FINAL BILL REPORT
HB 1070

C 202 L 19
Synopsis as Enacted

Brief Description: Concerning the tax treatment of renewable natural gas.

Sponsors: Representatives Mosbrucker, Fitzgibbon, Tharinger and Doglio.

House Committee on Environment & Energy
House Committee on Finance
Senate Committee on Environment, Energy & Technology
Senate Committee on Ways & Means

Background:

Business and Occupation Tax.
Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. The tax is imposed on the gross receipts from all business activities conducted within the state. Revenues are deposited in the State General Fund. There are several rate categories, and a business may be subject to more than one B&O tax rate, depending on the types of activities conducted. Multiple exemptions, deductions, and credits are available to reduce the B&O tax liability for specific taxpayers and business industries.

Public Utility Tax.
Income from utility operations is taxed under the public utility tax (PUT), in lieu of the B&O tax; other income of the utility firm, e.g. retail sales of tangible personal property, is subject to the B&O tax.

The PUT does not apply to sales by a gas distribution business of:
- compressed natural gas (CNG) or liquefied natural gas (LNG), where the CNG or the LNG is to be sold or used as transportation fuel; or
- natural gas from which the buyer manufactures CNG or LNG, where the CNG or the LNG is to be sold or used as transportation fuel.

Instead, these sales are subject to the B&O tax.

Brokered Natural Gas.

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.

A use tax is levied on businesses that use natural or manufactured gas within the state if the gas is shipped directly to the business through a pipeline ("brokered natural gas"). The use-tax rate for brokered natural gas is equal to the PUT rate for gas distribution businesses. The use tax is not levied on gas that was delivered by some other means for which the PUT has already been paid and does not apply to the use of natural gas, CNG, or LNG if the consumer uses the gas for transportation fuel.

Renewable Natural Gas.
Renewable natural gas (RNG), also called biomethane, is produced by removing carbon dioxide, trace gases, and contaminants from biogas. Biogas is produced naturally through anaerobic decomposition of organic materials in landfills and in anaerobic digesters located at wastewater treatment plants, food processing facilities, and farms.

A sales and use tax exemption is available for purchases of equipment necessary to process biogas from a landfill into marketable coproducts, such as RNG, and for purchases related to establishing or operating an anaerobic digester. For the purpose of this exemption, "anaerobic digester" means a facility that processes organic material into biogas and digestate using microorganisms in a decomposition process within a closed, oxygen-free container, as well as the equipment necessary to process biogas or digestate produced by an anaerobic digester into marketable coproducts.

Tax Preferences.
All new tax preference legislation is required to include a tax preference performance statement. The performance statement must clearly specify the public policy objectives of the tax preference, and the specific metrics and data that will be used by the Joint Legislative Audit and Review Committee to evaluate the efficacy of the tax preference. In addition, an automatic 10-year expiration date is applied to new tax preferences if an alternate expiration date is not provided in the new tax preference legislation.

Summary:

The Public Utility Tax (PUT) exemption for certain sales by a gas distribution business is extended to include sales of renewable natural gas. For the purpose of the PUT exemption, "renewable natural gas" means a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters.

In lieu of the PUT, sales of renewable natural gas by a gas distribution business are subject to the business and occupation (B&O) tax.

The definition of "to manufacture," as it pertains to the B&O tax, is expanded to include the production or processing of renewable natural gas.

The tax preference does not include a tax preference performance statement and does not expire.

Votes on Final Passage:

House	95	0
Senate	47	1

Effective: July 28, 2019