

SENATE BILL REPORT

SB 5700

As of March 26, 2015

Title: An act relating to extending the expiration date of tax preferences for biofuel, biomass, and energy conservation.

Brief Description: Extending the expiration date of tax preferences for biofuel, biomass, and energy conservation.

Sponsors: Senators Hargrove, Hatfield, Conway and Warnick; by request of Office of Financial Management.

Brief History:

Committee Activity: Ways & Means: 3/25/15.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Juliana Roe (786-7438)

Background: Ethanol. Ethanol may be produced from a variety of feedstocks such as corn, wheat, and the cellulose of plants such as trees. In the U.S., the majority of ethanol is made from corn.

The most common ethanol-gasoline blends available for retail sale are the following:

- E10, a blend of 10 percent ethanol;
- E15, a blend of 10 to 15 percent ethanol; and
- E85, a blend of up to 85 percent ethanol.

E85 is further defined to mean an alternative fuel that is a blend of denatured ethanol and hydrocarbon, of which the ethanol portion is nominally 75 to 85 percent denatured fuel ethanol by volume, which complies with the most recent version of American Society of Testing and Materials specification D 5798.

E85 can only be used in Flexible Fuel Vehicles (FFV). The FFVs are designed to run on E85, gasoline, or any blend of the two. There are more than 17.4 million FFVs on the road in the U.S.

Sales and Use Tax. Washington collects a retail sales tax equal to 6.5 percent of the cost of any tangible personal property that is sold in the state. The state also collects a use tax on

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tangible personal property, unless the retail sales tax was applied to the sale of the tangible personal property to the present user. The use tax is assessed at a rate equal to the applicable retail sales tax. Local authorities may impose additional sales or use taxes.

Until July 1, 2015, state law provides an exemption from the retail sales tax for the sale of machinery, equipment, structures, and certain fuel delivery vehicles used for the retail sale or distribution of a biodiesel blend or E85 motor fuel. Current law also provides a use tax exemption available until July 1, 2015, for the use of machinery, equipment, certain fuel delivery vehicles, and services related to biodiesel or E85 motor fuel.

Business and Occupation (B&O) Tax and Public Utility Tax. The state imposes a tax on public utility businesses for the privilege of operating a public utility business in the state. For gas distribution businesses, the tax is equal to 3.852 percent of the gross income of the business. Cities and towns may impose an additional tax on such businesses equal to a maximum of 6 percent. If an entity is taxed as a public utility, it is exempt from Washington's B&O tax.

A B&O tax is imposed on certain business activities, including manufacturing, retailing, and wholesaling. A B&O tax is imposed on manufacturing businesses equal to 0.484 percent of the gross income of the business. A city may also impose a B&O tax, which is generally capped at 0.2 percent of gross income.

Current law provides the following B&O tax deductions, credits, or exemptions:

- until July 1, 2015, a deduction for the retail sale or distribution of biodiesel fuel or E85 motor fuel;
- until June 30, 2015, a credit per harvested green ton of forest-derived biomass sold, transferred, or used for production of electricity, steam, heat, or biofuel; and
- an exemption for amounts received from the sale of natural or manufactured gas by a person in a calendar year, if the amount of gas sold within the U.S. by the person in that calendar year is no more than 20 percent of the amount of natural or manufactured gas that is consumed in the U.S. in the same calendar year.

Effective July 1, 2015, the B&O tax exemption provided for an entity taxed as a public utility does not apply to sales of natural gas, including compressed natural gas and liquefied natural gas, by a gas distribution business if the sales are exempt from the public utility tax.

Property Tax. All real and personal property in Washington is subject each year to the state's property tax based on its value, unless a specific exemption is provided by law. The tax is determined by multiplying the assessed value of property by the tax rate for each taxing district in which the property is located.

A property tax exemption is provided for a six-year period for buildings, machinery, equipment, and other personal property used to manufacture alcohol fuel, biodiesel fuel, and biodiesel feedstock. Claims for the property tax exemption may be filed no later than December 31, 2015.

Leasehold Excise Tax. Property owned by federal, state, or local governments is exempt from the property tax. However, private lessees of government property are subject to the

leasehold excise tax, which imposes a tax burden on persons using publicly owned, tax-exempt property, similar to the property tax that would be paid if the property were privately owned.

All leasehold interests in buildings and other personal property used in new or expanded manufacturing facilities to manufacture wood biomass fuel, biodiesel fuel, and alcohol fuel, or to operate an anaerobic digester, are exempt from leasehold taxes for a period of six years from the date on which the facility or expansion becomes operational. Claims for the leasehold tax exemption may be filed no later than December 31, 2015.

Bonneville Power Administration. The Bonneville Power Administration (BPA) operates two programs that provide credits to utilities on their monthly purchases of power from BPA. The Conservation Rate Credit program and the Conservation Acquisition Agreement program provide financial incentives to industrial and large commercial customers of utilities that purchase power from BPA for the development and installation of energy efficiency measures.

Until June 30, 2015, credits or funds provided by the BPA for the purposes of implementing energy conservation programs or demand-side management programs are exempt from the state's B&O tax.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed First Substitute): The following tax incentives are extended until July 1, 2025:

- the B&O tax deduction for the retail sale or distribution of biodiesel fuel or E85 motor fuel;
- the sales tax exemption for the sale of machinery, equipment, structures, and certain fuel delivery vehicles used for the retail sale or distribution of a biodiesel blend or E85 motor fuel;
- the use tax exemption for the use of machinery and equipment, certain fuel delivery vehicles, and services related to biodiesel or E85 motor fuel; and
- the B&O tax exemption for credits or funds provided by the BPA for the purposes of implementing energy conservation programs or demand-side management programs.

The B&O tax credit per harvested ton of forest-derived biomass sold, transferred, or used for production of electricity, steam, heat, or biofuel is extended to June 30, 2025.

The property tax exemption for buildings, machinery, equipment, and other personal property used to manufacture alcohol fuel, biodiesel fuel, and biodiesel feedstock is extended until December 31, 2025.

The leasehold tax exemption for leasehold interests in buildings and other personal property used in new or expanded manufacturing facilities to manufacture wood biomass fuel and other alternative fuels is extended until December 31, 2025.

Various tax preference statements are included.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2015.

Staff Summary of Public Testimony: PRO: Part three of this bill extends the energy credits and refunds from the Bonneville Power Administration (BPA). Approximately 20 utilities support this bill. When a utility passes through money that they receive from BPA, they will be taxed unless this credit is extended. This pass through has never been taxed in this state. The bill will ensure that the money that is passed through to make customers more energy efficient does not trigger taxation on the part of the utility.

The forest product industry continues to experience hard times with mill closures being a constant concern. The biomass incentive builds new markets for woody biomass and helps maintain jobs in the woods. Retaining the incentives for biofuel production and distribution helps secure our longstanding investment in home grown and produced biofuels, especially for the biofuels industry. It also lays the groundwork for new production facilities wanting to start production in Washington.

We want to incentivize the use of forest biomass to produce renewable energy and help hit green energy targets. The credit also incentivizes forest thinning which improves forest health and reduces the risk of forest wildfire which would avoid costs to the general fund.

The forest biomass credit was started in 2009. I have been a harvester of forest biomass for about six years. We have found that harvesting and transporting forest biomass about 50 miles is practical without the tax credit. However, we can travel further out with the help of the tax credit where business will be expanding. The extension of this credit would be a great benefit to help fully establish this new business industry. We haul what is called forest slash which are the residuals left after logging. There is about a truckload of forest slash available left for every acre logged. A truckload of forest slash is 25 tons. That one truckload has the same heat value of about 1400 gallons of diesel. It's a very good benefit-rate relationship. It takes about 100 gallons of diesel to grind and transport a truckload which has a 1400 gallon British thermal unit value. It's a product that is otherwise being wasted through burning, producing CO2 and smoke, with no added benefit.

This bill contributes to our strategic initiatives of reducing wildfire risk, improving forest health, and promoting renewable energy. It benefits forests, improves public safety, and helps improve the climate.

Persons Testifying: PRO: Dan Coyne, Phillips 66; Bill Clarke, WA Public Utility District Assn.; Tony Usibelli, WA Dept. of Commerce, Energy Office; Norm Schaaf, Merrill and Ring; Bill Hermann, Hermann Bros; John Ehrenreich, WA Forest Protection Assn.; Lauren Burnes, WA Dept. of Natural Resources.

Persons Signed In To Testify But Not Testifying: PRO: Dan Siemann, Dept. of Natural Resources.