HOUSE BILL REPORT
HB 2753

As Reported by House Committee On:
Transportation

Title: An act relating to imposing motor vehicle fuel taxes on compressed natural gas and liquefied natural gas used for transportation purposes.

Brief Description: Imposing motor vehicle fuel taxes on compressed natural and liquefied natural gas used for transportation purposes.

Sponsors: Representatives Clibborn and Roberts.

Brief History:

Committee Activity:

Transportation: 2/6/14, 2/10/14 [DPS].

Brief Summary of Substitute Bill

- Clarifies that the license-fee-in-lieu-of-fuel-tax arrangement applies to the use of liquefied natural gas (LNG) and compressed natural gas (CNG).
- Exempts LNG and CNG from the state public utility tax when they are sold or used for transportation purposes.
- Imposes the business and operating (B&O) tax on the sale of LNG and CNG when such sales qualify for the exemption from the public utility tax.
- Expands the definition of "manufacturing" relating to the B&O tax to include the production LNG and CNG to be used for transportation fuel.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 23 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Bergquist, Fitzgibbon, Freeman, Habib, Hayes, Klippert, Kochmar, Moeller, Muri, Ortiz-Self, Riccelli, Rodne, Ryu, Sells, Takko, Tarleton, Walkinshaw and Zeiger.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 6 members: Representatives Hargrove, Assistant Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Hawkins, Pike, Shea and Young.

Staff: Andrew Russell (786-7143).

Background:

Motor Vehicle Fuel Tax (RCW 82.38 and 82.80).
Washington imposes a tax on fuel and natural gas when, among other times, the fuel is either removed from a terminal, removed from a refinery, or enters the state for sale, consumption, use, or storage. Currently, Washington imposes a total tax of 37.5 cents on each gallon of fuel and 100 cubic feet of natural gas. Furthermore, a county may impose an additional tax equal to 10 percent of the statewide fuel tax. Alternatively, a county may impose this additional tax for a regional transportation investment district plan, and a regional transportation investment district may levy an additional tax equal to 10 percent of the statewide fuel tax. Finally, cities and towns within 10 miles of an international border, and transportation benefit districts crossing an international border, may impose an additional tax of up to 1 cent per gallon of fuel.

Generally, the terminal operator is liable for paying any such taxes. Taxes are not imposed, however, on the sale of natural gas or propane for use in a motor vehicle. Instead, the vehicle owner must pay an annual license fee in lieu of the fuel tax.

Public Utility Tax (RCW 82.16).
The state imposes a tax on public utility businesses for the privilege of operating a public utility business within the state. For gas distribution businesses, the tax is equal to 3.852 percent of the gross income of the business. Furthermore, 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 business and occupation (B&O) tax.

Business and Occupation Tax (RCW 82.04).
Washington imposes a B&O tax on certain business activities, including acting as a manufacturer, retailer, or wholesaler. A manufacturer is one who undertakes activities of a commercial or industrial nature applying labor or skill to materials so that a different or useful substance or article of personal property is produced for sale or use. 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.

Use Tax (RCW 82.12 and 82.14).
The state imposes a use tax on the privilege of using certain items in the state not otherwise subject to state sales tax. A specific use tax applies to the use of natural gas, and the tax is equal to the public utility tax imposed under RCW 82.16. Local authorities may also impose a use tax on the use of certain items, including natural gas. A use tax imposed by local authorities on natural gas is equal to the local public utility tax imposed within the jurisdiction.

Summary of Substitute Bill:

The substitute bill allows compressed natural gas (CNG) and liquefied natural gas (LNG) to be sold for transportation purposes without the display of a decal indicating the vehicle's payment of a license fee in lieu of a fuel tax. It eliminates a handling loss fee charged to pay an annual license fee in lieu of fuel tax. It also clarifies that foreign vehicles registered pursuant to the international registration plan are subject to the annual fee, while those registered in a foreign jurisdiction that are not registered under the international registration plan are not.

Entities that sell CNG and LNG to be used for transportation purposes are exempt from the state public utility tax; however, those entities are subject to the state B&O tax. A local public utility tax may be imposed on the sale of CNG and LNG to be used for transportation purposes and may not exceed the greater of either B&O tax imposed by the local jurisdiction, if any, or 0.2 percent. Additionally, the production of CNG and LNG to be used as transportation fuel is added as a type of manufacturing for state B&O tax purposes.

The use of CNG and LNG for transportation purposes is exempt from state and local use taxes that apply specifically to the use of natural gas; however, any general local sales and use taxes apply to LNG and CNG.

The Department of Licensing (DOL) is required to convene a work group, together with representatives from the Washington State Department of Transportation, the trucking industry, manufacturers of natural gas, and any other stakeholders. This work group will evaluate the current implementations of the license fee in lieu of fuel tax, requiring a report to the Legislature by December 1, 2014. Finally, this work group will develop a transition plan for taking vehicles from the annual license fee in lieu of of fuel tax to payment of the fuel tax, requiring a report to the Legislature by December 1, 2015.

Substitute Bill Compared to Original Bill:

The original bill added LNG and CNG to the fuel tax structure, applying that tax to an energy-equivalent amount of those gasses. The original bill also would have retained the requirement that vehicles subject to the annual fee in lieu of fuel tax display a decal in order to purchase natural gas for transportation purposes. Finally, the original bill did not require the DOL to conduct a study into the annual license fee in lieu of fuel tax.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: This bill takes effect July 1, 2015, except for Sections 1, 17, and 18. Section 1 providing legislative intent, section 17 requiring the department of licensing to convene a work group, and section 18 exempting the bill from certain tax preference requirements, take effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The ferry system is a large user of fuel, and the state might benefit from the use of LNG or CNG. This bill clarifies the tax treatment of the production and use of these fuels.

Moving toward the use of CNG and LNG for transportation recognizes the needs of natural gas customers moving forward, encourages economic development, and reduces greenhouse gases. The current tax structure taxes these fuels at a public utility rate. This needs to be modernized and updated to level the playing field across different fuel sources. The first part of the bill relates to the development and long-term sales of CNG and LNG. The second part relates to the equitable tax of these gases as a transportation fuel.

The abundance of natural gas in the United States can drive new business development, gain energy independence, and reduce transportation emissions. A LNG plant would create jobs in the local economy. Using natural gas as a transportation fuel instead of gasoline has reduced emissions. This bill provides parity and makes sure there are no unintended obstacles to CNG and LNG development.

Natural gas will be the next wave in the trucking industry, but there are concerns about the decal and the flat fee. There should be a transition from the decal system into the fuel tax statute. Currently, out-of-state drivers do not pay a fee that is based upon their miles traveled.

(Opposed) None.

Persons Testifying: Nancy Atwood and Clay Riding, Puget Sound Energy; Larry Pursley, Washington Trucking Association; and Spencer Richley, Clean Energy.

Persons Signed In To Testify But Not Testifying: None.