SENATE BILL REPORT
2SSB 6215

As Passed Senate, March 4, 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: Senate Committee on Ways & Means (originally sponsored by Senators Mullet, Ericksen, Ranker, Litzow, Chase and Fain).

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 1/23/14, 2/04/14 [DPS-WM, DNP].
Ways & Means: 2/25/14, 2/26/14 [DP2S].
Passed Senate: 3/04/14, 43-4.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 6215 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.
Signed by Senators Ericksen, Chair; Sheldon, Vice Chair; Billig, Brown, Honeyford and Ranker.

Minority Report: Do not pass.
Signed by Senators McCoy, Ranking Member; Chase.

Staff: William Bridges (786-7416)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6215 be substituted therefor, and the second substitute bill do pass.
Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Honeyford, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Assistant Ranking Member on the Operating Budget; Bailey, Becker, Billig,

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Braun, Conway, Dammeier, Hasegawa, Hatfield, Hewitt, Kohl-Welles, Padden, Parlette, Rivers, Schoesler and Tom.

Staff: Juliana Roe (786-7438)

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.

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 Second Substitute Bill: 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 million British thermal units of pipeline-quality natural gas per hour.

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.

The act is curative and remedial; however, the Legislature does not intend for the act to retroactively create a right of refund for taxes paid on machinery and equipment purchases by companies producing pipeline-quality natural gas using landfill gas prior to the enactment of the act.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Energy, Environment & Telecommunications): 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 (Energy, Environment & Telecommunications): PRO: Senator Mullet, prime sponsor; Don LeMaster, Plant Manager, Bio Energy WA.

Staff Summary of Public Testimony on Substitute (Ways & Means): PRO: This bill corrects and clarifies that machinery and equipment purchased by green energy companies used to produce an alternative energy source qualifies for the sales and use tax exemption. The Department of Revenue interpreted the law to apply only to the electricity-producing portion of our company and excluded the machinery and equipment for the portion that produced pipeline-quality natural gas. Without this clarification, we will be forced to repay unanticipated taxes and possibly jeopardize the entire plant. Our margins are already small in green energy. If this happens, King County will lose the $1 million each year that we pay for the rights to the landfill gas and will be forced to flare off or burn the landfill gas on its property. We urge you to support this bill.

Persons Testifying (Ways & Means): PRO: Don LeMaster, Plant Manager, BioEnergy WA.