SENATE BILL REPORT
E2SHB 2042

As of April 23, 2019

Title: An act relating to advancing green transportation adoption.

Brief Description: Advancing green transportation adoption.

Sponsors: House Committee on Finance (originally sponsored by Representatives Fey, Orcutt, Slatter, Doglio, Tharinger and Ramos).

Brief History: Passed House: 4/23/19, 87-9.
Committee Activity: Transportation: 4/24/19.

Brief Summary of Bill

- Reinstates a modified alternative fuel vehicle retail sales and use tax exemption for vehicles priced at $45,000 or less, with the exemption applying to $32,000 of the vehicle price in the first two years, $24,000 in the second two years, and $16,000 in the third two years, and expands it to include used vehicles priced at $30,000 or less, with the exemption applying to $16,000 of the vehicle price for the duration of the exemption qualification period.
- Makes permanent the Electric Vehicle (EV) Charging Infrastructure grant program and expands eligibility to include hydrogen fueling station infrastructure.
- Imposes a new $150 transportation electrification fee for certain electric and alternative fuel vehicles and imposes a new $50 annual fee on hybrid electric and alternative fuel vehicles that do not pay the existing alternative registration renewal fee or the other new transportation electrification fee.
- Raises the total registration renewal fee for alternative fuel vehicles from $150 to $200 for 10 years; uses $200 of the fee to fund alternative fuel vehicle sales and use tax incentives and the Alternative Fuel Infrastructure grant program for five years and uses $100 of the fee for these purposes after five years.
- Extends, modifies, and expands to alternative fuel vehicle infrastructure the alternative fuel commercial vehicle business and occupation and public utility tax credit program.

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.

- Extends the EV battery and infrastructure sales and use tax exemption and expands it to include batteries sold as a component of electric buses and zero-emission buses as well as hydrogen fuel cells, hydrogen fueling stations, and renewable hydrogen production facilities.
- Extends the expiration date of the leasehold excise tax exemption for public land used for the purpose of EV infrastructure, and expands it to include public lands used for hydrogen fueling stations and renewable hydrogen production facilities.
- Establishes a retail sales and use tax exemption for new powertrains for vessels that are powered by certain battery-powered electric propulsion systems and for vessels equipped with these powertrains.
- Establishes a capital grant program to assist transit authorities in fleet electrification.
- Establishes a technical assistance and education program on alternative fuel vehicles for public agencies within Washington State University's Extension Energy Program.
- Amends provisions authorizing investor-owned utilities' incentive rate of return on investments in EV supply equipment.
- Establishes an alternative fuel car sharing pilot grant program to support car sharing for underserved communities and lower income workforce members.
- Authorizes the Department of Commerce to conduct a study on reducing barriers to battery and hydrogen fuel cell EV adoption by lower income residents of the state through the use of financing assistance.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Bryon Moore (786-7726)

Background: Electrification of Transportation Goals. In 2015, the Governor set a goal of 50,000 EVs on Washington's roads by 2020. According to the Department of Licensing (DOL), there are approximately 42,000 plug-in EVs registered in Washington as of December 2018.

Electric Vehicle Charging Infrastructure Pilot Program. A 2015 law required the Washington State Department of Transportation's (DOT) Innovative Partnerships Office to develop a pilot program to support the deployment of EV charging infrastructure also supported by private financing. DOT was required to adopt rules to implement the pilot program.

Alternative Fuel Tax Incentive. An alternative fuel vehicle retail sales and use tax exemption was in place between January 2009 and the end of May 2018. It was modified in law several times. The most recent version, enacted in 2016, was a retail sales and use tax exemption for new passenger cars, light duty trucks, and medium duty passenger vehicles that (1) had a base model Manufacturer's Suggested Retail Price (MSRP) of $42,500 or less; and (2) were either exclusively powered by a clean alternative fuel or used at least one method of propulsion that was capable of being reenergized by an external source of electricity and were capable of traveling at least 30 miles using only battery power. Both purchased and leased vehicles were eligible. Tax exemption eligibility was capped at $32,000 per eligible vehicle. The exemption expired last year when the number of vehicles titled in the state reached the cap of 7,500 qualifying vehicles.

Alternative Fuel Commercial Vehicle Tax Credits. A business and occupation (B&O) and public utility tax (PUT) credit is available for the purchase of new, as well as certain used, alternative fuel commercial vehicles for up to 50 percent of the incremental cost of the vehicle purchased above the purchase price of a comparable conventionally fueled vehicle, subject to certain per vehicle maximums. Provisions exist around allowing used and leased commercial vehicles to qualify for the credits under certain conditions.

The total credits earned may not exceed the lesser of $250,000 or 25 vehicles per person per calendar year. No more than $6 million in credits is available in any calendar year. Each vehicle weight class is eligible for a maximum of $2 million in B&O tax and PUT credits per year combined through the end of August of each year, at which time any unused credits from each weight class become usable for a vehicle of any weight. Credits may be earned from January 1, 2016, through January 1, 2021, except for credits for leased vehicles, which may be earned from July 1, 2016, through January 1, 2021. A credit earned during one calendar year may be carried over to be credited against taxes incurred in the next calendar year. Credits may not be used towards both the B&O tax and the PUT.

On a quarterly basis, the state treasurer must transfer a sum equal to the amount of tax credits provided from the Multimodal Transportation Account to the state general fund.

Alternative Fuel Vehicle Renewal Fee. In addition to any other fees due at annual vehicle registration renewal, vehicles powered by electricity are subject to two electric vehicle fees that total $150. The first fee is $100 and is deposited into the Motor Vehicle Fund up to $1 million annually. If in any year the amount collected exceeds $1 million, the excess amount is distributed as follows:

- 70 percent to the Motor Vehicle Fund;
- 15 percent to the Transportation Improvement Account; and
- 15 percent to the Rural Arterial Trust Account.

The second fee is $50 and is distributed as follows:

- (1) the first $1 million raised by the fee must be deposited into the Multimodal Transportation Account; and
- any remaining amounts must be deposited into the Motor Vehicle Fund.

The $1 million threshold was reached in November 2017, and fee revenues from the $50 fee are currently deposited into the Motor Vehicle Fund.

Electric Vehicle Battery and Infrastructure Retail Sales and Use Tax Exemption. A retail sales and use tax exemption for EV batteries and infrastructure has been in place since July 2009. The tax exemption may be used for:

- the sale of batteries for an EV;
- the sale of or charge made for labor and services rendered for the installation, repair, alteration, or improvement of EV batteries;
- the sale of or charge made for labor and services rendered for the installation, repair, alteration, or improvement of EV infrastructure; and
- the sale of tangible personal property that will become a component of EV infrastructure.

The EV battery and infrastructure tax exemption expires January 1, 2020.

Leasehold Excise Tax Exemption for Electric Vehicle Infrastructure. A leasehold tax is a tax on the use of public property by a private party. An exemption on leasehold excise taxes is available for leases to tenants of public lands that are used for the purposes of EV infrastructure installation, maintenance, and operations. This exemption expires January 1, 2020.

Public Transit. There are 32 public transit agencies throughout the state, the majority of which are operated as public transportation benefit areas (PTBAs) or other special purpose districts; several are operated by cities and counties. Through the administration of a variety of federal and state grant programs, DOT assists local and regional transportation providers in purchasing vehicles and equipment, expanding and sustaining service, and funding facilities and infrastructure.

Washington State University Extension Energy Program. The Washington State University (WSU) Extension Energy Program (program) provides information, technical assistance, and consultation on physical plant operations, maintenance, and construction issues to state and local governments, tribal governments, and nonprofit organizations. The program is funded with voluntary subscription charges, service fees, and other funding secured or provided to WSU for this purpose.

Privately-Owned Utility Providers and Electric Vehicle Charging Infrastructure. In establishing rates for privately owned gas and electrical companies, the Utilities and Transportation Commission (UTC) must consider policies to improve access to, and promote fair competition in the provision of, electric vehicle supply equipment (EVSE) build-out. An investor-owned utility may submit to the UTC an electrification of transportation plan that deploys EVSE or provides other electric transportation programs, services, or incentives to support electrification of transportation, provided that such EVSE programs or services do not increase costs to customers in excess of 0.25 percent above the benefits of electric transportation to all customers over a period consistent with the utility's planning horizon under its most recent integrated resource plan. The UTC may allow an incentive rate of return on investment through December 31, 2030, on capital expenditures for EVSE that is deployed for the benefit of ratepayers, provided that the capital expenditures do not increase costs to ratepayers in excess of 0.25 percent. The incentive rate of return on investment applies to any EVSE project that is installed after July 1, 2015.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Striking Amendment): Alternative Fuel Vehicle Retail Sales and Use Tax Exemption. The alternative fuel vehicle retail sales and use tax exemption is reinstated using the same vehicle qualification criteria in place between July 1, 2016, and May 31, 2018, except that the qualification requirement related to price for new vehicles is changed to only permit vehicles with a sales price—including any trade-in value—or fair market value of $45,000 or less, and used vehicles with a sales price—including any trade in value—or fair market value of $30,000 are now made eligible. For new vehicles purchased or leased between August 1, 2019, and July 31, 2021, the maximum amount eligible for the tax exemption is $32,000; for vehicles purchased or leased between August 1, 2021, and July 31, 2023, the maximum amount eligible for the tax exemption is $24,000; and for vehicles purchased or leased between August 1, 2023, and July 31, 2025, the maximum amount eligible for the tax exemption is $16,000. For used vehicles, the maximum amount eligible for the tax exemption is $16,000 from August 1, 2019 to July 31, 2025.

At the end of each quarter, the state treasurer is required to transfer from the Electric Vehicle Account to the state general fund the amount that would otherwise have been deposited in the state general fund if not for this tax exemption. DOR must provide a report to the Legislature by the last day of October 2019, and every six months thereafter, providing certain specified information related to the use of this tax exemption.

The qualification period for this tax exemption ends July 31, 2025. Leases for vehicles that qualify for this tax exemption may maintain eligibility through July 31, 2028.

Clean Alternative Fuel Charging and Refueling Infrastructure Program. The EV Charging Infrastructure pilot program is made permanent, subject to the availability of amounts appropriated for this specific purpose. It is expanded to include the opportunity for bidders to propose hydrogen fueling station infrastructure that can address an existing gap in the state's low-carbon transportation infrastructure and meet the other program evaluation criteria, and is referred to as the Clean Alternative Fuel Charging and Refueling Infrastructure Program.

Transportation Electrification and Hybrid Vehicle Fees. A new $150 annual fee is imposed at the time of vehicle registration renewal for vehicles that either use at least one method of propulsion that is capable of being reenergized by an external source of electricity; or are capable of traveling at least 30 miles using only battery power.

A new $50 annual fee is imposed on hybrid electric and alternative fuel vehicles that do not pay the existing alternative registration renewal fee or the new transportation electrification fee. This fee will be collected at time of renewal.

All revenue raised by these two new fees will deposited into the Electric Vehicle Account until July 1, 2029. After this time, the revenue from the two new fees will be deposited into the Motor Vehicle Fund.

Electric Vehicle Account. The Electric Vehicle Account is created in the Transportation Infrastructure Account and replaces the Electric Vehicle Charging Infrastructure Account. Expenditures from this Account may only be used for the Clean Alternative Fuel Charging and Refueling Infrastructure Program and to reimburse the state general fund for the revenues that would otherwise be collected if not for the alternative fuel vehicle retail sales and use tax exemption.

Alternative Fuel Commercial Vehicle and Infrastructure Tax Credits. The B&O tax and PUT credit for the purchase of new and certain used alternative fuel commercial vehicles is made available for up to 75 percent of the incremental cost of the vehicle purchased above the purchase price of a comparable conventionally fueled vehicle and remains subject to certain vehicle maximums. Each vehicle weight class remains eligible for a maximum of $2 million in B&O taxes and PUT credits per year combined through the end of August of each year.

A new B&O tax and PUT credit is established for up to 50 percent of the cost to purchase alternative fuel vehicle infrastructure, tangible personal property that will become a component of alternative fuel vehicle infrastructure, and the installation and construction of alternative fuel vehicle infrastructure. The cost of property acquisition and site improvement related to the installation of alternative fuel vehicle infrastructure is excluded from eligibility for this tax credit. Qualifying infrastructure and infrastructure-related purchases are eligible for a maximum of $2 million in B&O tax and PUT credits per year combined through the end of August of each year, at which time any unused credits in the program become available to all qualifying vehicles and infrastructure.

The maximum annual credit for both vehicle and vehicle infrastructure credits is $6 million. A maximum total credit amount of $32.5 million is available for these credits, with credits issued since July 15, 2015, to be counted towards this total. The tax credits may be earned until $32.5 million in these credits have been used since July 15, 2015.

Electric Vehicle Battery and Hydrogen Fuel Cell, Infrastructure, and Zero-Emission Bus Retail Sales and Use Tax Exemption. The EV battery and infrastructure retail sales and use tax exemption is extended to apply to batteries sold as a component of an electric bus at the time of the vehicle's sale and to the sale of zero-emission buses. It is also extended to apply to hydrogen fuel cells, hydrogen fueling stations, and renewable hydrogen production facilities.

At the end of each quarter, the state treasurer is required to transfer from the Multimodal Transportation Account to the state general fund the amount that would otherwise have been deposited in the state general fund if not for this tax exemption.

The EV battery and infrastructure retail sales and use tax exemption expiration date is extended to July 31, 2029.

Leasehold Excise Tax Exemption for Electric Vehicle Infrastructure, Hydrogen Fueling Stations, and Renewable Hydrogen Production Facilities. The leasehold excise tax exemption for EV infrastructure is expanded to include public lands used for hydrogen fueling stations and renewable hydrogen production facilities. The expiration date is extended to July 31, 2029.

Vessel Electric Propulsion System Retail Sales and Use Tax Exemption. A retail sales and use tax exemption is established through August 1, 2029, for new powertrains for vessels that are powered by battery-powered electric marine propulsion systems with continuous power greater than 15 kilowatts and for new vessels equipped with a battery-powered electric marine propulsion system with continuous power greater than 15 kilowatts.

At the end of each quarter, the state treasurer is required to transfer from the Multimodal Transportation Account to the state general fund the amount that would otherwise have been deposited in the state general fund if not for this tax exemption.

The tax exemption for vessel electric propulsion systems expires August 1, 2029.

Tax Preference Performance Statement. The Legislature's public policy objective for establishing and extending the tax incentive programs described above is to increase the use of clean alternative fuel vehicles and vessels in Washington. The Joint Legislative Audit and Review Committee (JLARC) is directed to measure the effectiveness of these tax incentive programs by evaluating the number of clean alternative fuel vehicles and vessels titled in the state. DOL and DOR are required to provide JLARC with information needed for this analysis to be conducted.

Green Transportation Capital Grant Program for Public Agencies. DOT's Public Transportation Division is required to establish a green transportation capital grant program to aid transit authorities in funding cost-effective capital projects such as:

- the electrification of fleets for both battery and fuel cell EVs;
- modification or replacement of capital facilities to facilitate both fleet electrification and hydrogen refueling;
- necessary upgrades to electrical transmission and distribution systems; and
- construction of charging and fueling stations.

To receive grant program funds for a project, a transit authority must provide matching funding that is at least equal to 20 percent of the total cost of the project.

DOT's Public Transportation Division must establish an advisory committee to assist in identifying projects, which must include representatives from Department of Ecology, Department of Commerce (Commerce), the UTC, and at least one transit authority. DOT's Public Transportation Division must select projects based on a competitive process, and in selecting projects, must consider the cost effectiveness of the reductions in carbon emissions to be produced and the benefits to the state of a lower carbon intensity transportation system.

DOT's Public Transportation Division must submit a prioritized list of selected projects to the Legislature by December 1st of each even-numbered year in a request for funding, and must report annually to the transportation committees of the Legislature on the status of funded grant projects.

Alternative Fuel Vehicle Technical Assistance and Education Program. Subject to the availability of amounts appropriated for this specific purpose, the WSU Extension Energy program must establish and administer a technical assistance and education program focused on the use of alternative fuel vehicles. Education and assistance may be provided to public agencies, including local governments and other state political subdivisions.

Privately-Owned Utility Providers and Electric Vehicle Charging Infrastructure. The requirement that an investor-owned utility's electric vehicle supply equipment, programs, or services may not increase costs to customers in excess of 0.25 percent above the benefits of electric transportation to all customers over a period consistent with the utility's planning horizon under its most recent integrated resource plan is replaced. The new requirement put in place mandates that the capital expenditures associated with the utility's electrification of transportation plan may not increase the annual retail revenue requirement of the utility in excess of 0.25 percent after accounting for the benefits of transportation electrification in each year of the plan.

Overall customer experience is no longer a factor the UTC may consider in reviewing an electrification of transportation plan of an investor-owned utility. An investor-owned utility's electrification of transportation plan should align to a period consistent with either the utility's planning horizon under its most recent integrated resource plan or the time frame of the actions contemplated in the plan.

The legislative intent stated for electrification of transportation programs is modified to include as an aim, allowing all utilities to support transportation electrification to further the state's policy goals.

Clean Alternative Fuel Car Sharing Pilot Program. Subject to the availability of amounts appropriated for this specific purpose, DOT's Innovative Partnership Office is required to develop a grant pilot program to support clean alternative fuel car sharing programs that provide alternative fuel vehicle use opportunities to underserved communities and low- to moderate-income members of the workforce not readily served by transit or located in transportation corridors with emissions that exceed federal or state emissions standards. Nonprofit organizations or local governments, including housing authorities, with a demonstrated history of managing or implementing low-income transportation electric and shared mobility pilot programs are eligible to participate in the pilot program.

DOT must determine specific eligibility criteria based on specified evaluation and scoring requirements, the Puget Sound Clean Air Agency's report on low-income utilization of EVs, and other factors relevant to increasing clean alternative fuel vehicle use in underserved and low- to moderate-income communities. DOT may conduct preliminary workshops to determine the best method of designing the pilot program.

Grants may be awarded to successful proposals. The total grant amount available for a project may range from $50,000 to $200,000. Grants may be awarded to fund vehicles, charging or refueling station infrastructure, staff time, and any other expenses required to implement the project. No more than 10 percent of grant funds may be used for administrative expenses.

Property acquired through grant funding awarded for the clean alternative fuel car sharing pilot program is prohibited from being used for nonprogram purposes. If the property is sold, the proceeds of the sale must be used for program purposes or the state must be reimbursed for the fair market value of property still owned by nongovernmental program participants at the termination of the program.

Lower Income Electric Vehicle Financing Study. For this specific purpose, Commerce must conduct a study to identify opportunities to reduce barriers to battery and hydrogen fuel cell EV adoption by lower income residents of the state, through the use of vehicle and infrastructure financing assistance. The study must include an assessment of opportunities to work with nonprofit lenders to facilitate vehicle purchases through the use of loan-loss reserves and rate buy-downs by qualified borrowers purchasing EVs eligible for the alternative fuel vehicle retail sales and use tax exemptions, and may address additional financing assistance opportunities identified. The study must focus on potential borrowers who are at or below 80 percent of the state median household income, and may also address any additional opportunities identified to increase battery and hydrogen fuel cell EV adoption by lower income residents of the state.

Commerce may contract with a consultant on all or a portion of this study, and must provide a report detailing the findings of this study to the transportation committees of the Legislature by June 30, 2020.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on April 22, 2019.

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

Effective Date: The bill contains several effective dates. Please refer to the bill.