

HOUSE BILL REPORT

ESSB 6170

As Passed House - Amended:
April 26, 2009

Title: An act relating to environmental tax incentives.

Brief Description: Concerning environmental tax incentives.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Hobbs and Prentice).

Brief History:

Committee Activity:

Finance: 4/22/09 [DPA].

Floor Activity

Passed House: 4/26/09, 85-11.

**Brief Summary of Engrossed Substitute Bill
(As Amended by House)**

- Provides environmental tax incentives.
- Repeals the sales tax exemption on hybrid vehicles.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass as amended. Signed by 6 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Conway, Ericks, Santos and Springer.

Minority Report: Do not pass. Signed by 3 members: Representatives Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Condotta.

Staff: Joseph Archuleta (786-7192)

Background:

Sales Tax.

Sales tax is imposed on retail sales of most items of tangible personal property and some services, including construction and repair services. Sales and use taxes are imposed by the

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state, counties, and cities. Sales and use tax rates vary between 7 and 9.5 percent, depending on location.

Business and Occupation Tax.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Revenues are deposited in the State General Fund. A business may have more than one B&O tax rate, depending on the types of activities conducted. There are a number of different rates. The main rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for professional and personal services, and activities not classified elsewhere.

Public Utility Tax.

Income from utility operations is taxed under the public utility tax (PUT) and is in lieu of the B&O tax; other income of the utility firm (e.g. retail sales of tangible personal property) is subject to the B&O tax. Unlike the B&O tax, which pyramids the PUT applies only on sales to consumers.

Five different rates apply, depending upon the specific utility activity. The current rates, including permanent surtaxes, are:

Distribution of water.....	5.029%
Generation/distribution of electrical power.....	3.873%
Telegraph companies, distribution of natural gas, and collection of sewerage.....	3.852%
Urban transportation and watercraft vessels under 65 feet in length.....	0.642%
Railroads, railroad car companies, motor transportation, and all other public service businesses.....	1.926%

Renewable Energy.

There is currently an exemption from the retail sales and use taxes for machinery and equipment used directly to generate at least 200 watts of electricity using wind or solar energy, landfill gas, or fuel cells as a power source. The exemptions expire June 30, 2009.

Solar Energy and Semiconductor Incentives.

There is currently a reduced B&O tax rate of 0.2904 percent for manufacturers, processors for hire, or wholesalers of solar energy systems using photovoltaic modules or silicon components of these systems. The incentive expires June 30, 2014.

In 2005 the Legislature created a cost-recovery incentive program to promote renewable energy systems that produce electricity from solar, wind, or anaerobic digesters. An individual, business, or local government purchasing an eligible system may apply for an

incentive payment from the electric utility serving the applicant. The incentive provides at least 15 cents for each kilowatt-hour of energy produced, with extra incentives for solar generating systems that use components manufactured in Washington. Payments are capped at \$2,000 annually per applicant. A utility providing incentive payments is allowed a credit against its PUT for incentives paid, limited to \$25,000 or 0.25 percent of its taxable power sales, whichever is greater. The cost-recovery incentive program expires June 30, 2015.

Livestock Nutrient Incentives.

In 2001 the Legislature provided an exemption from sales and use taxes for dairy nutrient management equipment and facilities and related services. To be eligible, the person had to have a certified dairy nutrient management plan.

In 2006 the sales and use tax exemption was broadened beyond dairy to other sectors of the livestock industry that had approved nutrient management plans. Since that time, issues have arisen regarding what qualifies for the sales and use tax exemption.

Radioactive Waste Cleanup.

In 1996 the Legislature enacted a reduced B&O tax rate of 0.471 percent for cleaning up the Hanford site. Previously, persons performing cleanup activities for the U.S. government paid under the government contractor rate of 0.484 percent. Activities have to be integral and necessary to the direct performance of cleanup to qualify for the reduced B&O tax rate.

Summary of Amended Bill:

Renewable Energy.

A sales and use tax exemption in the form of a refund is allowed for 100 percent of the sales tax paid on machinery and equipment used to create energy from fuel cells, sun, wind, biomass energy, tidal and wave energy, geothermal resources, anaerobic digestion, and technology that converts otherwise lost energy from exhaust or landfill gas from July 1, 2009, to June 30, 2011. The sales tax exemption is reduced to 75 percent from July 1, 2011, to June 30, 2013. The exemption expires June 30, 2013.

A full sales and use tax exemption is provided for machinery and equipment used to produce solar energy generating not more than 10 kilowatts of electricity. The exemption expires on June 30, 2013.

Radioactive Waste Cleanup.

The B&O tax rate is reduced from 1.5 percent to 0.471 percent for persons providing certain support services, which are either within the scope of work under a cleanup contract with the U.S. Department of Energy, or which assist in the requirement of a cleanup subcontract for radioactive waste cleanup.

The following routinely provided services are considered to contribute to the accomplishment of a requirement of a cleanup project and thus subject to the reduced B&O tax rate: information technology and computer support; services rendered in respect to infrastructure; and security, safety, and health services.

Hog Fuel Incentives.

A sales and use tax exemption is provided for hog fuel used to produce electricity, steam, heat, or biofuel. Hog fuel is defined as wood waste and other wood residuals including forest derived biomass. The exemption expires on June 30, 2013.

Biomass Energy Incentives.

A B&O credit is provided for harvesters of harvested green ton of forest-derived biomass sold or used for production of electricity, steam, heat or biofuel as follows:

- from July 1, 2010, through June 30, 2013, \$3 per harvested green ton; and
- from July 1, 2013, through June 30, 2015, \$5 per harvested green ton.

The credit expires June 30, 2015.

A sales tax and use exemption is provided for the sale of forest derived biomass used to produce electricity, steam, heat or biofuel. The exemption expires on June 30, 2013.

Solar Energy and Semiconductor Incentives.

Beginning October 1, 2009, the bill reduces the B&O tax rate from 0.2904 percent to 0.275 percent for businesses that manufacture or sell at wholesale either: (1) solar energy systems using photovoltaic modules; or (2) solar grade silicon and an expanded list of materials to be used exclusively in the components solar systems or semiconductors. The lower B&O tax rate expires on June 30, 2014.

A sales tax and use exemption is provided for gases and chemicals used in the production of solar energy equipment. The exemption expires December 1, 2018.

The PUT cost-recovery incentive program for renewable energy systems is extended to "community solar projects," which are either: (1) a solar energy system owned by local individuals, households, or nonutility businesses that is placed on the property owned by their cooperating local governmental entity; or (2) a utility-owned solar energy system that is voluntarily funded by the utility's ratepayers where, in exchange for their financial support, the utility gives contributors a payment or credit on their utility bill for the value of the electricity produced by the project. Community solar projects are eligible for incentives of 30 cents for each kilowatt-hour of energy produced. Each applicant in a community solar project is eligible for annual incentives of \$5,000 per year.

The credit for a utility providing cost-recovery incentive payments is increased to \$100,000 or 1 percent of the utility's taxable power sales, whichever is greater. Incentive payments to participants in a utility-owned community solar project may only account for up to 25 percent of the total allowable credit. The expiration date of the cost-recovery program is extended from June 30, 2015, to June 30, 2020.

Livestock Nutrient Incentives.

The nutrient management sales and use tax exemption is expressed as a fixed list of equipment and facilities. Labor and services related to the construction of a new livestock nutrient management facility or the replacing of such a facility are explicitly excluded from the sales and use tax exemption. A statutory definition of "handling and treatment of livestock manure" is provided.

Log Hauling.

Generally, the hauling of logs over public highways is subject to the PUT under the motor transportation classification at a rate of 1.926 percent of gross income. This bill reduces the PUT rate from 1.926 percent to 1.3696 percent on the hauling of logs over public highways. The hauling of logs over private roads is subject to the B&O tax under the service and other activities classification. The bill does not affect the taxation of the transportation of logs that occur exclusively over private roads. The exemption expires on June 30, 2013.

Hybrid Vehicles.

The sales tax exemption on hybrid vehicles is repealed on August 1, 2009. Hybrid vehicles are not subject to the 0.3 percent sales tax on vehicles through January 1, 2011.

Appropriation: None.

Fiscal Note: Requested on April 20, 2009

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect on July 1, 2009, except for sections 801 and 802, relating to hybrid vehicle exemptions, which take effect August 1, 2009.

Staff Summary of Public Testimony:

(In support) The biofuels industry has worked for several years to preserve the renewable energy tax credits. These tax credits have been successful in bringing the biofuels industry to Washington, thereby creating jobs, spurring economic growth, and helping climate change. This bill is a good investment for the future, both the environment and the economy, and will advance Washington as a leader in the biofuels industry. It is a difficult economy right now and these tax credits will help biofuels through this time and help preserve them.

Renewable energy is a better deal for public utility district customers and will bring family wage construction jobs to Washington, especially to rural areas.

The Department of Natural Resources is a revenue generator for the state. This is done mostly through the timber commodities market, which has been struggling a lot lately and revenue has been down in the state Timber Trust. Removing biomass improves forest health and reduces the chance of forest fires, thereby ensuring the future of timber.

(In support with amendments) House Bill 1743 language should be picked up into this bill. It is an important incentive for biofuels; however, there needs to be accountability in regards to prevailing wage provisions and apprenticeship utilization and Representative Hasegawa's proposed amendment does this. Washington does not need these companies coming here for the tax break and then bringing in outside employees when local people are unemployed.

The federal government has been doing a lot of work around alternative fuel vehicles and it is recommended that the committee adopt the federal government language verses the current bill language of "at least 40 miles per gallon."

(Opposed) While local governments have an interest in promoting renewable energy, this bill cuts the local share of the sales tax and narrows the local tax base. It is recommended that the committee leave the local share alone, and only exempt the state share.

Persons Testifying: (In support) Clifford Traisman, Renewable Northwest Project, Washington Conservation Voters, and Washington Environmental Council; Tyson Utt, Horizon Wind Energy; Todd Ellis, Imperium Renewables; Dave Andrew, Cowlitz Public Utility District; Miguel Perez, Climate Solution; Sherrie Bond, Northwest Log Truckers; and Debra Munguia, Washington Forest Protection Association.

(In support with amendments) Karl Unterschuetz, Northwest Biofuels Association; David Johnson, Washington State Building Trades; and Cliff Webster, General Motor Corporation.

(Opposed) Scott Merriman, Association of Counties; and Michael Shaw, Washington State Transit Association.

Persons Signed In To Testify But Not Testifying: None.