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**Agriculture & Natural Resources  
Committee**

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**HB 1303**

**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 Summary of Bill**

- Requires the Office of the Superintendent of Public Instruction (OSPI) 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.
- 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.
- Defines "E85 motor fuel" and applies the definition in the tax code.
- 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.

**Hearing Date:** 1/24/07

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*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.*

**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 [RCW 70.94.015]. 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 [RCW 46.68.020]. 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 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 [RCW 70.94.017]. 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 [RCW 70.94.017].

### Air pollution control at ports

Port districts are expressly permitted to acquire and operate facilities for the control or elimination of air pollution [RCW 53.08.040]. 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 Department of Agriculture (WSDA) to aid the development of a biofuels industry in Washington [RCW 15.110.005]. 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 [RCW 15.110.020].

### The Motor Fuel Quality Act

Motor fuel quality is regulated by the WSDA. Motor fuel must be registered with the state and satisfy minimum standards set by the Director of the WSDA [RCW 19.112.040]. This includes the development of standards for biodiesel [RCW 19.112.140]. The term "biodiesel" includes fuels made from chains of acid derived from plant or animal matter [RCW 19.112.010].

By December of 2008, all fuel in Washington must be composed of at least 2 percent denatured alcohol. The minimum percentage of ethanol in motor fuel may be increased to 10 percent if the Director finds that adequate feedstock for that level is available in Washington and the Director of Ecology finds that a higher percentage of ethanol will not degrade Washington's air quality [RCW

19.112.120]. However, minimum ethanol requirements do not apply to federally-designated vehicles that are capable of operating on fuel made up of at least 85 percent ethanol.

#### Alternative fuels and taxes

The state's retail sales tax does not apply to goods or services used directly for the retail sale of biodiesel or alcohol fuels [RCW 82.08.955]. The tax exemption only applies to goods or services used in the retail sale of alcohol-based fuels if the fuel is composed of at least 85 percent alcohol.

#### **Summary of 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 surplus. The school district must provide written documentation that the surplus bus was indeed sold for scrap and not used for future road use. Violation of this requirement can be penalized as a civil penalty under the Clean Air Act.

The subaccount of the Air Pollution Control Account that is funded through vehicle ownership transfer fees and used by local air authorities and Ecology to retrofit school buses and other diesel vehicles is provided with continued funding. The July 1, 2008 date that signifies when the vehicle transfer fees will be redirected from the Air Pollution Control Account to the Department of Transportation's nickel account is extended until July 1, 2020.

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

##### 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 exist 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 a crop insurance program, market incentives, and research grant preferences.

#### E85 and the Motor Fuel Quality Act

The term "E85 motor fuel" is defined within the Motor Fuel Quality Act to be an alternative fuel that is composed of a blend of denatured alcohol which represents at least 70 percent of its volume.

Vehicles capable of operating on E85 motor fuel are exempted from the requirement in the Motor Fuels Quality Act that requires all motor fuels to be composed of at least 2 percent ethanol. In addition, the retail sales tax exemption that applies to goods and services used in the retail sale of alcohol-based fuels is provided to E85 motor fuels, effectively reducing the minimum required alcohol content in qualifying fuels from 85 percent to 70 percent.

#### Department of General Administration

The Department of General Administration (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, use replacement tires with an equal or superior rolling resistance 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 is required to develop an undetermined number of E85 and biodiesel refueling stations for state and local fleets. Stations developed by GA must be open to the general public. In addition, the GA must develop a pilot project for providing E85 fueling capacity at appropriate intervals along Interstate 5 and Interstate 90.

#### 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 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 account are directed

to be prioritized according to goals and criteria. These include assisting Washington farmers and businesses in developing a biofuel market.

Direct appropriations from the account are also included. These direct appropriations for the upcoming biennium include:

- \$20 million to the Department of Community, Trade, and Economic Development to implement the act.
- \$500,000 to the GA to conduct the required E85 fueling capacity pilot project.
- \$6,750,000 to Washington State University to conduct the required biofuels incentives research.
- \$5 million to the OSPI to provide the required incentive to school districts for modernizing their bus fleets.
- \$500,000 to the Department of Community, Trade, and Economic Development for staffing the Work Group.
- \$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.

**Appropriation:** \$39,250,000 is appropriated from the newly created Clean Energy Incentive Account.

**Fiscal Note:** Requested on January 17, 2007.

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