ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 733

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 8, 2021

The Assembly Commerce and Economic Development Committee reports favorably and with committee amendments Assembly Bill No. 733.

This bill, as amended, provides an exemption from the sales and use tax for sales of fuel cell devices and systems, and sales of tangible personal property powered by fuel cells. The bill, as amended, also exempts from the tax: sales of hydrogen, propane; and natural gas and utility service that are used as a fuel in a fuel cell device or system; and sales of electricity generated by a fuel cell.

In general, fuel cells use a source of energy or another fuel (such as hydrogen) and an oxidant to generate electricity through an electrochemical reaction without combustion. The electricity generated by fuel cells is clean, safe, and reliable, and can be depended upon to provide electrical power for a wide variety of residential, industrial, and commercial applications, including vehicles and material handling equipment, back-up or emergency electricity generation units, and off-grid power stations for homes, businesses, and utilities.

This bill provides an exemption under the sales and use tax to recognize these benefits and encourage the continued deployment of fuel cell technologies in this State. Under the bill, the current exemption for solar energy devices and systems is expanded to exempt sales of fuel cell devices and systems designed to provide heating or cooling, or electrical or mechanical power by converting the chemical energy of a fuel and an oxidant into electricity through a non-combustive electrochemical process. In doing so, the bill exempts from tax sales of mechanical or chemical devices used to store fuel cell-generated energy.

The bill also provides a stand-alone exemption from the sales and use tax for sales of tangible personal property powered directly and exclusively by a fuel cell device or system that is designed to provide heating or cooling, or electrical or mechanical power to the tangible personal property as an integrated, component part of the

tangible personal property. Under the bill, this exemption is included to ensure vehicles and material handling equipment (not already exempt from tax under the exemption for sales of zero-emission vehicles), electronic devices, and other consumer and commercial products that rely on an embedded fuel cell for electrical power are permitted to be sold tax free.

In addition, as amended, the bill amends the sales and use tax to exempt from the tax: sales of hydrogen, propane; natural gas and utility service that are used as a fuel in a fuel cell device or system; and sales of electricity generated by a fuel cell. Hydrogen, the fuel most commonly used in fuel cells, may be created from propane and natural gas.

The bill takes effect immediately upon enactment and provides for the sales and use tax exemptions to apply to sales made, uses occurring, and billing periods starting on or after the first day of the fourth month next following the date of enactment.

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments provide that sales of hydrogen for the purpose of fueling a fuel cell device or system would be exempt from the sales and use tax.