
Finance Committee

ESSB 6440

Brief Description: Concerning compressed natural gas and liquefied natural gas used for transportation purposes.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators King, Eide and Kline).

Brief Summary of Engrossed Substitute Bill

- Imposes state and local business and occupation taxes on the sale of natural gas used as a transportation fuel in lieu of state and local utility taxes.
- Allows a natural gas company to claim the machinery and equipment (M&E) sales and use tax exemption for M&E used in the liquefaction or compression of natural gas used as a transportation fuel.
- Exempts consumers from state and local brokered natural gas use taxes for natural gas used as a transportation fuel.
- Convenes a work group to evaluate the application of certain vehicle fuel taxes and fees to natural gas and vehicles powered by natural gas.

Hearing Date: 3/7/14

Staff: Jeffrey Mitchell (786-7139).

Background:

Motor Vehicle Fuel Tax.

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

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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. A decal or other identifying device must be displayed on a vehicle as authority to purchase the fuel.

State and Local Business Taxes: Business and Occupation Taxes and Public Utility Taxes.

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.

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.

Cities are authorized to impose B&O and utility taxes. These taxes are mutually exclusive in the sense that a particular business activity will not be subject to both taxes. The maximum city B&O rate is 0.2 percent and the maximum city utility tax rate on a gas distribution business is 6 percent.

Machinery and equipment used by a manufacturer as part of a manufacturing activity is exempt from state and local sales and use taxes.

Brokered Natural Gas Use Tax.

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 Bill:

Sales by a gas distribution business of compressed natural gas (CNG) or liquefied natural gas (LNG) used as a transportation fuel are subject to state and local B&O taxes as opposed to state and local utility taxes. "Transportation fuel" is defined as a fuel for the generation of power to propel a motor vehicle, a vessel, or a locomotive.

The compression or liquefaction of natural gas is considered a manufacturing activity thereby allowing a gas distribution business to claim the machinery and equipment sales and use tax exemption.

The state and local brokered natural gas use tax does not apply where a consumer uses the gas as a transportation fuel.

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 fuel tax to payment of the fuel tax, requiring a report to the Legislature by December 1, 2015.

It is clarified that foreign vehicles registered pursuant to the international registration plan are subject to the annual fee in lieu of fuel tax, while those registered in a foreign jurisdiction that are not registered under the international registration plan are not.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.