HOUSE BILL REPORT
HB 1303

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to providing for the means to encourage the use of cleaner energy thereby providing for healthier communities by reducing emissions.

Brief Description: Encouraging the use of cleaner energy.

Sponsors: Representatives Dickerson, B. Sullivan, Jarrett, Linville, Priest, Appleton, Pedersen, Kenney, Sells, Morrell, Lantz, O'Brien, Chase, Eickmeyer, McCoy, Haigh, Rolfes, Hurst, Eddy, Springer, Schual-Berke, Fromhold, Moeller, Hunt, Goodman, Williams, Darneille, Kagi, Lovick, Campbell, Dunshee, Sommers, Simpson, Hunter, Roberts and Miloscia.

Brief History:
Committee Activity:
Agriculture & Natural Resources: 1/24/07, 2/8/07 [DPS].

Brief Summary of Substitute Bill

- Requires the Office of the Superintendent of Public Instruction to implement a school bus replacement incentive program that funds up to 10 percent of the cost of new school buses purchased by a school district.
- Provides exemptions from the retail sales tax and the use tax for sales of emissions control equipment and labor for maintenance of emissions control equipment used to retrofit diesel engines produced earlier than 1994.
- Changes how port districts operate pollution control facilities.
- Allows private diesel equipment to receive public funding to improve emission controls.
- Directs certain plant matter to be eligible for assistance under the Energy Freedom Program.
- Mandates a reduction in the fuel consumption of the state's vehicle fleet.

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

- Creates the position of Clean Energy Coordinator within the Office of Financial Management.
- Requires all state and local fleets to satisfy their fuel needs with biofuels by the year 2015, unless the mandate is deemed impracticable by the Clean Energy Coordinator.
- Requires the creation of study groups, pilot projects, and research on various clean fuel issues.
- Creates a new account and appropriates money out of it.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives B. Sullivan, Chair; Blake, Vice Chair; Dickerson, Eickmeyer, Grant, Lantz, McCoy, Orcutt, Strow and VanDeWege.

Minority Report: Do not pass. Signed by 4 members: Representatives Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Hailey and Newhouse.

Staff: Jason Callahan (786-7117).

Background:

Diesel Emissions Retrofits and Funding

The Air Pollution Control Account serves as a source of funding to the Department of Ecology (Ecology) and local air pollution control authorities. Within the Air Pollution Control Account exists a segregated subaccount that, until July 1, 2008, receives 58.12 percent of the revenue generated by certain fees on vehicle certificates of ownership. After July 1, 2008, the revenue from these fees are scheduled to be redirected into the Department of Transportation's Road Construction Nickel Account.

Money in the segregated subaccount of the Air Pollution Control Account must be used in certain ways. Eighty-five percent of the revenue in the subaccount must be distributed to the local air pollution control authorities in proportion to the revenue generated for the subaccount from vehicles within the boundaries of the individual authorities. The 15 percent not transferred to local air authorities remains with Ecology.

The local air authority receiving the funding must use 85 percent of that money to retrofit school buses or other publically-owned pieces of diesel equipment with exhaust emission controls or to fund infrastructure that will allow school buses to use alternative fuels.

Air Pollution Control at Ports

Port districts are expressly permitted to acquire and operate facilities for the control or elimination of air pollution. Once acquired or constructed, a port district may offer others the use of the facility under terms and conditions set by the port commissioners. However, a port district may not use any tax revenues in providing pollution control facilities and may not offer use of the pollution control facility, if a similar facility is available for use in the area without the consent of the other facility.

Energy Freedom Program and Alternative Fuels

The Energy Freedom Program is a program within the Washington Department of Agriculture (WSDA) to aid the development of a biofuels industry in Washington. As part of the Energy Freedom Program, the WSDA can award grants and loans to applicants interested in advancing the state's biofuel industry. Specific categories of eligible applicants are not specified; however, criteria for applicants are set forth in statute.

Biofuel Use at State Agencies

All state agencies are encouraged to use a fuel blend of 20 percent biodiesel and 80 percent petroleum diesel. Starting in 2006, agencies were required to use biodiesel as an additive to any ultra-low sulfur diesel that they may be using. State agencies using biodiesel fuel are required to file quarterly reports with the Department of General Administration (GA) that documents their use of the fuels and any problems that arose in their use.

By 2009, all state agencies are required to use a minimum of 20 percent biodiesel.

Summary of Substitute Bill:

Diesel Emissions Retrofits and Funding

The Office of the Superintendent of Public Instruction (OSPI) is directed to implement a school bus replacement incentive program that funds up to 10 percent of the cost of new school buses purchased by a school district. In order to qualify for the 10 percent of cost reimbursement, the bus purchased by a school district must be model year 2007 or newer and must be replacing a bus from model year 1994 or older.

Any buses that are replaced under the OSPI incentive program must be surplused. The school district must provide written documentation that the surplused bus was indeed sold for scrap and not used for future road use.

In addition, the authority to use the funding provided for the existing bus emissions retrofit program is expanded from only publicly-owned diesel equipment to both publicly and privately-owned diesel equipment.

An exemption is provided from the retail sales tax and the use tax for sales of emissions control equipment and labor for maintenance of emissions control equipment used to retrofit diesel engines produced earlier than 1994. This tax exemption is available to any individual or entity interested in retrofitting diesel engines.

Air Pollution Control at Ports

The term "air pollution control facility" is specified to not include air quality improvement equipment that provides emission reductions for engines, vehicles, and vessels. This change allows port districts to use tax revenue to support this type of equipment and to offer the equipment to parties outside of the port district even if similar equipment exists in the area.

Energy Freedom Program and Alternative Fuels

Cellulosic ethanol production facilities are expressly made eligible for assistance under the Energy Freedom Program. The term "Cellulosic ethanol" is defined. The definition includes ethanol derived from lignocellulosic or hemicellulosic matter, which are two types of plant materials. To be eligible for assistance, the facility producing the plant matter must do so in a renewable or reoccurring fashion.

Conservation districts, public development authorities, and electric utilities are given direct authority to be involved with the biofuel industry in the state. The entities may enter into crop purchase contracts for dedicated energy crops used for the production, selling, or distributing of biodiesel produces from Washington feedstock, cellulosic ethanol, and cellulosic ethanol blends.

Washington State University is directed to analyze and recommend models for possible implementation of biofuel incentive programs. Incentives to be studied include market incentives and research grant preferences.

Department of General Administration

The GA is given certain mandates relating to the fuel efficiency of the state's motor fleet. By the start of 2020, the state's motor fleet must have an annual fossil fuel consumption that is at least 25 percent less than the annual consumption for the year 2006. Part of this effort requires the GA to, when replacing tires on a fleet vehicle other than a State Patrol Vehicle, use replacement tires with an equal or superior rolling resistence of the tire being removed.

The GA is provided with the discretionary authority to contract with public or private producers of biodiesel or ethanol, and to combine the needs of local governmental entities into the contracts. The GA may condition any contracts for alternative fuels to include provisions relating to fuel standards, crop origin, price, and delivery date.

The GA must develop a pilot project for providing E85 fueling capacity at appropriate intervals along Interstate 5, Interstate 90, and Interstate 83.

Vehicle Electrification

The state is authorized to purchase power at its own expense that is used to recharge both private and public plug-in electric vehicles at state-owned buildings.

In addition, a vehicle electrification work group (Work Group) is established. The Work Group members are to be appointed by the Governor and represent various interests and

points of view. By the end of 2008, the Work Group must submit its findings on a number of subjects related to an expansion of plug-in vehicles in the state.

Clean Energy Coordinator

The position of Clean Energy Coordinator is created within the Office of Financial Management. The Clean Energy Coordinator is responsible for coordinating state efforts to develop a biofuels market, developing a plan for a complete biofuels infrastructure supply chain for public-sector end users, certifying that biofuels used by state and local government have been produced exclusively from recycled products or Washington feedstocks, and working to develop biofuel fueling stations.

Biofuel Use at State Agencies

By the year 2015, all state agencies and local government subdivisions of the state must satisfy 100 percent of their fuel needs for all vessels, vehicles, and construction equipment from biofuels certified by the Clean Energy Coordinator as having been produced from recycled materials or Washington feedstocks.

If after 2015, the Clean Energy Coordinator determines that the 100 percent biofuel use mandate is not practicable, then the Clean Energy Coordinator may suspend, delay, or modify the requirement until satisfied the requirement is deemed practicable.

Clean Energy Incentive Account Creation and Appropriation

The Clean Energy Incentive Account (Incentive Account) is created as an appropriated account to receive receipts from any appropriations. Biofuel incentives funded from the Incentive Account are directed to be prioritized according to goals and criteria. These include assisting Washington farmers and businesses in developing a biofuel market.
Any state agency receiving funding from the Incentive Account is prohibited from withholding more than 3 percent from the appropriation to pay for administrative overhead. Universities and other entities that are not state agencies are limited to withholding no more than 15 percent for administrative overhead.

Direct appropriations from the account are also included. These direct appropriations for the upcoming biennium include:
(1) $6,750,000 to Washington State University to conduct the required biofuels incentives research;
(2) $5,000,000 to the OSPI to provide the required incentive to school districts for modernizing their bus fleets;
(3) $500,000 to the Department of Community, Trade, and Economic Development for staffing the Work Group;
(4) $6,500,000 to the Department of Community, Trade, and Economic Development to allocate to projects that will implement the mandates of the state's fossil fuel reductions, implement the recommendations of the Work Group and conduct other research pilot projects;

(5) $500,000 to the Clean Energy Coordinator for providing greater access to public sector fueling capacity; and
(6) $2,100,000 to the University of Washington to conduct a 50-year comprehensive state climate change assessment.

Substitute Bill Compared to Original Bill:

The substitute bill:
- creates the position of Clean Energy Coordinator within the Office of Financial Management;
- requires all state and local governmental entities to receive 100 percent of their fuel needs from biofuels by 2015, unless the Clean Energy Coordinator determines that reaching that goal is not practicable;
- limits the amount of overhead that can be retained by institutions and agencies receiving funding from the Incentive Account;
- provides $2.1 million to produce a 50-year comprehensive state climate change assessment;
- removes a provision that delayed the lapse of the school bus funding into the Department of Transportation's nickel account;
- removes provisions relating to E85 motor fuel;
- extends the Energy Freedom Program to include forest products and the involvement of the Department of Natural Resources;
- exempts the State Patrol from the requirement that state fleet vehicles must be upgraded to more fuel efficient tires upon replacement;
- expands the Vehicle Electrification Work Group membership to include auto manufacturers and the trucking industry, and expands their scope of work to include the feasibility of expanding the state plug-in hybrid fleet and ship-side technology in ports;
- switches the recipient of funding for studying the human health impact of climate change from the Department of Health to the University of Washington;
- requires the involvement of the Department of Natural Resources in studies involving the role of the forest sector in energy production, and adds to the study conducted by Washington State University a requirement that barriers to using forest products for fuel be analyzed;
- removes a provision creating a civil infraction if a school district fails to sell a replaced school bus for scrap;
- allows rulemaking; and
- eliminates over $20 million in appropriations from the Clean Energy Incentive Account.

Appropriation: The sum of $15,050,000 from the Clean Energy Incentive Account.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed, except for sections 104 and 105, relating to retail and use tax exemptions, which takes effect August 1, 2007.

Staff Summary of Public Testimony:

(In support) The country's dependence on fossil fuels, which have to be imported into the state, is a threat to both the environment and the economy. Increasing the use of biofuels will benefit in-state businesses and reduce carbon emissions and other forms of air pollution. As a state, Washington exports millions of dollars for fossil fuels. The clean energy economy can be a large part of the state's economic future. An incentive approach, as opposed to mandated actions, is the best approach for Washington's businesses. A carbon cap and trade system will be mandated soon by the federal government, and Washington needs to prepare itself to be positioned competitively in that market. The state should be a leader in reducing fossil fuel consumption, and a leader in ensuring that Washington crops are used for fuel production.

It is important to provide assistance in producing, selling, and distributing biofuels. Farmers need help in developing the technology and markets for biofuel feedstock, and there are still some technical barriers that the state can assist with overcoming. Biofuels offer a new paradigm for farmers, and create an exciting future. University-level research can help farmers capture the potential.

This is the next step towards Washington making a contribution to the response to climate change and builds upon legislative action in past years to build a sustainable biofuels infrastructure. Complete ethanol technology may be a few years away, but the state needs to put itself in a competitive position now. Importantly, this bill assists the biofuels industry in growing in a way that does not use valuable food crops for energy production.

Expanding the use of wood waste and other wood materials has the additional benefit of making the state's forests healthier. Forest health is degraded, in part, because the thinning of trees is not economically viable. A market for wood products in energy generation could produce the economic incentives necessary to make good silviculture economically viable. The type of wood used for energy is often wood waste and other underutilized products. Fuel can be generated from wood without compromising the current fiber market.

Expanded use of electric cars is within reach and there is a high potential that the market share for electric cars can be increased. It is important to study the opportunities and impacts of an expanded electrification market in the state.

Cleaning the state's school bus fleet is important because diesel emissions are the number one precursor to cancer in children, and offers the best cost-benefit ratio for cleaning the air. The older and dirtiest buses are unable to be retrofitted with clean air technology, so the best approach is to get them off of the roads. The state's school bus funding model requires local school districts to front the cost of fleet expansion, resulting in Washington having one of the oldest school bus fleets in the nation. New buses will not only reduce harmful emissions, but will also lower repair costs for local school districts.

Ports are given the assistance in air pollution control that they need in order to sustain their growth. This bill would compliment and enhance actions that the ports have already taken to reduce emissions.

(Concerns) The Work Group should study ship-side technologies for reducing vessel engine use at ports, and also include representation from business and the auto manufacturers.

Biofuels expansion should not be limited to cellulosic materials. It is important to include incentives for all potential feedstock materials that may be developed, such as sunflowers and soybeans. The research should also take advantage of work done by professors in neighboring states, and perhaps expire in the future so implementation can begin.

(Opposed) None.

Persons Testifying: (In support) Representative Mary Lou Dickerson, prime sponsor; Clifford R. Traisman, Washington Conservation Voters and Washington Environmental Council; Mike Ryhard and Dennis McLaren, Puget Sound Clean Air Agency; Beth Doglio, Climate Solutions; Sarah Flagg, Port of Seattle; Dr. Brian Naasz, Earth Ministry; Kevin Raymond, Washington Biodiesel and Pacific Forest Trust; Allan Jones, Office of the Superintendent of Public Instruction; Carrie Nyssen, American Lung Association of Washington; Craig Partridge, Department of Natural Resources; Toni Potter, League of Women Voters; Sarah Patton, Northwest Energy Coalition; Bill Stauffach, American Forest & Paper Association; Fred J. Fleming, Inland Empire Oilseeds; and Bill LaBorde, Washington State Public Interest Research Group.

(Concerns) Sean Eagan, Port of Tacoma; Llewellyn Matthews, Northwest Pulp & Paper Association; Chris McCabe, Association of Washington Business; Nancee Wildermuth, Alliance of Automobile Manufacturers; and Jack Field, Washington Cattlemen's Association.

Persons Signed In To Testify But Not Testifying: None.