

# **Proposed Substitute House Bill 1768 (H-1577.1)**

**House Finance Committee**

**By Representative Ramel**

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**HB 1768** provides a public utilities tax exemption for certain sales of electricity by a light and power business to a qualified business.

**PSHB 1768 (H-1577.1)** makes the following changes:

- Clarifies that the electricity sale must be from a renewable resource or nonemitting electric generation.
- Provides a maximum annual credit amount per qualifying business is \$100,000.
- Clarifies that the end use of hydrogen does not need to be at the facility owned by the qualifying business.
- Requires annual certification that the qualifying project meets the requirements of the exemption.
- Updates definition of "qualifying business" to include a requirement that at least 60 percent of the hydrogen is being used for a qualifying project.
- Changes the definition of a "qualifying project".
- Removes the tax preference performance statement.
- Changes the expiration date from January 1, 2045 to January 1, 2035.
- Updates definitions to reference those already in statute.

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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: H-1577.1/23

ATTY/TYPIST: CL:jlb

BRIEF DESCRIPTION: Exempting certain sales of electricity to  
qualifying green businesses from the public  
utilities tax.

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) Subject to the restrictions in this section, beginning  
9 October 1, 2023, the tax levied under this chapter does not apply to  
10 sales of electricity from a renewable resource or nonemitting  
11 electric generation made by a light and power business to a  
12 qualifying business if:

13 (a) The qualifying activity commences no later than July 1, 2033;  
14 and

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

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

20 (ii) The price charged for the electricity used in the qualifying  
21 activities is reduced by an amount, not to exceed \$100,000 per year,

1 equal to the tax exemption available to the light and power business  
2 under this section.

3 (2) (a) The maximum annual exemption amount per qualifying  
4 business is \$100,000. The light and power business must remit to the  
5 department the value of any exemptions taken plus interest if the  
6 total amount of the exemption claimed for sales of electricity to a  
7 qualifying business exceeds \$100,000 in a calendar year.

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

11 (3) In order to claim an exemption under this section, a  
12 qualifying business must provide the light and power business with an  
13 exemption certificate in a form and manner prescribed by the  
14 department.

15 (4) In order to claim an exemption under this section, the  
16 qualifying business must demonstrate that at least 60 percent of the  
17 hydrogen produced by its qualifying activity is used in qualifying  
18 projects. The end use of the hydrogen does not need to be at a  
19 facility owned by the qualifying business receiving the benefit of  
20 the exemption provided in this section.

21 (5) A qualifying business receiving the benefit of the exemption  
22 provided in this section must file a complete annual tax performance  
23 report with the department under RCW 82.32.534, and include a  
24 certification that the qualifying projects met the requirements of  
25 this section for the year in which the exemption is given.

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

28 (a) "Compression" means compressing a gas, or a gas compressed,  
29 to a pressure above ambient atmospheric pressure for processing,  
30 storage, or transportation.

31 (b) "Green electrolytic hydrogen" has the same meaning as  
32 provided in RCW 82.89.010.

33 (c) "Nonemitting electric generation" has the same meaning as in  
34 RCW 19.405.020.

35 (d) "Qualifying activities" means the green electrolytic hydrogen  
36 production process, the renewable hydrogen production process, and  
37 the compression, liquification, storage, or dispensing of green  
38 electrolytic hydrogen or renewable hydrogen.

1 (e) "Qualifying business" means a business using electricity in  
2 qualifying activities where at least 60 percent of the hydrogen is  
3 used in one or more qualifying projects.

4 (f) "Qualifying projects" means one or more of the following  
5 prioritized uses:

6 (i) Industrial processes using hydrogen as feedstock, including  
7 refining and fertilizer production;

8 (ii) Fuel commercial vehicles, aviation, maritime transportation,  
9 drayage, or mass transit;

10 (iii) Generation of electricity using a hydrogen fuel cell or  
11 using a combustion turbine operating no more than 500 hours per year;  
12 or

13 (iv) Production of a green hydrogen carrier if the green hydrogen  
14 carrier is used in one or more of the prioritized uses in (f)(i),  
15 (ii), or (iii) of this subsection (6). For the purposes of this  
16 subsection (6)(f)(iv), "green hydrogen carrier" has the same meaning  
17 as provided in RCW 82.89.010.

18 (g) "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 (h) "Renewable resource" has the same meaning as in RCW  
22 19.405.020.

23 (7) This section expires January 1, 2034.

24 NEW SECTION. **Sec. 2.** RCW 82.32.808 does not apply to this act.

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

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