Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Environment & Energy Committee

HB 1505

Brief Description: Promoting the alternative jet fuel industry in Washington.

Sponsors: Representatives Slatter, Barnard, Doglio, Dye, Hackney, Jacobsen, Lekanoff, Riccelli, Low, Berry, Ramel, Fitzgibbon, Ybarra, Stokesbary, Corry, Orwall, Abbarno, Chapman, Christian, Dent, Peterson, Ormsby, Reeves, Paul, Macri, Reed, Fosse and Tharinger.

Brief Summary of Bill

- Establishes Business and Occupation Tax and Public Utility Tax preferences for alternative jet fuel.
- Amends provisions of the Clean Fuels Program pertaining to alternative jet fuel.
- Makes alternative jet fuel a focus of the Department of Commerce's Statewide Office of Renewable Fuels.
- Directs the Washington State University to temporarily convene an alternative jet fuels workgroup to make recommendations to the Legislature.

Hearing Date: 2/7/23

Staff: Jacob Lipson (786-7196).

Background:

Renewable Fuels and Aviation Biofuels.
In 2022, the Legislature established the Statewide Office of Renewable Fuels (SORF) within the Department of Commerce, with responsibilities for leveraging, supporting, and integrating with

other state agencies to accelerate renewable fuel project market development, support renewable fuel research, development, and deployment, achieve economic goals, and enhance resiliency by using renewable fuels and green electrolytic hydrogen to support climate change mitigation and adaptations. Renewable fuel includes fuel produced using certain renewable resources, and includes renewable hydrogen. Specific duties of the SORF include:

- coordinating with federally recognized tribes, government entities, private entities, and others to research, develop, and deploy renewable fuels;
- reviewing initiatives and policies focused on renewable fuels and considering funding opportunities for renewable fuels; and
- developing a plan and recommendations for the Legislature by December 1, 2023, on renewable fuels policy.

A 2021 Operating Budget proviso directed Washington State University to convene a Sustainable Aviation Biofuels Workgroup, which was the most recent in a series of budget-funded initiatives to evaluate sustainable aviation fuel opportunities in Washington. The workgroup submitted a series of policy recommendations to the Legislature in December of 2022.

Clean Fuels Program.
The Department of Ecology has adopted rules and begun implementing, as of January, 2023, a Clean Fuels Program (CFP) limiting the greenhouse gas (GHG) emissions attributable to each unit of transportation fuel (carbon intensity) to 20 percent below 2017 levels by 2038. Electricity and liquid and gaseous fuels are within the scope of the CFP, so long as the fuels or electricity are used to propel motor vehicles or are intended for transportation purposes.

The CFP establishes standards for assigning GHG emissions attributable to transportation fuels based on a lifecycle analysis that considers emissions from the production, storage, transportation, and combustion of the fuels, and associated changes in land use. Applications for specific fuel pathways that describe in detail all stages of a fuel's production must be evaluated by Ecology in order for a carbon intensity for the fuel to be calculated. Under the CFP rule, separate carbon intensity standards are established for gasoline and its substitutes and diesel and its substitutes. The CFP functions by assigning bankable, tradeable credits for the production, import, or dispensation for use of transportation fuels with associated lifecycle GHG emissions that are less than the 2017 baseline carbon intensity levels for gasoline or diesel established by Ecology, or when other specified activities are undertaken that support the reduction of GHG emissions associated with transportation in Washington.

Certain specified fuels, including transportation fuel used for the propulsion of aircraft, are exempt from CFP carbon intensity reduction requirements, but are eligible to generate credits when such fuels have a carbon intensity less than the carbon intensity standards established for gasoline or diesel.

As part of the calculation of the carbon intensity of a fuel, the CFP factors in an energy economy ratio (EER), which is a dimensionless value that represents the efficiency of a fuel as used in a powertrain as compared to a reference fuel used in the same powertrain, which are often expressed as a comparison of miles per gasoline gallon equivalent between two fuels. For example, electricity used in a battery electric vehicle is assigned an EER of 3.4 relative to a gasoline-powered vehicle in the CFP rule, because the powertrain of a battery electric vehicle is relatively more efficient at converting the same amount of energy into vehicular movement than a gasoline fuel engine. A forklift with a powertrain using a liquid propone gas fuel source is assigned a 0.9 EER because that fuel and vehicle combination is less efficient at using the same amount of stored energy as compared to a gasoline vehicle engine. Alternative jet fuel, which is a fuel made from petroleum or nonpetroleum sources that can be blended and used with conventional petroleum jet fuels without the need to modify aircraft engines and existing fuel distribution infrastructure, is assigned an EER of 1.0, and may earn credits under the CFP if it has a carbon intensity less than the baseline carbon intensity standard for diesel fuel and diesel substitutes.

Business and Occupation Tax and Public Utility Tax.
Washington imposes a Business and Occupation Tax (B&O tax) on the gross receipts of business activities conducted within the state. B&O tax revenues are deposited into the State General Fund. There are several categories of B&O tax rates that apply to businesses engaged in different activities, including a general manufacturing and wholesaling B&O tax rate of .484 percent, and a general retailing B&O tax rate of .471 percent. In addition, credits against B&O tax obligations are available to businesses involved in certain types of activities.

The Public Utility Tax (PUT) is applied to gross income derived from operation of public and privately owned utilities, including the general categories of transportation, communications, and the supply of energy and water. The PUT is in lieu of the B&O tax. The applicable PUT rate depends upon the specific utility activity.

All new tax preference legislation is required to include a tax preference performance statement. The performance statement must clearly specify the public policy objectives of the tax preference, and the specific metrics and data that will be used by the Joint Legislative Audit and Review Committee to evaluate the efficacy of the tax preference. In addition, an automatic 10-year expiration date is applied to new tax preferences if an alternate expiration date is not provided in the new tax preference legislation.

Summary of Bill:

State Government Alternative Jet Fuel Initiatives.
The purposes and specific duties of the Department of Commerce's Statewide Office of Renewable Fuels are expanded to include alternative jet fuels, in addition to renewable fuels. The Washington Statue University's Office of Clean Technology must convene an alternative jet fuels workgroup to further the development of the alternative jet fuel industry in Washington. The work group must include members from the Legislature and representatives of certain industry sectors. The work group must provide reports to the Governor and Legislature by December 1, 2024, December 1, 2026, and December 1, 2028.

Tax Preferences for Alternative Jet Fuel.
The Department of Ecology (Ecology) must notify the Department of Revenue when a facility capable of producing at least 20 million gallons of alternative jet fuel per year (qualifying facility) is operating in Washington. For the 10 calendar years after a qualifying facility begins operating in Washington, the alternative jet fuel manufacturing, wholesaling, and retailing tax rates are established at .275 percent.

In addition, for the 10 calendar years after a qualifying facility begins operating in Washington credits for the manufacture or use of alternative jet fuel are allowed against Business and Occupation Tax (B&O tax) or the Public Utility Tax (PUT). The credits are equal to one dollar per gallon of alternative jet fuel that has at least 50 percent less carbon dioxide equivalent emissions than conventional jet fuel, increasing by 2 cents per additional percent reduction in carbon dioxide equivalent emissions beyond 50 percent. This tax credit may not exceed two dollars per gallon of alternative jet fuel. To be eligible for the B&O tax credit for the manufacturing of alternative jet fuel, a business producing alternative jet fuel must be located in a county with a population of less than 650,000, or a blender of alternative jet fuel must be located in Washington. The alternative jet fuel manufacturing and use B&O and PUT credits are only calculated on the alternative jet fuel portion of blended fuel that contains conventional jet fuel. Documentation must accompany the claiming of credits. Credits may be carried over until used.

A tax preference performance statement of the alternative jet fuel tax preferences is included. The tax preferences for alternative jet fuel are not subject to the 10 year expiration date for new tax preferences.

Clean Fuels Program.
Ecology is directed to amend the energy economy ratio (EER) for alternative jet fuel from a value of 1.0 to 1.3 within 10 years after a facility that exceeds 20 million gallons per year of alternative jet fuel capacity begins operations, after which the EER must reduce at a rate of .1 every three years until it equals 1.0.

By December 31, 2023, Ecology must allow one or more carbon intensity pathways for alternative jet fuel. Ecology must allow biomethane to be claimed as a feedstock for renewable diesel and alternative jet fuel, consistent with what is allowable for certain other covered fuels.

Other.
A severability clause is included.

Appropriation: None.

Fiscal Note: Available.

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