

HOUSE BILL REPORT

EHB 2146

As Passed Legislature

Title: An act relating to tax incentives for wood biomass fuel production, distribution, and retail sale.

Brief Description: Providing tax incentives for wood biomass fuel production, distribution, and sale.

Sponsors: By Representatives Tom, Sullivan and Eickmeyer.

Brief History:

Committee Activity:

Technology, Telecommunications & Energy: 3/3/03 [DP].

Floor Activity:

Passed House: 3/17/03, 96-1.

Senate Amended.

Passed Senate: 4/10/03, 47-2.

House Concurred.

Passed House: 4/22/03, 96-1.

Passed Legislature.

Brief Summary of Engrossed Bill

- Establishes tax incentives for the production, retail sale, and distribution of wood biomass fuels.

HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

Majority Report: Do pass. Signed by 15 members: Representatives Morris, Chair; Ruderman, Vice Chair; Sullivan, Vice Chair; Crouse, Ranking Minority Member; Nixon, Assistant Ranking Minority Member; Anderson, Blake, Bush, DeBolt, Hudgins, Kirby, McMahan, Tom, Wallace and Wood.

Minority Report: Do not pass. Signed by 1 member: Representative Delvin.

Staff: Pam Madson (786-7166).

Background:

Liquid fuels can be produced from wood and wood residues. Two of the methods used for producing the oils that are used in fuel products are pyrolysis and gasification. Pyrolysis is the breakdown of biomass in the absence of oxygen at temperatures above 250C. The process produces a solid (char or charcoal), a liquid (bio-oil), and a mixture of gases. Much of the present interest in pyrolysis focuses on its liquid output (bio-oil) due to its high energy density (energy per unit of volume) and potential for liquid fuel substitution. Wood-derived bio-oil can be used through a process of gasification to produce synthetic liquid fuel for use as a transportation fuel. It can be blended at any percentage with petroleum diesel or gasoline or used as a pure product.

Business and Occupation Tax

The business and occupation (B&O) tax is Washington's major business tax. The tax is imposed on the gross receipts of business activities conducted within the state. Revenues are deposited in the State General Fund.

The B&O tax does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. However, there are many exemptions for specific types of business activities as well as certain deductions and credits permitted under the B&O tax statutes.

Different tax rates apply to six separate categories of business activity. The processing of certain agricultural products is taxed at the rate .138 percent. Manufacturing, wholesaling, and other activities are taxed at the rate of .484 percent.

Property Taxes

All real and personal property is subject to property tax each year based on its value, unless a specific exemption is provided by law. There are two classes of property. Real property consists of land and the buildings, structures, and improvements that are affixed to the land. Personal property consists of all other property.

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. The purpose of the leasehold excise tax is to impose a tax burden on persons using publicly-owned, tax-exempt property similar to the property tax that they would pay if they owned the property. The tax is collected by public entities that lease property to private parties.

Cities and counties may impose a local tax which is credited against the state tax. The state tax is deposited into the State General Fund, and county taxes are distributed to taxing districts within the county in the same manner as property taxes.

Holders of a leasehold interest in property prior to January 1, 1993, used primarily for the manufacture of alcohol fuels are exempt from the leasehold excise tax for a period of

six years.

Retail Sales and Use Taxes

The state retail sales tax rate is 6.5 percent and is imposed on the retail sale of most tangible personal property and some services. In addition, local sales taxes apply. Cities and counties may levy a local tax at a rate up to a maximum of 3.1 percent; currently, local rates levied range from 0.5 percent to 2.4 percent. The combined tax rate is between a minimum of 7 percent and a maximum of 8.9 percent depending on the location of the purchase. Sales tax is paid by the purchaser and collected by the seller. Sales tax revenue is deposited in the State General Fund.

The use tax is imposed on the use of an item in this state when the acquisition of the item has not been subject to sales tax. The use tax applies to items purchased from sellers who do not collect sales tax, items acquired from out-of-state, and items produced by the person using the item. Use tax is equal to the sales tax rate multiplied by the value of the property used. Use tax is paid directly to the Department of Revenue. Use tax revenue is deposited in the State General Fund.

Distressed Area Sales and Use Tax Deferral Program

The Distressed Area Sales and Use Tax Deferral Program allows deferral of sales and use taxes for buildings, machinery, and equipment of manufacturing businesses as well as research and development businesses locating in specific geographic areas.

The geographic areas include rural counties with a population density of fewer than 100 people per square mile and areas designated as community empowerment zones or counties that contain a community empowerment zone. (Counties that currently do not qualify include Clark, Island, Thurston, and Snohomish.) Businesses that seek the deferral and are located in a community empowerment zone must also satisfy an employment requirement.

If the business requesting the deferral meets certain requirements for a period of eight years, the sales and use taxes are waived. This tax deferral program expires July 1, 2004.

Summary of Engrossed Bill:

Tax deferrals and exemptions are established for the manufacture, retail sale, and distribution of wood biomass fuel.

Sales and Use Tax Exemptions

Investment projects for the manufacture of wood biomass are eligible for the deferral of sales and use taxes under the same requirements and conditions as the existing Distressed Area Sales and Use Tax Deferral Program. Those requirements and conditions include a

determination of eligible geographic areas, eligible investment projects, business reporting, and application requirements. An additional qualifying option includes counties under 225,000 population and over 225 square miles in area. Participants in this deferral program will not be accepted after June 30, 2009.

Beginning July 1, 2003, and until June 30, 2009, a person who sells wood biomass fuels at retail may claim an exemption from state sales and use taxes paid on the purchase of machinery, equipment, and buildings used for retailing wood biomass fuels. Vehicles used for wood biomass distribution are also exempt from sales and use tax as long as the amount of wood biomass fuel they haul equals at least 75 percent of all fuel distributed by the vehicle. Qualifying fuels are fuels with at least 20 percent fuel derived from wood biomass.

Property and Leasehold Excise Tax Exemptions

Buildings, machinery, equipment, and other personal property used in the manufacture of wood biomass fuels, and the land on which this property is located, are exempt from property taxes for six years from the date the facility becomes operational. The amount of the exemption is based on the annual percentage of the total value of all products manufactured that is the value of the wood biomass fuels manufactured.

Wood biomass is added to the current alcohol fuel exemption of the leasehold excise tax. Participation in the exemption is reinstated for alcohol. No new participants based on either fuel will be accepted after January 1, 2010.

Business and Occupation Tax

For purposes of payment of the business and occupation (B&O) tax, those engaged in the manufacture of wood biomass fuels pay at the rate of .138 percent on their gross receipts.

Beginning July 1, 2003, and until June 30, 2009, a business may deduct from its B&O tax obligation the amounts it receives from the retail sale or distribution of wood biomass fuels. The amounts deducted must be those attributable to the pure biodiesel or alcohol portion of the fuel blend.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: This bill contains an emergency clause for sections 9 through 15 and these sections take effect July 1, 2003. Sections 1 through 8 of the bill take effect July 1, 2004.

Testimony For: (In support) Wood biomass fuels are another alternative fuel source that can be produced domestically and can lessen our dependence on foreign oil. With this

bill, Washington will be the only state with incentives for this non-petroleum fuel source. It is a renewable resource that is greenhouse compatible and reduces air pollution. It can be produced from wood chips, sawdust, or non-salable wood. It is less expensive than other fuels. In pilot studies it has been used both as a blend and as a straight fuel for diesel engines. There are no commercial facilities currently, however a demonstration facility is being built in British Columbia.

(With concerns) There is concern over using wood that has been chemically treated or using wood other than waste wood as the fuel source.

Testimony Against: None.

Testified: (In support) Representative Tom, prime sponsor; Bill Pickell, Washington Contract Loggers; Mike Pelly; Linda Graham, Puget Sound Clean Cities Coalition; and Steve Lindstrom, Northwest Energy Coalition.

(With concerns) Toni Potter, League of Women Voters.