

SENATE BILL REPORT

SB 6215

As of January 24, 2014

Title: An act relating to clarifying and correcting RCW 82.08.962 and 82.12.962 regarding the sales and use tax treatment of machinery and equipment purchases by companies producing pipeline-quality natural gas using landfill gas

Brief Description: Clarifying and correcting RCW 82.08.962 and 82.12.962 regarding the sales and use tax treatment of machinery and equipment purchases by companies producing pipeline-quality natural gas using landfill gas.

Sponsors: Senators Mullet, Ericksen, Ranker, Litzow, Chase and Fain.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 1/23/14.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Staff: William Bridges (786-7416)

Background: There is a sales and use tax exemption for machinery and equipment used directly in generating at least 1000 watts of electricity from any of the following:

- wind;
- sun;
- fuel cells;
- biomass;
- tidal or wave energy;
- geothermal resources;
- anaerobic digestion;
- technology that converts otherwise lost energy from exhaust; and
- landfill gas.

The exemption also applies to the labor and services for installing the tax-exempt machinery and equipment.

Prior to June 30, 2011, the exemption was 100 percent of the tax due. From July 1, 2011, the exemption is 75 percent of the tax paid, received in the form of a refund. The exemption expires January 1, 2020.

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.

According to the legislative findings, the intent of the sales tax exemption is to promote energy independence and attract a clean energy technology manufacturing sector to the state. The purpose of the exemption is to incentivize the generation of renewable energy and to reduce the costs of transitioning to renewable energy.

Summary of Bill: Creating a Tax Exemption for Certain Natural Gas Equipment. A sales and use tax exemption in the form of a refund is allowed for 75 percent of the sales tax paid on machinery and equipment used to produce pipeline-quality natural gas. The facility using the machinery and equipment must produce not less than 50 MMBTU of pipeline-quality natural gas.

Beginning on July 1, 2007, through June 30, 2011, the sales tax does not apply to the sale of machinery and equipment used directly in producing pipeline-quality natural gas or to the labor and services for installing the tax-exempt machinery and equipment. Machinery and equipment is considered to be used directly in producing pipeline-quality natural gas if it provides any part of the process that captures landfill gas and converts that landfill gas to a level necessary for residential or commercial use.

Retroactivity Clause. The exemptions apply retroactively for all purchases made on or after July 1, 2007, through June 30, 2020.

Appropriation: None.

Fiscal Note: Requested on January 22, 2014.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: PRO: Bio Energy Washington pays King County \$1 million per year for methane produced by the Cedar Hills landfill. The company refines the gas for sale. At the time the plant was built, Bio Energy Washington was advised by tax professionals that it qualified for the manufacturing sales and use tax exemption in RCW 82.08.02565, and it relied on that statute in making its investment decision. The Department of Revenue said Bio Energy Washington was a gas distribution business and would better fit under a sales and use tax exemption for green energy companies, but only for those portions of the facility necessary for generating electricity, not pipeline quality natural gas. This means the company now faces an unanticipated tax liability of \$250,000 to \$300,000. This bill simply corrects the statute to clarify that purchases of machinery and equipment by green energy companies that produce pipeline quality natural gas from alternative sources, like landfill gas, qualify for the sales and use tax exemption for green energy. Without this clarification, Bio Energy Washington's future would be jeopardized. If the company ceases to operate, King County will lose nearly \$1 million per year, and the county will be forced into flaring off the landfill gas. This would be bad for the environment and the state's green energy goals.

Persons Testifying: PRO: Senator Mullet, prime sponsor; Don LeMaster, Plant Manager, Bio Energy WA.