

# HOUSE BILL REPORT

## HB 1888

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### As Reported by House Committee On:

Finance

**Title:** An act relating to tax exemptions and credits for dairy farmers and anaerobic digesters.

**Brief Description:** Providing tax exemptions and credits to dairy farmers.

**Sponsors:** Representatives Linville, G. Chandler, Grant, Doumit, B. Chandler, Hatfield and Van Luven.

### Brief History:

#### Committee Activity:

Finance: 2/22/01, 3/8/01 [DP].

#### Brief Summary of Bill

- An exemption from retail sales taxes is provided to dairy farmers for the purchase of services related to operating dairy nutrient management facilities in compliance with a certified dairy nutrient management plan.
- An exemption from retail sales and use taxes is provided to dairy farmers for the purchase or use of property that becomes a component of dairy nutrient management facilities.
- An exemption from retail sales and use taxes is provided for the purchase or use of anaerobic digesters, including services associated with construction and installation, used primarily for the treatment of dairy manure.
- A credit against business and occupation taxes is provided to persons who operate anaerobic digesters primarily for the treatment of dairy manure.
- A property tax exemption is provided for up to six assessment years for all real and personal property associated with equipment and facilities related to a dairy nutrient management plan or related to anaerobic digesters operated primarily for the treatment of dairy manure.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass. Signed by 10 members: Representatives Cairnes, Republican Co-Chair; Morris, Democratic Co-Chair; Berkey, Democratic Vice Chair; Roach, Republican Vice Chair; Carrell, Conway, Pennington, Santos, Van Luven and Veloria.

**Staff:** Mark Matteson (786-7145).

**Background:**

Dairy Nutrient Management:

In 1993 the Legislature passed the Dairy Waste Management Act to establish a process that provides for the effective management of dairy waste that affects the quality of surface or ground waters in the state. In 1998 to address continuing concerns about impacts on surface or ground waters, the Legislature passed the Dairy Nutrient Management Act, amending the 1993 act. The 1998 legislation provided that every licensed dairy farmer develop a dairy nutrient management plan, and that every dairy farm be inspected at least once every two years. Plans must be approved by conservation districts no later than July 1, 2002, and an approved plan must be certified by a dairy producer and corresponding district that the plan is being used as intended no later than December 31, 2003.

In implementing the Dairy Nutrient Management Act, dairy farmers utilize facilities that contain and process manure and other dairy nutrients. These facilities include lined lagoons, holding tanks, pipes, pumps and other equipment used to handle and treat nutrient outputs. Another type of facility for the processing of cattle manure is an anaerobic digester, used to produce methane, carbon dioxide, and dried manure using bacteria in a decomposition process within a closed, oxygen-free container.

Retail Sales and Use Taxes and Agricultural Exemptions:

The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The tax base includes goods and certain services. The tax is imposed at a 6.5 percent rate by the state. Cities and counties may impose a local tax at a rate up to a maximum of 3.1 percent; currently, local rates imposed range from 0.5 percent to 2.3 percent. Sales tax is paid by the purchaser and collected by the seller.

The use tax is imposed on items used in the state that were not subject to the retail sales tax, and includes purchases made in other states and purchases from sellers who do not collect Washington sales tax. The state and local rates are the same as those imposed under the retail sales tax. Use tax is paid directly to the Department of Revenue.

Business and Occupation Tax:

The business and occupation (B&O) tax is Washington State's major business tax. The

tax is imposed on the gross receipts of business activities conducted within the state. Revenues are deposited to the state general fund. A business may have more than one B&O tax rate, depending on the types of activities conducted. Examples of some of the B&O tax rates that apply to Washington businesses include:

Manufacturing and wholesaling	0.484	percent
Processing of fresh produce	0.138	percent
Services	1.5	percent

#### Property Taxes:

All real and personal property in this state is subject to property tax each year based on its value unless a specific exemption is provided by law. Taxable property includes both real property and personal property. Real property is land and the buildings, structures, or improvements that are affixed to the land. Personal property includes all other property.

#### Tax Exemptions Related to Agriculture:

Farmers are provided a number of retail sales and use tax exemptions related to growing, cultivating, or raising agricultural products. The purchase or use of feed, seed, fertilizer, chemical spray and pollination agents that are used to produce agricultural products are exempt. Purchases of purebred livestock for breeding purposes and cattle and milk cows use on farms are similarly exempt. In addition, purchases of poultry for use in the production of poultry or poultry products are exempt.

Farmers that raise or cultivate agricultural products for sale at wholesale are exempt from the B&O tax. Persons that provide services to farmers in general must pay B&O taxes on gross receipts; however, a deduction is allowed to any person for income received from washing, sorting, and packing fresh or perishable horticultural products for farmers.

In general, the real and personal property of farmers or persons that provide services to farmers are subject to property taxes. However, certain exemptions are provided on certain personal property. For example, all agricultural products produced for sale on a farm are exempt from personal property taxes.

No exemption is provided specifically to persons who purchase dairy nutrient management facilities or services used in relation to dairy nutrient management, or to persons who purchase or use anaerobic digesters.

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#### **Summary of Bill:**

An exemption from retail sales is provided to licensed dairy farmers for the purchase of

services associated with the operation of dairy nutrient management equipment and facilities that are used exclusively to comply with a dairy nutrient management plan. An exemption from retail sales and use taxes is provided for the purchase of personal property that becomes a component of the dairy nutrient management equipment or facilities. An exemption is available only after a dairy nutrient management plan has been certified.

An exemption from retail sales and use taxes is provided to persons who establish or operate anaerobic digesters primarily for the treatment of dairy manure. The exemption also applies to services purchased for installing, constructing or repairing an anaerobic digester, and to purchases of items that become components of digesters.

A credit against B&O tax liability is provided to persons who are eligible for and take the sales and use exemption associated with the purchase or use of anaerobic digesters or associated services or components. The credit is equal to 50 percent of expenditures on the construction of or components associated with anaerobic digesters, for which a sales & use tax exemption was taken. No application is necessary to obtain the credit, but persons must maintain records to allow the Department of Revenue to verify eligibility. Credit may not be taken in excess of taxes owed, and no unused credit may be carried over.

An exemption from property taxes for up to six assessment years is provided to eligible persons for all real and personal property that is defined as either dairy nutrient management equipment and facilities or as anaerobic digesters. As with the sales and use tax exemption, the exemption for dairy nutrient management facilities is available only to licensed dairy farmers, while that for anaerobic digesters is available to any person that operates a digester primarily for the treatment of dairy manure.

The property tax exemption associated with dairy nutrient management equipment and facilities is contingent on the completion of all construction and installation prior to the end of 2003 and on approval of a claim for exemption submitted to the local county assessor. The claim must be filed before November of each year to receive an exemption from taxes levied for collection the following year. The claimant must certify that the property for which an exemption is sought is being used under a certified dairy nutrient management plan or, if an anaerobic digester, primarily for the treatment of cattle manure.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** Washington State is the only one in the nation that has a Dairy Nutrient Management Act, and dairy farmers are here under a lot of competitive pressure. Prices are the lowest that they have been in the last 25 years. Any help that would reduce the costs of complying with environmental regulations would be appreciated.

In the process that resulted in the Dairy Nutrient Management Act, dairymen agreed to comply by making the necessary investments, if the state would then follow with measures that would reduce costs and make it easier to implement regulations. Some farmers have invested over \$100,000 on equipment to deal with compliance.

The fiscal note appears to overstate the impact. There are only a handful of dairy farmers with certified programs that would qualify for the exemption before 2003.

**Testimony Against:** None.

**Testified:** Representative Linville, prime sponsor; Fred Colvin; Ron Wesen, Washington State Dairy Federation; Chris Cheney, Washington State Dairy Federation; and Chuck Hayes, Washington State Dairy Federation.