

36 (1) The counties, cities, and transportation authorities under
37 RCW 82.14.045, public facilities districts under chapters 36.100 and
38 35.57 RCW, public transportation benefit areas under RCW 82.14.440,
39 regional transportation investment districts, and transportation

1 benefit districts under chapter 36.73 RCW must contract, prior to the
2 effective date of a resolution or ordinance imposing a sales and use
3 tax, the administration and collection to the state department of
4 revenue, which must deduct a percentage amount, as provided by
5 contract, not to exceed two percent of the taxes collected for
6 administration and collection expenses incurred by the department.
7 The remainder of any portion of any tax authorized by this chapter
8 that is collected by the department of revenue must be deposited by
9 the state department of revenue in the local sales and use tax
10 account hereby created in the state treasury. Beginning January 1,
11 2013, the department of revenue must make deposits in the local sales
12 and use tax account on a monthly basis on the last business day of
13 the month in which distributions required in (a) of this subsection
14 are due. Moneys in the local sales and use tax account may be
15 withdrawn only for:

16 (a) Distribution to counties, cities, transportation authorities,
17 public facilities districts, public transportation benefit areas,
18 regional transportation investment districts, and transportation
19 benefit districts imposing a sales and use tax; and

20 (b) Making refunds of taxes imposed under the authority of this
21 chapter and RCW 81.104.170 and exempted under RCW 82.08.962,
22 82.12.962, 82.08.02565, ~~((and))~~, 82.12.02565, section 2 of this act,
23 or section 3 of this act.

24 (2) All administrative provisions in chapters 82.03, 82.08,
25 82.12, and 82.32 RCW, as they now exist or may hereafter be amended,
26 insofar as they are applicable to state sales and use taxes, are
27 applicable to taxes imposed pursuant to this chapter.

28 (3) Counties, cities, transportation authorities, public
29 facilities districts, and regional transportation investment
30 districts may not conduct independent sales or use tax audits of
31 sellers registered under the streamlined sales tax agreement.

32 (4) Except as provided in RCW 43.08.190 and subsection (5) of
33 this section, all earnings of investments of balances in the local
34 sales and use tax account must be credited to the local sales and use
35 tax account and distributed to the counties, cities, transportation
36 authorities, public facilities districts, public transportation
37 benefit areas, regional transportation investment districts, and
38 transportation benefit districts monthly.

39 (5) Beginning January 1, 2013, the state treasurer must determine
40 the amount of earnings on investments that would have been credited

1 to the local sales and use tax account if the collections had been
2 deposited in the account over the prior month. When distributions are
3 made under subsection (1)(a) of this section, the state treasurer
4 must transfer this amount from the state general fund to the local
5 sales and use tax account and must distribute such sums to the
6 counties, cities, transportation authorities, public facilities
7 districts, public transportation benefit areas, regional
8 transportation investment districts, and transportation benefit
9 districts.

10 **Sec. 5.** RCW 82.14.060 and 2014 c 216 s 404 are each amended to
11 read as follows:

12 (1)(a) Monthly, the state treasurer must distribute from the
13 local sales and use tax account to the counties, cities,
14 transportation authorities, public facilities districts, and
15 transportation benefit districts the amount of tax collected on
16 behalf of each taxing authority, less:

17 (i) The deduction provided for in RCW 82.14.050; and

18 (ii) The amount of any refunds of local sales and use taxes
19 exempted under RCW 82.08.962, 82.12.962, 82.08.02565, (~~and~~)
20 82.12.02565, section 2 of this act, or section 3 of this act, which
21 must be made without appropriation.

22 (b) The state treasurer must make the distribution under this
23 section without appropriation.

24 (2) In the event that any ordinance or resolution imposes a sales
25 and use tax at a rate in excess of the applicable limits contained
26 herein, such ordinance or resolution may not be considered void in
27 toto, but only with respect to that portion of the rate which is in
28 excess of the applicable limits contained herein.

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