Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Environment & Energy Committee

HB 1619

Brief Description: Incentivizing development and acquisition of renewable energy resources.

Sponsors: Representatives Fey, Duerr and Wylie.

Brief Summary of Bill

- Creates a sales and use tax exemption for machinery and equipment used to generate renewable natural gas and to connect a renewable natural gas facility to an end user or existing pipelines.
- Authorizes gas companies to construct and maintain specific facilities and projects that reduce greenhouse gas emissions, and to recover these investments in their rates.
- Eliminates the restriction of a maximum charge that a gas company may require of a customer for a renewable natural gas program.

Hearing Date: 2/6/23

Staff: Megan McPhaden (786-7114).

Background:

Retail Sales and Use Taxes.
Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in Washington. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 4.0 percent, depending on the location.

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.

Tax Preferences.

State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Washington has over 650 tax preferences. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Renewable Natural Gas Tax Preferences.

In 2019, enacted legislation amended the business and occupation tax definition of "to manufacture" to include the production or processing of renewable natural gas. The production of renewable natural gas is thus considered by the Department of Revenue to be covered under the sales and use tax exemption laws for machinery and equipment for manufacturing. Manufacturers of renewable natural gas may also be eligible for other tax preferences, including: 1) sales tax exemptions for anaerobic digesters; 2) sales and use tax deferrals for businesses investing in job creation and economic development; 3) sales and use tax deferrals for manufacturing and research and development; and 4) a reduction of sales and use tax for investment projects.

Gas Companies.

Gas companies include companies and cities that own, control, operate, or manage any gas plant within Washington. A gas plant includes all property and fixtures in connection with the manufacture, transmission, distribution, sale, or furnishing of types of gas, but does not include a plant that manufactures natural gas. Gas companies must provide gas service that is safe, adequate, and efficient, and their rates for gas service must be fair, just, reasonable, and sufficient. The Utilities and Transportation Commission (UTC) regulates certain public service companies to ensure fair pricing, availability, reliability, and safety. The UTC does not have jurisdiction over gas companies owned by cities and towns. There are four gas companies under UTC jurisdiction in Washington: Avista, Cascade Natural Gas, NW Natural, and Puget Sound Energy. There are two city gas companies: Ellensburg and Enumclaw.

Renewable Natural Gas Programs.

Natural gas companies may propose a renewable natural gas program where the company supplies renewable natural gas as a portion of the natural gas provided to its customers. Renewable natural gas is a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters. The customer charge for a renewable natural gas program may not exceed 5 percent of the amount charged to retail customers for natural gas. Renewable gas programs are subject to UTC review and approval, including that the UTC may approve inclusion of other sources of gas produced as long as they are produced without consuming fossil fuels. Each gas company must offer a voluntary renewable natural gas service to all customers to replace any portion of the natural gas that would otherwise be provided by the gas company. This service must be offered by tariff and the tariff may provide reasonable limits on participation based on the availability of renewable natural gas.

Summary of Bill:

Sales and Use Tax Exemption for Renewable Natural Gas Machinery and Equipment. Beginning January 1, 2024, a retail sales and use tax exemption is available for machinery and equipment used directly in:
- generating renewable natural gas, meaning that the machinery or equipment is used to gather and process methane into natural gas that would otherwise be released into the atmosphere, or related labor and services for installation. This includes, but is not limited to, machinery, equipment, and labor for a facility that can connect to existing natural gas infrastructure, or
- connecting a renewable natural gas facility to an end user of the renewable natural gas or to existing natural gas pipeline infrastructure.

When claiming such an exemption, a person must:
- present a copy of the exemption certificate to the seller at the time of the sale;
- keep records so the Department of Revenue (DOR) can verify eligibility;
- file an annual tax preference report with DOR; and
- if a seller makes a tax exempt sale, the seller must retain a copy of a DOR-approved exemption certification provided to them by the buyer.

A tax preference performance statement is included and specifies that the legislature's policy objective is to promote the development of renewable natural gas projects. To measure the effectiveness of this tax exemption, the Joint Legislative Audit and Review Committee (JLARC) must evaluate whether the total number of methane emission capture projects increase in number over the time of adoption of this exemption and the majority of those projects process the methane into renewable natural gas that is sold in Washington. If this occurs, the legislature intends to extend the tax preference beyond its expiration date of January 1, 2035.

Authority for Gas Companies to Recover Greenhouse Gas-Reducing Investments in Rates. Gas companies may construct and maintain facilities and projects that reduce greenhouse gas emissions from the full combustion of natural gas delivered to customers, and from the consumption of electricity generated from fossil fuels by retail electric customers in the state. Gas companies may seek to recover the costs of these investments in rates from the Utilities and Transportation Commission (UTC). Specifically, these investments may include:
- rooftop solar, including battery storage and supplemental solar for residential and commercial buildings,
- community solar projects, designed to offset carbon associated with using natural gas,
- ground source heat pumps, as a compliance strategy under the cap and invest program of the Climate Commitment Act for district heating and targeted load reduction in new buildings,

- renewable gas fuels projects, including renewable natural gas and green electrolytic hydrogen, along with facility and pipelines, upgrades, and improvements for industrial and heavy duty transportation,
- carbon capture and sequestration projects associated with natural gas projects and facilities, and
- research, development, and pilot efforts related to nonemitting natural gas equipment and technologies.

Maximum Charge Restriction Removed for a Renewable Gas Program.
While the UTC continues to maintain review and approval of a renewable natural gas program, a gas company is no longer restricted in law as to what it may charge to a customer for a renewable natural gas program. The maximum amount that a gas company may charge to a customer for a renewable gas program, 5 percent of the amount charged to customers for natural gas, is removed.

Appropriation: None.

Fiscal Note: Available.

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