

HOUSE BILL REPORT

ESHB 1921

As Passed House:
February 15, 2022

Title: An act relating to the valuation of property related to renewable energy for the purposes of property tax and providing for a payment in lieu of taxes for renewable energy facilities.

Brief Description: Concerning the valuation of property related to renewable energy for the purposes of property tax and providing for a payment in lieu of taxes for renewable energy facilities.

Sponsors: House Committee on Finance (originally sponsored by Representatives Ramel, Boehnke, Fitzgibbon, Shewmake, Kloba and Young).

Brief History:

Committee Activity:

Finance: 1/18/22, 2/4/22 [DPS].

Floor Activity:

Passed House: 2/15/22, 97-1.

Brief Summary of Engrossed Substitute Bill

- Requires the Department of Revenue to publish guidance to advise county assessors when appraising renewable energy facilities.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Chopp, Harris-Talley, Morgan, Orwall, Ramel, Springer, Thai, Wylie and Young.

Minority Report: Do not pass. Signed by 5 members: Representatives Orcutt, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Chase, Stokesbary and Vick.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Kyle Raymond (786-7190).

Background:

Property Taxes.

Article 7, section 1 of the Washington Constitution (Constitution) defines property as everything that can be owned, whether tangible or intangible. The property tax is applied annually to assessed value (AV) of all property unless it is specifically exempt by law. The Constitution requires that taxes be uniform within a class of property. For property tax purposes, there are two primary classes of property: real property and personal property. Real property covers land and buildings, structures, or improvements that are affixed to the land. In general, personal property consists of all property other than real property. Most personal property, other than property used in business, has been exempted from property taxes by the Legislature.

All property must be valued and assessed at 100 percent of true and fair value, unless otherwise provided by law. The property tax bill for an individual property is determined by multiplying the assessed value of the property by the tax rate for each taxing district in which the property is located. The aggregate of all regular tax levies upon real and personal property by the state and all taxing districts may not exceed 1 percent of the true and fair value of the property. In addition, the aggregate regular levies of junior taxing districts and senior taxing districts, other than the state, may not exceed \$5.90 per \$1,000 of assessed valuation.

The true and fair value of real property is based on certain statutory criteria, including any sales of the property being appraised or the sales of comparable properties within the past five years. In addition, consideration may be given to a property's cost, cost less depreciation, reconstruction cost less depreciation, or capitalization of income that would be derived from prudent use of the property, as limited by law or ordinance.

As provided in administrative rule, the true and fair value of the property means the market value and is the amount of money a buyer of property, willing but not obligated to buy, would pay a seller of property, willing but not obligated to sell. All uses to which the property is adapted and might, in reason, be applied must be taken into consideration.

As further provided in administrative rule, a county assessor may use three approaches in determining the true and fair value of property, including the sales approach, the cost approach, and the income approach. The cost approach considers what it would cost to replace an existing structure with a similar one that serves the same purpose. The income approach considers the capitalization of income that would be derived from prudent use of the property, as limited by law or ordinance. Under the sales, or market data, approach, sales are used to provide estimates of value for similar properties. An assessor may apply one, two, or all three appraisal methods to a given parcel in determining the true and fair value of the property.

Summary of Engrossed Substitute Bill:

It is the policy of the state to promote the development of renewable energy projects to support the state's renewable energy goals.

The Department of Revenue (DOR) must publish guidance, in cooperation with industry stakeholders, to advise county assessors when appraising renewable energy facilities. This guidance must include a cost-based appraisal method and the development of industry-specific valuation tables for equipment used to generate solar power, generate wind power, and store electricity.

The cost-based appraisal method and industry-specific valuation tables must be published by January 1, 2023, for solar and wind power equipment; and by January 1, 2024, for electricity storage equipment.

County assessors must refer to this guidance, including cost-based appraisal method and industry-specific valuation tables, when valuing renewable energy property. However, county assessors may also consider one or more additional valuation methods in determining the true and fair value of a property when there is a compelling reason to do so.

A "renewable energy property" means property that uses solar or wind energy as the sole fuel source for the generation of at least one megawatt of nameplate capacity, alternating current, and all other equipment and materials that comprise the property, including equipment used to store electricity from the property to be released at a later time. "Renewable energy property" does not include any equipment or materials attached to a single-family residential building.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 15, 2022.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Large wind and solar equipment decline faster in value than other kinds of property, which is largely due to how quickly technology advances. With this, different counties appraise depreciation differently over time, which makes it difficult for businesses to invest in projects due to the unpredictability of the taxation. In addition, the appraised value declines steeply over time, resulting in relatively higher taxes at the beginning of the project's life and much lower taxes in later years. This makes it more difficult for these projects to pencil out. In addition, this creates inconsistency in the revenue that counties can expect. Currently based on guidance from the Department of Revenue (DOR), wind

and solar projects in Washington are treated the same as industrial facilities for purposes of property tax assessment. Wind and solar generation facility costs have declined, and the decline is expected to continue. This is in contrast to the appreciating value of industrial property. Applying the trend table used for industrial property on wind and solar assets effectively results in an inaccurate and unfair tax today, raising costs and drives investment out of state. This bill gives parties the ability to negotiate consistent Payment in Lieu of Taxes (PILT). The payment would have to be mutually beneficial and mutually agreed to.

The bill ensures Washington's ambitious energy policy can translate into significant in-state economic benefits. The bill also improves the security of the in-state energy supply, compared to relying on imported resources that can be more vulnerable due to reliance on transmission lines that are susceptible to damage from wildfires.

Counties like the level, even payments that the PILT provides. This payment provides certainty over time and it prevents a tax shift to county taxpayers as the property depreciates. This is particularly important for projects located in rural areas that have a relatively small amount of taxpayers. This bill would provide developers more certainty and predictability.

(Opposed) A PILT is an extraordinary tool that is reserved for extraordinary circumstances for which there is no other way to logically measure the tax statewide. That is not the situation in this instance. The bill poses several administrative problems because it puts a dollar amount in an equation that is based on value.

(Other) The maximum PILT rate in the bill should be changed or increased. Estimates show that for solar projects, a PILT rate of \$6,300 per megawatt of nameplate capacity is needed in order for the county to break even over the first 10 years of the agreement. Any minimum or maximum PILT in statute removes the ability for the county and the solar company to negotiate. Oregon has a maximum PILT of \$7,000 per megawatt of nameplate capacity. Requiring the cost-based assessment methods would result in a huge tax shift.

The DOR has concerns with the bill. The DOR does not use trend tables as required in the bill. Trend tables are not a workable solution because renewable energy properties are too big and include too many assets. Assessing future facilities is different from assessing existing facilities, and freezing their value for 20 years could create constitutional uniformity concerns. The bill could result in a large tax shift that could eliminate the levy for some junior taxing districts. The bill requires the payment to be included on the tax rolls, treating it like property tax. If challenged, a court could view it as a tax, creating a constitutional uniformity concern.

Persons Testifying: (In support) Representative Alex Ramel, prime sponsor; Matthew Crosby and Angie Fiese, Cypress Creek Renewables; Matt Steuerwalt, Nextera Energy Resources; Mellani McAleenan, Washington State Association of Counties; and Bill Eddie, OneEnergy Renewables.

(Opposed) Steven Drew, Washington State Association of County Assessors.

(Other) Dan Christopher, Klickitat County; and Steve Ewing, Department of Revenue.

Persons Signed In To Testify But Not Testifying: Jeff Gombosky, Renewable Northwest.