

HOUSE BILL REPORT

HB 1792

As Reported by House Committee On:

Environment & Energy
Finance

Title: An act relating to expanding the production, distribution, and use of hydrogen not produced from a fossil fuel feedstock.

Brief Description: Expanding the production, distribution, and use of hydrogen not produced from a fossil fuel feedstock.

Sponsors: Representatives Ramel, Orcutt, Abbarno, Fitzgibbon, Goodman, Slatter, Young and Harris-Talley.

Brief History:

Committee Activity:

Environment & Energy: 1/18/22, 1/21/22 [DP];

Finance: 2/7/22, 2/17/22 [DPS].

Brief Summary of Substitute Bill

- Authorizes public utility districts (PUDs) to produce, use, sell, and distribute green electrolytic hydrogen.
- Authorizes municipal utilities to produce, use, sell, and distribute green electrolytic hydrogen and renewable hydrogen.
- Adds the production of green electrolytic hydrogen to a number of existing tax exemptions that apply to the production of renewable hydrogen.
- Creates a public utility tax exemption for sales of electricity related to the production of green electrolytic hydrogen and renewable hydrogen.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass. Signed by 13 members: Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Dye, Ranking Minority Member; Klicker, Assistant Ranking Minority Member; Abbarno, Berry, Boehnke, Fey, Goehner, Harris-Talley, Ramel, Shewmake and Slatter.

Staff: Robert Hatfield (786-7117).

Background:

Municipal Utilities and Public Utility Districts.

Municipalities are authorized to operate as utilities and set the rates and charges for the provision of gas, water, sewer, electric power, heating fuel, solid waste removal, and transportation facility services.

Municipal utilities are authorized to provide gas and electric service both within and outside of their jurisdictional boundaries. Some municipal utilities provide electricity or natural gas to adjoining areas, both to incorporated cities and to unincorporated areas under county authority.

Public utility districts (PUDs) are a type of special-purpose district authorized for the purpose of generating and distributing electricity, providing water and sewer services, and providing telecommunications services. A PUD may operate on a countywide basis or may encompass a small jurisdiction. A PUD is governed by a board of either three or five elected commissioners.

A PUD may build and operate generation, distribution, and transmission facilities, both within and outside the county boundary, to furnish electricity to the county's inhabitants or other persons, provided that such activity is reasonably related to the PUD's core purpose of serving its own customers. If a PUD wants to build a utility plant inside a city or town, the city's governing body must consent to the service and approve the plan for construction.

Public Utility Districts—Renewable Natural Gas and Renewable Hydrogen.

A PUD is authorized to produce and distribute biodiesel, ethanol, and ethanol fuel blends for use in internal operations and for sale or distribution. A PUD may also produce renewable natural gas (RNG) and renewable hydrogen and use those fuels in internal operations or sell them at wholesale or directly to certain end-use customers through a gas pipeline or in pressurized containers.

"Renewable hydrogen" means hydrogen produced using renewable resources both as the source for the hydrogen and the source for the energy input into the production process.

Public Utility Tax.

A public utility tax is levied on the gross income of businesses engaged in certain lines of business, including light and power, sewerage collection, gas distribution, and water

distribution.

Tax Exemptions—Renewable Hydrogen.

Certain aspects of the production of renewable hydrogen are exempt from certain taxes, including retail sales tax, use tax, and, where the renewable hydrogen is produced at a facility operating pursuant to a lease of public lands, leasehold excise tax. These exemptions expire July 1, 2025.

Summary of Bill:

Public Utility Districts—Green Electrolytic Hydrogen.

Public utility districts (PUDs) are authorized to produce, use, sell, and distribute green electrolytic hydrogen to the same extent that they are currently authorized to produce, use, sell, and distribute renewable hydrogen.

"Green electrolytic hydrogen" is defined as hydrogen produced through electrolysis and does not include hydrogen manufactured using steam reforming or any other conversion technology that produces hydrogen from a fossil fuel feedstock.

Municipal Utilities—Renewable Hydrogen and Green Electrolytic Hydrogen.

Municipal utilities are authorized to produce, use, sell, and distribute renewable hydrogen and green electrolytic hydrogen to the same extent that they are currently authorized to produce, use, sell, and distribute gas and electricity.

Public Utility Tax Exemption—Renewable Hydrogen and Green Electrolytic Hydrogen.

A tax exemption is created for sales of electricity by a light and power business to a green electrolytic hydrogen production business, a renewable hydrogen production business, or a business compressing, liquifying, or dispensing green electrolytic hydrogen or renewable hydrogen. The tax exemption lasts for 25 years from the date of commercial operation of the business, provided the commercial operation commences no later than July 1, 2032, and provided the contract for sale of electricity to the business meets certain requirements.

Tax Exemptions—Green Electrolytic Hydrogen.

Existing exemptions from retail sales tax, use tax, and leasehold excise tax that apply to certain aspects of the production of renewable hydrogen are expanded to include the production of green electrolytic hydrogen.

Tax Preference Performance Statement.

The stated intent of the Legislature is to provide a public utility excise tax exemption on the sale of electricity used in the production of green electrolytic hydrogen, the production of renewable hydrogen, and the compression, liquification, and dispensing of green electrolytic hydrogen and renewable hydrogen, in order to achieve certain public policy objectives, including:

- increasing the use of clean alternative fuel vehicles;
- encouraging the use of clean alternative fuels by reducing the cost of the production and dispensing of fuel for clean alternative fuel vehicles; and
- promoting the construction and operation of renewable hydrogen and green electrolytic hydrogen production and dispensing facilities in Washington.

In order to measure the effectiveness of the public utility tax exemption, the Joint Legislative Audit and Review Committee is directed, using calendar year 2021 as the baseline, to evaluate the annual volumetric quantity of renewable hydrogen and green electrolytic hydrogen produced in the state, as well as the annual percentage of hydrogen produced in the state that is either green electrolytic hydrogen or renewable hydrogen.

Appropriation: None.

Fiscal Note: Requested on January 13, 2022.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The path to meeting the state's climate goals through 2030 is straightforward. There is no need to wait for new technology; businesses and engineers and designers are ready to go between now and 2030. But there are challenges in other sectors—like maritime shipping—that will need other technologies. If hydrogen is going to be a fuel source, it has to first be manufactured. There are two main ways to make hydrogen: (1) you can make it using natural gas, which the bill does not support; or (2) you can make it using electricity. The bill incentivizes the use of electricity to make hydrogen in three ways: (1) it allows PUDs and municipal utilities to produce and sell green electrolytic hydrogen and renewable hydrogen; (2) it adds a new public utility tax incentive for its production; and (3) it expands the scope of electricity that can qualify for certain other tax incentives.

Hydrogen will be essential to decarbonizing the energy system. A hydrogen molecule is basically a battery; it can be stored and it can be transported. Green electrolytic hydrogen electrolyzers can be sited anywhere. The cost of electricity is the major cost of producing renewable hydrogen and green electrolytic hydrogen. Multiple forms of heavy transport are already adding hydrogen-powered capacity.

The bill gives PUDs another tool to foster a clean energy space.

One city has more power than it needs to serve its customers, and it sees green electrolytic hydrogen as a way to build the economy and to help to decarbonize aspects of the economy

that are difficult to electrify. Hydrogen is a responsible alternative for many heavy industries like rail, aviation, tugboats, commercial fishing boats, ferries, and drayage trucks. Washington can and should be a leader in emerging clean fuel industries.

Policies like those found in the bill are necessary to allow renewable hydrogen and green electrolytic hydrogen to go forward.

The issue of power sourcing is the single biggest challenge in siting a renewable hydrogen/green electrolytic hydrogen facility. Policies that better enable green electrolytic hydrogen production allow producers to make plans now to locate in Washington. The bill will better position the state for near-term investments.

(Opposed) None.

(Other) The change in this bill will take advantage of the fact that the state is on a path to 100 percent clean electricity. It makes sense to clarify that municipal utilities can produce renewable hydrogen and green electrolytic hydrogen. Producing hydrogen does take a lot of electricity, but it is believed that the electrical grid can accommodate the increased load.

There is a concern that comes from selecting only a few forms of hydrogen that qualify for tax exemptions. Both green and blue hydrogen offer significant opportunities for carbon reduction. The bill should be broadened to include more hydrogen technology options.

Persons Testifying: (In support) Representative Alex Ramel, prime sponsor; Dave Warren, Washington Green Hydrogen Alliance, and Renewable Hydrogen Alliance; Nicolas Garcia, Washington Public Utility Districts Association; Christine Cooley, Tacoma Public Utilities; Mendy Droke, Seattle City Light; Darrel Smith, HydroStar USA; and Conor Duggan, First Mode.

(Other) Glenn Blackmon, Department of Commerce; and Jessica Spiegel, Western States Petroleum Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Chase, Chopp, Harris-Talley, Morgan, Orwall, Ramel, Springer, Stokesbary, Thai, Vick, Wylie and Young.

Minority Report: Without recommendation. Signed by 1 member: Representative Dufault, Assistant Ranking Minority Member.

Staff: Tracey Taylor (786-7152).

Summary of Recommendation of Committee On Finance Compared to Recommendation of Committee On Environment & Energy:

The Finance Committee recommended the reduction in the maximum length of the public utilities tax exemption from 25 years to 15 years.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 17, 2022.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill will help Washington meet our clean energy goals. This bill expands who can be enrolled as a manufacturer of hydrogen energy by including public utility districts and municipalities. It also creates a more accessible definition for the current exemption program. Finally, it extends the exemption to the largest cost in manufacturing hydrogen to include not just equipment but the cost of electricity. Tax exemptions provide incentives to bring clean energy to Washington and this bill addresses the largest driver of clean energy production. Electricity is approximately 65 to 70 percent of the cost of hydrogen production. As a result, this legislation will encourage the production of hydrogen in Washington.

(Opposed) None.

Persons Testifying: Representative Alex Ramel, prime sponsor; Patricia Kelley, New Day Hydrogen; and Dave Warren, Renewable Hydrogen Alliance and Washington Green Hydrogen Alliance.

Persons Signed In To Testify But Not Testifying: None.