
SUBSTITUTE HOUSE BILL 1792

State of Washington

67th Legislature

2022 Regular Session

By House Finance (originally sponsored by Representatives Ramel, Orcutt, Abbarno, Fitzgibbon, Goodman, Slatter, Young, and Harris-Talley)

1 AN ACT Relating to expanding the production, distribution, and
2 use of hydrogen not produced from a fossil fuel feedstock; amending
3 RCW 82.08.816, 82.12.816, 82.29A.125, 54.04.190, and 35.92.050;
4 adding a new section to chapter 82.16 RCW; and creating a new
5 section.

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

7 **Sec. 1.** RCW 82.08.816 and 2019 c 287 s 11 are each amended to
8 read as follows:

9 (1) The tax imposed by RCW 82.08.020 does not apply to:

10 (a) The sale of batteries or fuel cells for electric vehicles,
11 including batteries or fuel cells sold as a component of an electric
12 bus at the time of the vehicle's sale;

13 (b) The sale of or charge made for labor and services rendered in
14 respect to installing, repairing, altering, or improving electric
15 vehicle batteries or fuel cells;

16 (c) The sale of or charge made for labor and services rendered in
17 respect to installing, constructing, repairing, or improving battery
18 or fuel cell electric vehicle infrastructure, including hydrogen
19 fueling stations;

20 (d) The sale of tangible personal property that will become a
21 component of battery or fuel cell electric vehicle infrastructure

1 during the course of installing, constructing, repairing, or
2 improving battery or fuel cell electric vehicle infrastructure; and

3 (e) The sale of zero emissions buses.

4 (2) Sellers may make tax exempt sales under this section only if
5 the buyer provides the seller with an exemption certificate in a form
6 and manner prescribed by the department. The seller must retain a
7 copy of the certificate for the seller's files.

8 (3) On the last day of January, April, July, and October of each
9 year, the state treasurer, based upon information provided by the
10 department, must transfer from the multimodal transportation account
11 to the general fund a sum equal to the dollar amount that would
12 otherwise have been deposited into the general fund during the prior
13 calendar quarter but for the exemption provided in this section.
14 Information provided by the department to the state treasurer must be
15 based on the best available data, except that the department may
16 provide estimates of taxes exempted under this section until such
17 time as retailers are able to report such exempted amounts on their
18 tax returns.

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

21 (a) "Battery charging station" means an electrical component
22 assembly or cluster of component assemblies designed specifically to
23 charge batteries within electric vehicles, which meet or exceed any
24 standards, codes, and regulations set forth by chapter 19.28 RCW and
25 consistent with rules adopted under RCW 19.27.540.

26 (b) "Battery exchange station" means a fully automated facility
27 that will enable an electric vehicle with a swappable battery to
28 enter a drive lane and exchange the depleted battery with a fully
29 charged battery through a fully automated process, which meets or
30 exceeds any standards, codes, and regulations set forth by chapter
31 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

32 (c) "Electric vehicle infrastructure" means structures,
33 machinery, and equipment necessary and integral to support a battery
34 or fuel cell electric vehicle, including battery charging stations,
35 rapid charging stations, battery exchange stations, fueling stations
36 that provide hydrogen for fuel cell electric vehicles, green
37 electrolytic hydrogen production facilities, and renewable hydrogen
38 production facilities.

39 (d) "Green electrolytic hydrogen" means hydrogen produced through
40 electrolysis, and does not include hydrogen manufactured using steam

1 reforming or any other conversion technology that produces hydrogen
2 from a fossil fuel feedstock.

3 (e) "Rapid charging station" means an industrial grade electrical
4 outlet that allows for faster recharging of electric vehicle
5 batteries through higher power levels, which meets or exceeds any
6 standards, codes, and regulations set forth by chapter 19.28 RCW and
7 consistent with rules adopted under RCW 19.27.540.

8 ~~((e))~~ (f) "Renewable hydrogen" means hydrogen produced using
9 renewable resources both as the source for hydrogen and the source
10 for the energy input into the production process.

11 ~~((f))~~ (g) "Renewable resource" means (i) water; (ii) wind;
12 (iii) solar energy; (iv) geothermal energy; (v) renewable natural
13 gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power;
14 (viii) biodiesel fuel that is not derived from crops raised on land
15 cleared from old growth or first growth forests; or (ix) biomass
16 energy.

17 ~~((g))~~ (h) "Zero emissions bus" means a bus that emits no
18 exhaust gas from the onboard source of power, other than water vapor.

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

20 **Sec. 2.** RCW 82.12.816 and 2019 c 287 s 12 are each amended to
21 read as follows:

22 (1) The tax imposed by RCW 82.12.020 does not apply to the use
23 of:

24 (a) Electric vehicle batteries or fuel cells, including batteries
25 or fuel cells sold as a component of an electric bus at the time of
26 the vehicle's sale;

27 (b) Labor and services rendered in respect to installing,
28 repairing, altering, or improving electric vehicle batteries or fuel
29 cells;

30 (c) Tangible personal property that will become a component of
31 battery or fuel cell electric vehicle infrastructure during the
32 course of installing, constructing, repairing, or improving battery
33 or fuel cell electric vehicle infrastructure; and

34 (d) Zero emissions buses.

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

37 (a) "Battery charging station" means an electrical component
38 assembly or cluster of component assemblies designed specifically to
39 charge batteries within electric vehicles, which meet or exceed any

1 standards, codes, and regulations set forth by chapter 19.28 RCW and
2 consistent with rules adopted under RCW 19.27.540.

3 (b) "Battery exchange station" means a fully automated facility
4 that will enable an electric vehicle with a swappable battery to
5 enter a drive lane and exchange the depleted battery with a fully
6 charged battery through a fully automated process, which meets or
7 exceeds any standards, codes, and regulations set forth by chapter
8 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

9 (c) "Electric vehicle infrastructure" means structures,
10 machinery, and equipment necessary and integral to support a battery
11 or fuel cell electric vehicle, including battery charging stations,
12 rapid charging stations, battery exchange stations, fueling stations
13 that provide hydrogen for fuel cell electric vehicles, green
14 electrolytic hydrogen production facilities, and renewable hydrogen
15 production facilities.

16 (d) "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 (e) "Rapid charging station" means an industrial grade electrical
21 outlet that allows for faster recharging of electric vehicle
22 batteries through higher power levels, which meets or exceeds any
23 standards, codes, and regulations set forth by chapter 19.28 RCW and
24 consistent with rules adopted under RCW 19.27.540.

25 (~~(e)~~) (f) "Renewable hydrogen" means hydrogen produced using
26 renewable resources both as the source for hydrogen and the source
27 for the energy input into the production process.

28 (~~(f)~~) (g) "Renewable resource" means (i) water; (ii) wind;
29 (iii) solar energy; (iv) geothermal energy; (v) renewable natural
30 gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power;
31 (viii) biodiesel fuel that is not derived from crops raised on land
32 cleared from old growth or first growth forests; or (ix) biomass
33 energy.

34 (~~(g)~~) (h) "Zero emissions bus" means a bus that emits no
35 exhaust gas from the onboard source of power, other than water vapor.

36 (3) On the last day of January, April, July, and October of each
37 year, the state treasurer, based upon information provided by the
38 department, must transfer from the multimodal transportation account
39 to the general fund a sum equal to the dollar amount that would
40 otherwise have been deposited into the general fund during the prior

1 calendar quarter but for the exemption provided in this section.
2 Information provided by the department to the state treasurer must be
3 based on the best available data, except that the department may
4 provide estimates of taxes exempted under this section until such
5 time as retailers are able to report such exempted amounts on their
6 tax returns.

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

8 **Sec. 3.** RCW 82.29A.125 and 2019 c 287 s 14 are each amended to
9 read as follows:

10 (1) Leasehold excise tax may not be imposed on leases to tenants
11 of public lands for purposes of installing, maintaining, and
12 operating electric vehicle infrastructure.

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

15 (a) "Battery charging station" means an electrical component
16 assembly or cluster of component assemblies designed specifically to
17 charge batteries within electric vehicles, which meet or exceed any
18 standards, codes, and regulations set forth by chapter 19.28 RCW and
19 consistent with rules adopted under RCW 19.27.540.

20 (b) "Battery exchange station" means a fully automated facility
21 that will enable an electric vehicle with a swappable battery to
22 enter a drive lane and exchange the depleted battery with a fully
23 charged battery through a fully automated process, which meets or
24 exceeds any standards, codes, and regulations set forth by chapter
25 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

26 (c) "Electric vehicle infrastructure" means structures,
27 machinery, and equipment necessary and integral to support an
28 electric vehicle, including battery charging stations, rapid charging
29 stations, battery exchange stations, fueling stations that provide
30 hydrogen for fuel cell electric vehicles, green electrolytic hydrogen
31 production facilities, and renewable hydrogen production facilities.

32 (d) "Green electrolytic hydrogen" means hydrogen produced through
33 electrolysis, and does not include hydrogen manufactured using steam
34 reforming or any other conversion technology that produces hydrogen
35 from a fossil fuel feedstock.

36 (e) "Rapid charging station" means an industrial grade electrical
37 outlet that allows for faster recharging of electric vehicle
38 batteries through higher power levels, which meets or exceeds any

1 standards, codes, and regulations set forth by chapter 19.28 RCW and
2 consistent with rules adopted under RCW 19.27.540.

3 ~~((e))~~ (f) "Renewable hydrogen" means hydrogen produced using
4 renewable resources both as the source for hydrogen and the source
5 for energy input into the production process.

6 ~~((f))~~ (g) "Renewable resource" means (i) water; (ii) wind;
7 (iii) solar energy; (iv) geothermal energy; (v) renewable natural
8 gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power;
9 (viii) biodiesel fuel that is not derived from crops raised on land
10 cleared from old growth or first growth forests; or (ix) biomass
11 energy.

12 (3) This section expires July 1, 2025.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.16
14 RCW to read as follows:

15 (1) Beginning July 1, 2022, the tax levied under this chapter
16 does not apply to sales of electricity made by a light and power
17 business to a green electrolytic hydrogen production business, a
18 renewable hydrogen production business, or a business compressing,
19 liquifying, or dispensing green electrolytic hydrogen or renewable
20 hydrogen, for 15 years from the date of commercial operation of the
21 business, provided the commercial operation commences no later than
22 July 1, 2032, and provided the contract for sale of electricity to
23 the business contains the following terms:

24 (a) The electricity to be used in the green electrolytic hydrogen
25 production process, the renewable hydrogen production process, or the
26 compression, liquification, or dispensing of the green electrolytic
27 hydrogen or renewable hydrogen is separately metered from the
28 electricity used for general operations of the business; and

29 (b) The price charged for the electricity used in the green
30 electrolytic hydrogen production process, the renewable hydrogen
31 production process, or the compression, liquification, or dispensing
32 of green electrolytic hydrogen or renewable hydrogen is reduced by an
33 amount equal to the tax exemption available to the light and power
34 business under this section.

35 (2) The exemption provided for in this section does not apply to
36 amounts received from the remarketing or resale of electricity
37 originally obtained by contract for the production of green
38 electrolytic hydrogen, the production of renewable hydrogen, or the

1 compression, liquification, or dispensing of green electrolytic
2 hydrogen or renewable hydrogen.

3 (3) In order to claim an exemption under this section, a business
4 engaged in the production of green electrolytic hydrogen, the
5 production of renewable hydrogen, or the compression, liquification,
6 or dispensing of green electrolytic hydrogen or renewable hydrogen
7 must provide the light and power business with an exemption
8 certificate in a form and manner prescribed by the department.

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

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

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

18 (b) "Renewable hydrogen" means hydrogen produced using renewable
19 resources both as the source for the hydrogen and the source for the
20 energy input into the production process.

21 **Sec. 5.** RCW 54.04.190 and 2019 c 24 s 1 are each amended to read
22 as follows:

23 (1) In addition to any other authority provided by law, public
24 utility districts are authorized to produce and distribute biodiesel,
25 ethanol, and ethanol blend fuels, including entering into crop
26 purchase contracts for a dedicated energy crop for the purpose of
27 generating electricity or producing biodiesel produced from
28 Washington feedstocks, cellulosic ethanol, and cellulosic ethanol
29 blend fuels for use in internal operations of the electric utility
30 and for sale or distribution.

31 (2) In addition to any other authority provided by law:

32 (a) Public utility districts are authorized to produce renewable
33 natural gas, green electrolytic hydrogen, and renewable hydrogen and
34 utilize the renewable natural gas, green electrolytic hydrogen, or
35 renewable hydrogen they produce for internal operations.

36 (b) Public utility districts may sell renewable natural gas,
37 green electrolytic hydrogen, or renewable hydrogen that is delivered
38 into a gas transmission pipeline located in the state of Washington
39 or delivered in pressurized containers:

1 (i) At wholesale;

2 (ii) To an end-use customer; or

3 (iii) If delivered in a pressurized container, or if the end-use
4 customer takes delivery of the renewable natural gas, green
5 electrolytic hydrogen, or renewable hydrogen through a pipeline, and
6 the end-use customer is an eligible purchaser of natural gas from
7 sellers other than the gas company from which that end-use customer
8 takes transportation service and:

9 (A) When the sale is made to an end-use customer in the state of
10 Washington, the sale is made pursuant to a transportation tariff
11 approved by the Washington utilities and transportation commission;
12 or

13 (B) When the sale to an end-use customer is made outside of the
14 state of Washington, the sale is made pursuant to a transportation
15 tariff approved by the state agency which regulates retail sales of
16 natural gas.

17 (c) Public utility districts may sell renewable natural gas, green
18 electrolytic hydrogen, or renewable hydrogen at wholesale or to
19 an end-use customer through a pipeline directly from renewable
20 natural gas, green electrolytic hydrogen, or renewable hydrogen
21 production facilities to facilities that compress, liquefy, or
22 dispense compressed natural gas, liquefied natural gas, green
23 electrolytic hydrogen, or renewable hydrogen fuel for end use as a
24 transportation fuel.

25 (d) Public utility districts may sell green electrolytic hydrogen
26 or renewable hydrogen at wholesale or to an end-use customer in
27 pressurized containers directly from green electrolytic hydrogen or
28 renewable hydrogen production facilities to facilities that utilize
29 green electrolytic hydrogen or renewable hydrogen as a nonutility
30 related input for a manufacturing process.

31 (3) Except as provided in subsection (2)(b)(iii) of this section,
32 nothing in this section authorizes a public utility district to sell
33 renewable natural gas, green electrolytic hydrogen, or renewable
34 hydrogen delivered by pipeline to an end-use customer of a gas
35 company.

36 (4)(a) Except as provided in this subsection (4), nothing in this
37 section authorizes a public utility district to own or operate
38 natural gas distribution pipeline systems used to serve retail
39 customers.

1 (b) For the purposes of subsection (2)(b) of this section, public
2 utility districts are authorized to own and operate interconnection
3 pipelines that connect renewable natural gas, green electrolytic
4 hydrogen, or renewable hydrogen production facilities to gas
5 transmission pipelines.

6 (c) For the purposes of subsection (2)(c) of this section, public
7 utility districts may own and/or operate pipelines to supply, and/or
8 compressed natural gas, liquefied natural gas, green electrolytic
9 hydrogen, or renewable hydrogen facilities to provide, renewable
10 natural gas, green electrolytic hydrogen, or renewable hydrogen for
11 end use as a transportation fuel if all such pipelines and facilities
12 are located in the county in which the public utility district is
13 authorized to provide utility service.

14 (5) Exercise of the authorities granted under this section to
15 public utility districts does not subject them to the jurisdiction of
16 the utilities and transportation commission, except that public
17 utility districts are subject only to administration and enforcement
18 by the commission of state and federal requirements related to
19 pipeline safety and fees payable to the commission that are
20 applicable to such administration and enforcement.

21 (6) The definitions in this subsection apply throughout this
22 section unless the context clearly requires otherwise.

23 (a) "Green electrolytic hydrogen" means hydrogen produced through
24 electrolysis, and does not include hydrogen manufactured using steam
25 reforming or any other conversion technology that produces hydrogen
26 from a fossil fuel feedstock.

27 (b) "Renewable natural gas" means a gas consisting largely of
28 methane and other hydrocarbons derived from the decomposition of
29 organic material in landfills, wastewater treatment facilities, and
30 anaerobic digesters.

31 (~~(b)~~) (c) "Renewable hydrogen" means hydrogen produced using
32 renewable resources both as the source for the hydrogen and the
33 source for the energy input into the production process.

34 (~~(e)~~) (d) "Renewable resource" means: (i) Water; (ii) wind;
35 (iii) solar energy; (iv) geothermal energy; (v) renewable natural
36 gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power;
37 (viii) biodiesel fuel that is not derived from crops raised on land
38 cleared from old growth or first growth forests; or (ix) biomass
39 energy.

1 (~~(d)~~) (e) "Gas company" has the same meaning as in RCW
2 80.04.010.

3 **Sec. 6.** RCW 35.92.050 and 2002 c 102 s 3 are each amended to
4 read as follows:

5 A city or town may also construct, condemn and purchase,
6 purchase, acquire, add to, alter, maintain, and operate works,
7 plants, facilities for the purpose of furnishing the city or town and
8 its inhabitants, and any other persons, with gas, electricity, green
9 electrolytic hydrogen as defined in RCW 54.04.190, renewable hydrogen
10 as defined in RCW 54.04.190, and other means of power and facilities
11 for lighting, including streetlights as an integral utility service
12 incorporated within general rates, heating, fuel, and power purposes,
13 public and private, with full authority to regulate and control the
14 use, distribution, and price thereof, together with the right to
15 handle and sell or lease, any meters, lamps, motors, transformers,
16 and equipment or accessories of any kind, necessary and convenient
17 for the use, distribution, and sale thereof; authorize the
18 construction of such plant or plants by others for the same purpose,
19 and purchase gas, electricity, or power from either within or without
20 the city or town for its own use and for the purpose of selling to
21 its inhabitants and to other persons doing business within the city
22 or town and regulate and control the use and price thereof.

23 NEW SECTION. **Sec. 7.** This section is the tax preference
24 performance statement for the tax preference contained in section 4,
25 chapter . . ., Laws of 2022 (section 4 of this act). The performance
26 statement is only intended to be used for subsequent evaluation of
27 the tax preference. It is not intended to create a private right of
28 action by any party or be used to determine eligibility for
29 preferential tax treatment.

30 (1) The legislature categorizes the tax preference as one
31 intended to induce certain designated behavior by taxpayers, as
32 indicated in RCW 82.32.808(2)(a).

33 (2) It is the legislature's specific public policy objective to:
34 Increase the use of clean alternative fuel vehicles; encourage the
35 use of clean alternative fuels by reducing the cost of the production
36 and dispensing of fuel for clean alternative fuel vehicles; promote
37 the construction and operation of renewable hydrogen and green
38 electrolytic hydrogen production and dispensing facilities in

1 Washington; and provide tax treatment parity for electricity
2 available to produce hydrogen from all of Washington's utilities
3 serving the clean fuels markets, and tax treatment parity with the
4 electricity used to charge and serve other storage technologies and
5 transportation fuel markets. It is the legislature's intent to meet
6 these public policy objectives by providing a public utility excise
7 tax exemption on the sale of electricity used in the production of
8 green electrolytic hydrogen, the production of renewable hydrogen,
9 and the compression, liquification, and dispensing of green
10 electrolytic hydrogen and renewable hydrogen, to reduce the average
11 cost of electricity, which represents between 70 and 75 percent of
12 the overall cost of operation of hydrogen electrolyzers and related
13 infrastructure.

14 (3) To measure the effectiveness of the tax preferences in
15 section 4, chapter . . ., Laws of 2022 (section 4 of this act) in
16 achieving the public policy objectives described in subsection (2) of
17 this section, the joint legislative audit and review committee must,
18 using calendar year 2021 as the baseline, evaluate the annual
19 volumetric quantity of renewable hydrogen and green electrolytic
20 hydrogen produced in the state, as well as the annual percentage of
21 hydrogen produced in the state that is either green electrolytic
22 hydrogen or renewable hydrogen.

23 (4) In order to obtain the data necessary to perform the review
24 in subsection (3) of this section, the department of revenue must
25 provide data needed for the joint legislative audit and review
26 committee analysis. In addition to the data source described under
27 this subsection, the joint legislative audit and review committee may
28 use any other data it deems necessary.

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