
SENATE BILL 5629

State of Washington

66th Legislature

2019 Regular Session

By Senators Brown, Becker, Ericksen, and Warnick

1 AN ACT Relating to promoting small modular reactors in
2 Washington; amending RCW 43.21F.025, 43.21F.088, 82.85.010,
3 82.85.020, 82.85.030, 82.85.040, 82.85.050, and 82.85.080; adding a
4 new section to chapter 82.04 RCW; creating a new section; and
5 providing expiration dates.

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

7 **Sec. 1.** RCW 43.21F.025 and 2010 c 271 s 402 are each amended to
8 read as follows:

9 (1) "Assistant director" means the assistant director of the
10 department of commerce responsible for energy policy activities;

11 (2) "Department" means the department of commerce;

12 (3) "Director" means the director of the department of commerce;

13 (4) "Distributor" means any person, private corporation,
14 partnership, individual proprietorship, utility, including investor-
15 owned utilities, municipal utility, public utility district, joint
16 operating agency, or cooperative, which engages in or is authorized
17 to engage in the activity of generating, transmitting, or
18 distributing energy in this state;

19 (5) "Energy" means petroleum or other liquid fuels; natural or
20 synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear
21 material; electricity; solar radiation; geothermal resources;

1 hydropower; organic waste products; wind; tidal activity; any other
2 substance or process used to produce heat, light, or motion; or the
3 savings from nongeneration technologies, including conservation or
4 improved efficiency in the usage of any of the sources described in
5 this subsection;

6 (6) "Person" means an individual, partnership, joint venture,
7 private or public corporation, association, firm, public service
8 company, political subdivision, municipal corporation, government
9 agency, public utility district, joint operating agency, or any other
10 entity, public or private, however organized; (~~and~~)

11 (7) "Small modular reactor" means a scalable nuclear power plant
12 using reactors that each have a gross power output no greater than
13 three hundred megawatts electric, and where each reactor is designed
14 for factory manufacturing and ease of transport, such as by truck,
15 rail, or barge; and

16 (8) "State energy strategy" means the document developed and
17 updated by the department as allowed in RCW 43.21F.090.

18 **Sec. 2.** RCW 43.21F.088 and 2010 c 271 s 403 are each amended to
19 read as follows:

20 (1) The state (~~shall~~) must use the following principles to
21 guide development and implementation of the state's energy strategy
22 and to meet the goals of RCW 43.21F.010:

23 (a) Pursue all cost-effective energy efficiency and conservation
24 as the state's preferred energy resource, consistent with state law;

25 (b) Ensure that the state's energy system meets the health,
26 welfare, and economic needs of its citizens with particular emphasis
27 on meeting the needs of low-income and vulnerable populations;

28 (c) Maintain and enhance economic competitiveness by ensuring an
29 affordable and reliable supply of energy resources and by supporting
30 clean energy technology innovation, including small modular reactors,
31 access to clean energy markets worldwide, and clean energy business
32 and workforce development;

33 (d) Reduce dependence on fossil fuel energy sources through
34 improved efficiency and development of cleaner energy sources, such
35 as bioenergy, low-carbon energy sources, and natural gas, and
36 leveraging the indigenous resources of the state for the production
37 of clean energy;

38 (e) Improve efficiency of transportation energy use through
39 advances in vehicle technology, increased system efficiencies,

1 development of electricity, biofuels, and other clean fuels, and
2 regional transportation planning to improve transportation choices;

3 (f) Meet the state's statutory greenhouse gas limits and
4 environmental requirements as the state develops and uses energy
5 resources;

6 (g) Build on the advantage provided by the state's clean regional
7 electrical grid by expanding and integrating additional carbon-free
8 and carbon-neutral generation, and improving the transmission
9 capacity serving the state;

10 (h) Make state government a model for energy efficiency, use of
11 clean and renewable energy, and greenhouse gas-neutral operations;
12 and

13 (i) Maintain and enhance our state's existing energy
14 infrastructure.

15 (2) The department (~~shall~~) must:

16 (a) During energy shortage emergencies, give priority in the
17 allocation of energy resources to maintaining the public health,
18 safety, and welfare of the state's citizens and industry in order to
19 minimize adverse impacts on their physical, social, and economic
20 well-being;

21 (b) Develop and disseminate impartial and objective energy
22 information and analysis, while taking full advantage of the
23 capabilities of the state's institutions of higher education,
24 national laboratory, and other organizations with relevant expertise
25 and analytical capabilities;

26 (c) Actively seek to maximize federal and other nonstate funding
27 and support to the state for energy efficiency, renewable energy,
28 emerging energy technologies, and other activities of benefit to the
29 state's overall energy future; and

30 (d) Monitor the actions of all agencies of the state for
31 consistent implementation of the state's energy policy including
32 applicable statutory policies and goals relating to energy supply and
33 use.

34 NEW SECTION. **Sec. 3.** (1) This section is the tax preference
35 performance statement for the tax preference contained in (section 4,
36 chapter . . ., Laws of 2019) (section 4 of this act). This
37 performance statement is only intended to be used for subsequent
38 evaluation of the tax preference. It is not intended to create a

1 private right of action by any party or be used to determine
2 eligibility for preferential tax treatment.

3 (2) The legislature categorizes this tax preference as one
4 intended to create or retain jobs, as indicated in RCW
5 82.32.808(2)(c).

6 (3) It is the legislature's specific public policy objective to
7 retain or increase the number of jobs in the small modular reactor
8 industry in Washington. It is the legislature's intent to exempt from
9 the tax levied by RCW 82.04.240, 82.04.250, and 82.04.270, the
10 manufacture or sale at wholesale or retail of small modular reactors,
11 thereby increasing the ability of such firms to invest in and expand
12 their Washington operations, thereby increasing the number of jobs in
13 the small modular reactor industry in Washington.

14 (4) If a review finds that the number of jobs in the small
15 modular reactor industry in Washington has increased by ten percent
16 compared to the number of those jobs at the time of enactment, then
17 the legislature intends to extend the expiration date of the tax
18 preference.

19 (5) In order to obtain the data necessary to perform the review
20 in subsection (4) of this section, the joint legislative audit and
21 review committee may refer to:

22 (a) The annual tax performance report that a taxpayer reporting
23 under the tax rate provided in section 4, chapter . . ., Laws of 2019
24 (section 4 of this act) must file with the department of revenue; and

25 (b) Employment data available from the employment security
26 department.

27 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.04
28 RCW to read as follows:

29 (1) This chapter does not apply to any person engaging within
30 this state in the business of: (a) Manufacturing small modular
31 reactors; or (b) making sales at wholesale or retail of small modular
32 reactors manufactured by that person.

33 (2) This chapter does not apply to any person engaging within
34 this state in the business of: (a) Manufacturing any item that is
35 designed to be a component or part of a small modular reactor; or (b)
36 making sales at wholesale or retail of an item designed to be a
37 component or part of a small modular reactor, when such item is
38 manufactured by that person.

1 (3) To qualify for the exemption under this section, a person
2 engaged in the business described in subsection (1) or (2) of this
3 section must develop an apprenticeship program, training program, or
4 workforce development program related to the business. Such programs
5 may be developed in cooperation with an institution of higher
6 education, as defined under RCW 28B.10.016(4).

7 (4) For the purposes of this section, "small modular reactor"
8 means a scalable nuclear power plant using reactors that each have a
9 gross power output no greater than three hundred megawatts electric,
10 and where each reactor is designed for factory manufacturing and ease
11 of transport, such as by truck, rail, or barge.

12 (5) The expiration date provisions of RCW 82.32.805(1)(a) do not
13 apply to this section.

14 **Sec. 5.** RCW 82.85.010 and 2017 3rd sp.s. c 37 s 801 are each
15 amended to read as follows:

16 (1) Businesses that invest capital create jobs and generate
17 economic activity that supports a healthy Washington economy. The
18 legislature finds that these investments result in future revenues
19 that support schools and our communities. Therefore, the legislature
20 (~~finds that a pilot program must be conducted to evaluate the~~
21 ~~effectiveness of~~) establishes a program that invests business taxes
22 from new investments into workforce training programs that support
23 manufacturing businesses in the state of Washington thereby creating
24 jobs and capital investments in the state for the benefit of its
25 citizens.

26 (2)(a) This subsection is the tax preference performance
27 statement for the sales and use tax deferral provided in RCW
28 82.85.040 on expenditures made to build or expand qualified
29 investment projects and purchases of machinery and equipment. This
30 performance statement is only intended to be used for subsequent
31 evaluation of the tax preference. It is not intended to create a
32 private right of action by any party or be used to determine
33 eligibility for preferential tax treatment.

34 (b) The legislature categorizes the tax preference as one
35 intended to create or retain jobs and to provide funding to support
36 job readiness training, professional development, or apprenticeship
37 programs in manufacturing or production occupations, as indicated in
38 RCW 82.32.808(2) (c) and (f).

1 (c) It is the legislature's specific public policy objective to
2 provide a (~~(pilot program that would provide a)~~) sales tax deferral
3 on the construction and expenditure costs of (~~(up to two new~~
4 ~~manufacturing facilities per calendar year, one of which must be~~
5 ~~located in eastern Washington and one of which must be located in~~
6 ~~western Washington)~~) new, renovated, or expanded manufacturing
7 facilities. When deferred taxes are repaid, the deferred taxes are
8 reinvested to support job readiness training, professional
9 development, or apprenticeship programs in manufacturing or
10 production occupations.

11 (d) To measure the effectiveness of the deferral provided in this
12 part in achieving the specific public policy objective described in
13 (c) of this subsection, the joint legislative audit and review
14 committee should refer to information available from the employment
15 security department and department of revenue. If a review finds that
16 each eligible investment project generated at least twenty full-time
17 jobs and increased training opportunities for manufacturing and
18 production jobs, then the legislature intends for the legislative
19 auditor to recommend extending the expiration date of the tax
20 preference. For purposes of this subsection (2)(d), the term full-
21 time jobs include both temporary construction jobs and permanent
22 full-time employment positions created at the eligible investment
23 project within one year of the date that the facility became
24 operationally complete as determined by the department of revenue.

25 (3) This section expires January 1, (~~(2026)~~) 2030.

26 **Sec. 6.** RCW 82.85.020 and 2017 3rd sp.s. c 37 s 802 are each
27 amended to read as follows:

28 (1) The definitions in this section apply throughout this chapter
29 unless the context clearly requires otherwise.

30 (a) "Applicant" means a person applying for a tax deferral under
31 this chapter.

32 (b) "Eligible investment project" means an investment project for
33 qualified buildings and machinery and equipment on (~~(two)~~) new,
34 renovated, or expanded manufacturing operations (~~(per calendar year,~~
35 ~~one of which must be located east of the crest of the Cascade~~
36 ~~mountains and one of which must be located west of the crest of the~~
37 ~~Cascade mountains)~~). Eligible investment projects that utilize or
38 produce small modular reactors or other green technologies are
39 encouraged. The deferral provided in this section only applies to the

1 state and local sales and use taxes due on the first ten million
2 dollars in costs for qualified buildings and machinery and equipment.

3 (c) "Initiation of construction" has the same meaning as in RCW
4 82.63.010.

5 (d) "Investment project" means an investment in qualified
6 buildings or qualified machinery and equipment, including labor and
7 services rendered in the planning, installation, and construction of
8 the project.

9 (e) "Manufacturing" has the same meaning as provided in RCW
10 82.04.120.

11 (f) "Person" has the same meaning as provided in RCW 82.04.030.

12 (g) "Qualified buildings" means construction of new structures,
13 and expansion or renovation of existing structures for the purpose of
14 increasing floor space or production capacity, used for
15 manufacturing, including plant offices and warehouses or other
16 buildings for the storage of raw material or finished goods if such
17 facilities are an essential or an integral part of a factory, mill,
18 plant, or laboratory used for manufacturing. If a qualified building
19 is used partly for manufacturing and partly for other purposes, the
20 applicable tax deferral must be determined by apportionment of the
21 costs of construction under rules adopted by the department.

22 (h) "Qualified machinery and equipment" means all new industrial
23 fixtures, equipment, and support facilities that are an integral and
24 necessary part of a manufacturing operation. "Qualified machinery and
25 equipment" includes: Computers; software; data processing equipment;
26 laboratory equipment; manufacturing components such as belts,
27 pulleys, shafts, and moving parts; molds, tools, and dies; operating
28 structures; and all equipment used to control, monitor, or operate
29 the machinery.

30 (i) "Recipient" means a person receiving a tax deferral under
31 this chapter.

32 (j) "Small modular reactor" means a scalable nuclear power plant
33 using reactors that each have a gross power output no greater than
34 three hundred megawatts electric, and where each reactor is designed
35 for factory manufacturing and ease of transport, such as by truck,
36 rail, or barge.

37 (2) This section expires January 1, (~~2026~~) 2030.

38 **Sec. 7.** RCW 82.85.030 and 2015 3rd sp.s. c 6 s 403 are each
39 amended to read as follows:

1 The lessor or owner of a qualified building is not eligible for a
2 deferral unless:

3 (1) The underlying ownership of the building, machinery, and
4 equipment vests exclusively in the same person; or

5 (2) (a) The lessor by written contract agrees to pass the economic
6 benefit of the deferral to the lessee;

7 (b) The lessee that receives the economic benefit of the deferral
8 agrees in writing with the department to complete the annual
9 ((survey)) tax performance report required under RCW ((82.32.585))
10 82.32.534; and

11 (c) The economic benefit of the deferral passed to the lessee is
12 no less than the amount of tax deferred by the lessor and is
13 evidenced by written documentation of any type of payment, credit, or
14 other financial arrangement between the lessor or owner of the
15 qualified building and the lessee.

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

17 **Sec. 8.** RCW 82.85.040 and 2017 3rd sp.s. c 37 s 803 are each
18 amended to read as follows:

19 (1) Application for deferral of taxes under this chapter must be
20 made before initiation of the construction of the investment project
21 or acquisition of equipment or machinery. The application must be
22 made to the department in a form and manner prescribed by the
23 department. ((The deferrals are available on a first-in-time basis.))
24 The application must contain information regarding the location of
25 the investment project, the applicant's average employment in the
26 state for the prior year, estimated or actual new employment related
27 to the project, estimated or actual wages of employees related to the
28 project, estimated or actual costs, time schedules for completion and
29 operation, and other information required by the department. The
30 department must rule on the application within sixty days.

31 (2) The department may not approve applications for more than two
32 eligible investment projects per calendar year.

33 (3) This section expires January 1, ((2026)) 2030.

34 **Sec. 9.** RCW 82.85.050 and 2015 3rd sp.s. c 6 s 405 are each
35 amended to read as follows:

36 (1) Except as otherwise provided in subsection (2) of this
37 section, the department must issue a sales and use tax deferral
38 certificate for state and local sales and use taxes due under

1 chapters 82.08, 82.12, 82.14, and 81.104 RCW on each eligible
2 investment project.

3 (2) No certificate may be issued for an investment project that
4 has already received a deferral under this (~~part [chapter]~~) chapter
5 or chapter 82.60 RCW.

6 (3) The department must keep a running total of all deferrals
7 granted under this chapter during each fiscal biennium.

8 (4) This section expires January 1, 2030.

9 **Sec. 10.** RCW 82.85.080 and 2015 3rd sp.s. c 6 s 408 are each
10 amended to read as follows:

11 (1) Each recipient of a deferral of taxes granted under this
12 chapter must file a complete annual (~~survey~~) tax performance report
13 with the department under RCW (~~(82.32.585)~~) 82.32.534. If the
14 economic benefits of the deferral are passed to a lessee as provided
15 in RCW 82.85.030, the lessee must file a complete annual (~~survey~~)
16 tax performance report, and the applicant is not required to file a
17 complete annual (~~survey~~) tax performance report.

18 (2) If, on the basis of a (~~survey~~) tax performance report under
19 RCW (~~(82.32.585)~~) 82.32.534 or other information, the department
20 finds that an investment project is not eligible for tax deferral
21 under this chapter due to the fact the investment project is no
22 longer used for qualified activities, the amount of deferred taxes
23 outstanding for the investment project is immediately due and
24 payable.

25 (3) If the economic benefits of a tax deferral under this chapter
26 are passed to a lessee as provided in RCW 82.85.030, the lessee is
27 responsible for payment to the extent the lessee has received the
28 economic benefit.

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