

SENATE BILL REPORT

ESSB 6170

As Passed Senate, April 19, 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: Ways & Means: 4/16/09, 4/18/09 [DPS, DNP, w/oRec].

Passed Senate: 4/19/09, 34-13.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6170 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Tom, Vice Chair, Operating Budget; Fairley, Hobbs, Honeyford, Keiser, Kline, Kohl-Welles, McDermott, Oemig, Pridemore, Regala and Rockefeller.

Minority Report: Do not pass.

Signed by Senator Schoesler.

Minority Report: That it be referred without recommendation.

Signed by Senator Carrell.

Staff: Dean Carlson (786-7305)

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 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,

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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.

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 public utility tax (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 Engrossed Substitute Bill: On August 1, 2009, the sales tax exemption on hybrid vehicles is repealed. Hybrid vehicles are not subject to the 0.3 percent sales tax on vehicles through January 1, 2011.

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.

Log Hauling. The public utility tax on log hauling is reduced from 1.926 percent to 1.37 percent.

Hog Fuel Incentives. A sales 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.

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 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 B&O tax 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 is set at a reduced rate of 0.275 percent. The lower B&O tax rate expires on June 30, 2014.

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

The cost-recovery incentive program for renewable energy systems to 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 2015 to 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.

Radioactive Waste Cleanup. Persons providing certain support services which are either within the scope of work under a cleanup contract with the United States Department of Energy, or which assist in the requirement of a cleanup subcontract are qualified for the reduced B&O tax rate of 0.471 percent 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.

Appropriation: None.

Fiscal Note: Requested on April 15, 2009.
[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony: PRO: We are in strong support of this bill, especially the livestock nutrient incentives section. The reason this is here is that it clarifies a court decision. We do have concerns with the fiscal note and think it is too high. We really support the woody biomass and the hog fuel in the bill. The forest derived biomass currently doesn't. If we get this stuff off the forest floor we could save a lot of money in fire suppression costs. The pulp and paper workers are in support of the bill, but we would like to see a claw back provision on the tax incentives.

OTHER: The counties do support renewable energy; however, the exemptions do reduce county sales tax revenue. There are some other bills floating around that could really help us in flexibility and diversity of revenue streams. This is a good bill that does a lot of good things. For biomass we would like to see a definition of biomass included in the bill following the Energy Independence Act. There are other types of solar technologies that we would like to see in this bill. These two changes would add green jobs. The renewable energy incentives are a key to the environmental goals. Our concern is that the rate of the tax extension is that the bill extends the rate at 50 percent and we think it would be best at 75 percent. This is a crucial piece to other discussions.

Persons Testifying: PRO: Deborah Mungia, Washington Forest Protection Association; Jack Field, Washington Cattleman's Association, Washington Dairy Federation, Washington Fryer Commission; Sean O'Sullivan, Association of Western Pulp and Paper Workers.

OTHER: Scott Merriman, Association of Washington Counties; Jerry Smedes, Infinia Corp, Cedar Grove Compost; Deborah Mungia, Washington Forest Protection Association; Carrie Dolwick, Northwest Energy Coalition.