

FINAL BILL REPORT

SB 6490

C 152 L 04
Synopsis as Enacted

Brief Description: Exempting fuel cells from sales and use taxes.

Sponsors: Senators Zarelli and Kline; by request of Department of Revenue and Department of General Administration.

Senate Committee on Ways & Means

Background: Sales tax is imposed on retail sales of most items of tangible personal property and some services. The use tax is imposed on the same privilege of using tangible personal property or services in instances where the sales tax does not apply. Examples of such instances include purchases made in other states and purchases from sellers who do not collect Washington sales tax. Sales and use taxes are levied by the state, counties, and cities. Rates vary between 7 and 8.9 percent, depending on location in the state. Use tax is paid directly to the Department of Revenue.

In 1996, the Legislature provided 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, and in 1998 expanded the exemption to include landfill gas as a power source. In 2001, the Legislature amended the law to lower the electricity generation threshold to 200 watts and to include fuel cells as a power source. However, the use tax modifications in the 2001 law omitted a reference to fuel cells, and the definition of machinery and equipment for the purposes of both the sales and use tax exemption was not modified to accommodate fuel cells. As a result, although fuel cells are exempt from the retail sales tax for the purposes provided in the exemption, a person that acquires a fuel cell for such purposes owes use tax.

Summary: Machinery and equipment used directly to generate at least 200 watts of electricity using fuel cells are exempt from the use tax.

Votes on Final Passage:

Senate 48 0
House 97 0

Effective: June 10, 2004