

SENATE BILL REPORT

SB 5385

As of February 15, 2017

Title: An act relating to creating a fossil fuel carbon pollution tax.

Brief Description: Creating a fossil fuel carbon pollution tax.

Sponsors: Senators Hobbs and Hunt.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 2/02/17.

Brief Summary of Bill

- Imposes a carbon tax equal to \$15 per metric ton of carbon dioxide on the carbon content of fossil fuels extracted, manufactured, or introduced into Washington.
- Repeals any other state agency rule, policy, or standard that sets a greenhouse gas emissions standard, limit, cap, or charge.
- Directs the carbon tax revenue to be spent in specified amounts on storm water projects, fish barrier correction projects at state highways, renewable energy and energy efficiency programs, student transportation, and highway maintenance and preservation.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Staff: Kimberly Cushing (786-7421)

Background: In September 2016, the Department of Ecology adopted a rule under the State's Clean Air Act to establish emission standards to cap and reduce greenhouse gas (GHG) emissions from certain stationary sources, petroleum product producers and importers, and natural gas distributors located in Washington State. Beginning in 2017, entities that annually emit 100,000 or more metric tons of carbon dioxide equivalent are required to cap and gradually reduce their emissions. Every three years, the threshold is lowered by 5,000 metric tons through 2035, when the threshold will reach 70,000 metric tons. The rule is currently being challenged in both state and federal court.

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.

Storm Water Financial Assistance Program (SFAP). In 2013, the Legislature appropriated \$150,000 in the capital budget to the Department of Ecology to develop an ongoing comprehensive, statewide SFAP to be implemented by July 1, 2015. The purpose of the program is to provide grants to local governments for the protection and improvement of statewide water quality and to improve watershed functionality by reducing the transport of toxics and other pollutants through storm water runoff and by reducing uncontrolled runoff flows.

Fish Barrier Correction Projects. In 2001, 21 Western Washington treaty tribes filed suit in U.S. District Court, *United States v. Washington*, alleging that the existence of state-owned barrier culverts under roads that restrict or completely block salmon and trout access to historic spawning and rearing habitat is a violation of treaty rights. In March 2013, a permanent injunction was issued requiring the State of Washington to accelerate barrier correction on salmon and steelhead streams within specified areas. The Washington State Department of Transportation (WSDOT) is correcting fish passage barriers for dedicated fish passage projects and those completed as part of transportation projects.

Renewable Energy and Energy Efficiency Projects. The Washington State Energy Office within the Department of Commerce (Commerce) has a variety of programs that help improve energy efficiency for homeowners, businesses, public facilities, and low-income residents; improve access to financing for energy-efficiency upgrades and support the development and deployment of clean energy technologies.

In 2005, the Legislature created a Renewable Energy Cost-Recovery Incentive Program (Cost-Recovery Program) to promote renewable energy systems located in Washington that produce electricity from solar, wind, or anaerobic digesters. A utility providing incentive payments is allowed a credit against its public utility tax (PUT) for incentives paid. The Cost-Recovery Program expires June 30, 2020.

Multimodal Transportation Account. In 2000, the Legislature created this account to appropriate funds for various transportation purposes including transit, rail, ferry, pedestrian, and roads.

Summary of Bill: Fossil Fuel Carbon Pollution Tax (Carbon Tax). A carbon tax equal to \$15 per metric ton of carbon dioxide is imposed on the carbon content of fossil fuels extracted, manufactured, or introduced into Washington. The carbon tax is levied and imposed at the time of the first taxable event and upon the first taxable person in the state.

The Department of Revenue (DOR), with the Department of Ecology, must calculate the carbon content of fossil fuels, using relevant methods established by the U.S. Department of Energy or U.S. Environmental Protection Agency. The carbon tax is to be collected in addition to all other taxes imposed on fossil fuels. To the extent practical, DOR must integrate the administration and collection of the carbon taxes with all other taxes imposed on taxpayers.

Exemptions. Fossil fuels exempt from the carbon tax are those (1) used for air or marine travel between Washington and another state or county, (2) purchased in Washington for export for use outside of Washington, (3) brought into this state in the fuel tank of a motor

vehicle, vessel, locomotive, or aircraft, and (4) prohibited from being taxed under the state or federal constitutions or other federal law. Reductions to the carbon tax rates are not a credit and cannot be transferred, traded, or banked.

Expenditures from the Carbon Pollution Revenues Account (Account). All receipts from the carbon tax must be deposited into the new account. The account is subject to appropriation and may be used for the following activities:

1. Not less than 15 percent must be for project-specific planning, design, and construction projects that reduce storm water impacts from existing infrastructure and development. Grants to cities and counties must be provided through the SFAP. Grants also may be provided for projects sponsored by other public or private entities.
2. Not less than 15 percent must be for fish barrier correction projects at state highways as required by the federal injunction. If the amount exceeds the current biennial appropriation for compliance with the injunction, WSDOT may provide funding for projects with the greatest restoration of fish habitat access for fish barrier correction projects on state or local roadways.
3. Not less than 15 percent must be for programs that advance renewable energy and energy efficiency administered by Commerce, including funding:
 - for projects that provide a benefit to the public through development, demonstration, and deployment of clean energy technologies that save energy, reduce energy costs, reduce harmful air emissions, or otherwise increase energy independence for the state;
 - for community energy efficiency programs with an emphasis on low-income housing; and
 - to offset some or all of the state fiscal impacts of the credits against taxes owed by utilities under the Cost-Recovery Program.
4. Not less than 50 percent must be transferred to the multimodal transportation account for the purpose of local school district student transportation.
5. Not less than 5 percent may be used for highway maintenance and preservation activities at the Department of Transportation.

Repeal of Administrative Rules. Other than the carbon tax, state agencies may not adopt or enforce a statewide program that sets a GHG emissions standard, limit, cap, or charge. Any rule, policy or standard that was previously adopted is repealed.

Contingent Expiration Date. If the U.S. government adopts by statute or rule a charge, tax, regulatory limit, or standard on the emission of GHG that is imposed broadly on the people subject to the carbon tax, the carbon tax expires on the date the federal statute or rule is adopted.

Definition of First Taxable Event. First taxable event means (1) the first possession of (a) natural gas acquired by a gas distribution business, or a person subject to the use tax levied on natural gas, (b) coal acquired by a person using coal for the generation of electricity, heat, or steam in Washington, and (c) a petroleum product subject to a hazardous substance tax; and (2) the use of fossil fuels in a Washington facility that results in CO₂ emissions in conjunction with the process of distilling, fractionating, refining, or processing crude oil or petroleum products.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: We want the Legislature, not an Initiative, to solve this issue and help Washington State. The number one cause of declining fish runs is culverts. Storm water mitigation affects changes in the environment right away. Repealing the Clean Air Rule creates certainty for businesses so that they know there is only a \$15 charge.

CON: We cannot support a price on carbon at this time. This bill could impact rural economies in Washington and companies that would move easily. Natural gas could serve as bridge fuel, which has a lower carbon impact than diesel, if there is money to help with the transition to lower carbon fuels. Utilities are obligated to use existing resources to meet the load demands of customers. A utility with a natural gas turbine plant will have to pass on the additional costs of a carbon tax to its customers. Cost-effective variable resources do not exist for utilities. Voters said no to carbon tax policy in November. We want to live and work in a clean environment, but environmental laws should be implemented at the federal level to keep everything fair. This increases fuel by \$0.15 a gallon. Out-of-state freight trucks could choose not to fuel in Washington if diesel fuel is more expensive. But those in state have to pay the tax and can't compete. Future legislators could allocate funds to whole host of activities. The energy cost from a carbon tax of any size will put food processors at a competitive disadvantage. The raw product will be shipped to other facilities where food will be processed if Washington is uncompetitive. The bill creates an adverse cost impact on consumers who heat homes with propane. We would support amendments to treat alternative fuels differently, such as propane, for vehicle fleets. We don't support the restriction on the Governor's carbon rule. Electricity is a basic service. Taxing a basic service is regressive and will not lead to a reduction in carbon. We recognize value in reducing carbon, but are already increasing renewables. A carbon tax on electricity does not encourage investment in less-intensive carbon fuel sources, such as newer generation natural gas plants.

OTHER: We want a cost-effectiveness standard on the investments under a carbon tax. We want protections for energy-intensive and trade-exposed businesses so that low-carbon intensive manufacturers don't leave Washington. The language regarding repealing the rule is warranted, appropriate, and justified. If we raise taxes for any reason, a carbon tax is the best option available. Increasing the price of pollution creates benefits. However, carbon taxes create disproportional impacts. We want to maintain artful simplicity. We appreciate the spirit of the bill but can't support increasing the cost of energy consumption. Energy tax revenues should be set aside and used for utility self-directed projects for the purpose of reducing emissions and a reasonable transition to decarbonizing the grid. This bill doesn't include ongoing increases, which creates certainty. The bill provides a diminishing source of revenue, so it can't be used to fund ongoing projects, such as education. This is a more reasonable approach by not taxing emissions in other states.

Persons Testifying: PRO: Senator Steve Hobbs, Prime Sponsor.

CON: Tom Haymaker, Clark Public Utility; Mary Catherine McAleer, Association of Washington Business; Charlie Brown, Cascade Natural Gas Co.; Tom Walrath, Washington Trucking Associations; Tim Eyman, citizen; Dan Coyne, Northwest Food Processors Association; Mel Sorensen, Pacific Propane Gas Association; Kathleen Collins, PacifiCorp; Neil Beaver, Audubon Washington.

OTHER: Isaac Kastama, Washington Business Alliance; Greg Rock, Carbon WA; John Rothlin, Avista.

Persons Signed In To Testify But Not Testifying: No one.