



Chair Berg, Ranking Member Orcutt, and Members of the Committee:

Thank you for the opportunity to provide testimony on HB 1960 today. My name is Casey MacLean, Washington Policy Manager at Renewable Northwest (RNW). RNW is a regional renewable energy advocacy nonprofit, and our members are a combination of renewable energy-related businesses and environmental groups. We are a 501(c)(3) nonprofit organization rather than a 501(c)(6) trade association, so while we are membership-based, we do not advocate on behalf of the financial interest of our members, which we particularly want to note for our discussion of this bill. Our mission is to decarbonize the region by accelerating the transition to affordable, renewable electricity, and our engagement on this bill reflects that aim.

Introduction

Because renewable energy projects are currently classified as personal property under Washington tax code, county budgets become difficult to balance as these projects depreciate in value. We have engaged with the Washington State Association of Counties (WSAC) closely over the last year to better understand this issue and to seek agreeable solutions. RNW is committed to helping address this issue; it is the right thing to do for Washington counties as they juggle difficult budgeting decisions, and it is beneficial to the renewable energy industry to address a disincentive for counties hosting renewable energy projects.

Today we are signed in as “other” on HB 1960. We thank Rep. Alex Ramel for his engagement with RNW and developers in our membership thus far. Overall, we appreciate the intent of the bill, but we have concerns that we wish to address before RNW could support the legislation.

Unfortunately, given legislative session cutoffs and deadlines, **we need more time than currently allotted to responsibly address these outstanding issues.** In a time filled with great risk for the renewable energy industry, we want to ensure we are not creating new uncertainty or increasing the tax burden on the developers that are doing the work to decarbonize the electricity sector of our state.

Areas for improvement in HB 1960

Outlined here are some potential areas for improvement we currently see in the bill. Our membership continues to provide more feedback and seek expertise within their companies, so RNW is wary of proceeding too quickly on these impressions alone. This testimony is focused on Part I of the bill as this is the most pertinent to RNW’s expertise and membership. RNW

recognizes the importance of this issue, and we stand ready to serve as a resource and collaborate. We just request more time to ensure we do this responsibly.

Application to existing projects

Our primary concern with the bill as introduced is the application of the proposed new excise tax structure to **existing** projects. We seek a solution for predictable tax funding where **new and repowered systems** are located, and highly recommend retaining the personal property tax structure for existing projects. This is not about the dollar amount of the new tax structure itself. Tax policy changes made prospectively can be incorporated into market pricing of future projects, but retrospective changes create a host of problems.

Existing projects' pricing has already been negotiated in power purchase agreements (PPA), based on the tax regime at the time the agreement was entered into. This could put projects in default under existing loan agreements and will result in additional loan costs. Renewable energy projects commit to 20 to 25 year PPAs with utilities to sell power. These are non-negotiable, so changes to project costs can put projects at risk of default under their tax equity loan agreements.

Additionally, retrospective changes can raise questions about the viability of future renewable energy investments in the state. Investors seek out stability, and these types of taxation changes would give pause to developers and tax equity financiers when considering new projects in Washington.

- **Constitutionality:** The Washington constitution's "uniformity clause" has been the primary rationale for including existing projects under the proposed new regime in HB 1960. Because this question is open to interpretation, RNW commissioned Davis, Wright, Tremaine LLP to conduct a legal analysis. It concluded that RNW's preferred policy recommendations fall well within the permissible legal structure. We have shared this analysis with Rep. Ramel and are happy to share it with other committee members upon request.
- Since this is an open question under Washington law, RNW recommends seeking an Attorney General Opinion before moving forward with a tax change that is certain to harm existing projects and the renewable energy industry of our state.

We appreciate that Rep. Ramel is organizing a meeting next week to discuss this concept. RNW and our members are uncomfortable with the bill advancing without addressing this fundamental issue.

Rates

The exact rates in the bill (sec. 103) need further assessment from developers and tax experts, and we cannot provide accurate suggestions without confirmation on changes to the inflation adjustor/escalator portion below. Any changes to that portion of the bill will affect what rate is appropriate for each resource type.

RNW will note that Puget Sound Energy is in the midst of an active Request for Proposals, so public discussions around these exact rates are difficult for renewable energy developers without one-on-one conversations, due to competitive interest.

Inflation adjuster/escalator

HB 1960 proposes to annually adjust the tax rates based on consumer price index (CPI) (sec. 103, (2)). This is problematic because it creates uncertainty and would likely balloon the tax burden dramatically over time. Rep. Ramel has agreed to amend this language to a fixed rate of 1% annually, which is an improvement that we appreciate. However, initial member feedback indicates that this could still be overly burdensome compared to what developers are currently paying, and we need time to assess and propose workable alternatives.

Including standalone storage

RNW believes standalone storage projects should be included. As these projects proliferate in the state, it is important to have more certainty around their taxation. Some of our members have suggested these rates should be lower than those of solar and wind, while others believe these rates should create a level playing field across technologies. Since these technologies work differently, direct comparison of rates is more difficult and needs further assessment. RNW members have suggested a minimum nameplate capacity size for inclusion ranging from 20 to 50 MW. We are also looking into proposed standalone storage projects in Washington to see how they would be affected by different tax structures.

Definition of repowering

RNW is analyzing the appropriate percentage of replaced equipment to constitute a repower. Sec. 101 proposes 30% replacement. The industry standard definition is 85% replacement. RNW is also assessing other definitions of repowering. These definitions and thresholds will all have impacts, so getting them correct is critical.

50 MW size threshold

We are assessing the nameplate capacity at which projects should be included under the legislation. Currently the number is set at 50 MW. Per earlier discussion, it is RNW's strong recommendation that existing projects are not included, so lowering this threshold for existing projects would jeopardize more projects. However, for new and repowered projects, lowering the threshold may be appropriate, since any projects that create a substantial tax shift over time ought to be included. The Bonneville Power Administration defines a "small generator" as 20 MW or less. Other states with similar statutes also have smaller thresholds than 50 MW. However, one concern is that the profit margin of smaller generators is significantly smaller than that of larger generators, so a different rate structure for those projects would be necessary.

Conclusion

This is a complex issue, and we thank Rep. Ramel for his willingness to seek out a solution. RNW seeks a solution that helps the renewable energy transition continue to progress, while addressing the very real need to help balance county budgets. Overall, we need far more time to responsibly suggest appropriate changes to this bill. RNW thanks the Committee for your time and attention to this matter and we stand ready to answer any questions.

Sincerely,

Casey MacLean
Washington Policy Manager
Renewable Northwest