

HOUSE BILL REPORT

SSB 5910

As Passed House - Amended:

March 7, 2022

Title: An act relating to accelerating the availability and use of renewable hydrogen in Washington state.

Brief Description: Accelerating the availability and use of renewable hydrogen in Washington state.

Sponsors: Senate Committee on Environment, Energy & Technology (originally sponsored by Senators Carlyle, Billig, Conway, Hawkins, Hunt, Mullet, Saldaña and Stanford).

Brief History:

Committee Activity:

Environment & Energy: 2/22/22, 2/24/22 [DPA];

Appropriations: 2/25/22, 2/28/22 [DPA(APP w/o ENVI)].

Floor Activity:

Passed House: 3/7/22, 96-2.

Brief Summary of Substitute Bill (As Amended by House)

- Establishes the statewide Office of Renewable Fuels.
- Authorizes the director of the Department of Commerce (Commerce) to provide state funding assistance to help promote and strengthen applications to secure federal funding to develop a regional clean hydrogen hub.
- Authorizes public utility districts 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

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existing tax exemptions that apply to the production of renewable hydrogen.

- Requires the Department of Revenue to publish guidance to advise county assessors when appraising renewable energy facilities.
- Requires gas companies to provide notice to the Utilities and Transportation Commission (UTC) prior to replacing natural gas with renewable hydrogen or green electrolytic hydrogen to serve customers.
- Requires the UTC to consider recommendations made by the Office of Renewable Fuels within Commerce, and other information, when making a determination on a gas company's request for approval of any tariff related to the use of green electrolytic hydrogen or renewable hydrogen as a replacement for natural gas.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: Do pass as amended. 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).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Environment & Energy. Signed by 33 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chandler, Chopp, Cody, Dolan, Dye, Fitzgibbon, Frame, Hansen, Harris, Hoff, Jacobsen, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Schmick, Senn, Springer, Steele, Stonier, Sullivan and Tharinger.

Staff: Jessica Van Horne (786-7288).

Background:

Federal Infrastructure Investment and Jobs Act.

The federal Infrastructure Investment and Jobs Act of 2021 provides \$8 billion over five years to support at least four regional clean hydrogen hubs to demonstrate the production,

processing, delivery, storage, and end-use of clean hydrogen. The United States Department of Energy (DOE) must solicit proposals for regional clean hydrogen hubs by May 15, 2022, and select the four hubs one year later.

Property Taxes.

Article 7, section 1 of the Washington Constitution (Constitution) defines property as everything that can be owned, whether tangible or intangible. The property tax is applied annually to assessed value (AV) of all property unless it is specifically exempt by law. The Constitution requires that taxes be uniform within a class of property. For property tax purposes, there are two primary classes of property: real property and personal property. Real property covers land and buildings, structures, or improvements that are affixed to the land. In general, personal property consists of all property other than real property. Most personal property, other than property used in business, has been exempted from property taxes by the Legislature.

All property must be valued and assessed at 100 percent of true and fair value, unless otherwise provided by law. The property tax bill for an individual property is determined by multiplying the assessed value of the property by the tax rate for each taxing district in which the property is located. The aggregate of all regular tax levies upon real and personal property by the state and all taxing districts may not exceed 1 percent of the true and fair value of the property. In addition, the aggregate regular levies of junior taxing districts and senior taxing districts, other than the state, may not exceed \$5.90 per \$1,000 of assessed valuation.

Under rules adopted by the Department of Revenue, a county assessor may use three approaches in determining the true and fair value of property, including the sales approach, the cost approach, and the income approach. The cost approach considers what it would cost to replace an existing structure with a similar one that serves the same purpose. The income approach considers the capitalization of income that would be derived from prudent use of the property, as limited by law or ordinance. Under the sales, or market data, approach, sales are used to provide estimates of value for similar properties. An assessor may apply one, two, or all three appraisal methods to a given parcel in determining the true and fair value of the property.

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—Renewable Natural Gas and Renewable Hydrogen.

A public utility district (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.

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 Amended Bill:

Office of Renewable Fuels.

The statewide Office of Renewable Fuels (Office) is established within the Department of Commerce (Commerce). The Office must report to the director of Commerce and may employ staff to carry out the Office's duties, subject to the availability of amounts appropriated. The purpose of the Office is to leverage, support, and integrate with other state agencies to:

- accelerate market development with assistance along the entire life cycle of renewable fuel projects;
- support research into the development and deployment of renewable fuel and electrolytic hydrogen production and distribution and end uses;
- drive job creation, improve economic vitality, and support the transition to clean energy;
- enhance resiliency by using renewable fuels and electrolytic hydrogen to support climate change mitigation and adaptation; and
- partner with overburdened communities to ensure communities equitably benefit from renewable and clean fuels efforts.

The Office must take certain specified actions, including:

- coordinate with specified local, state, and federal governments, federally recognized tribes, private entities, labor unions, and public four-year institutions of higher education to drive research, development, and deployment efforts in the production, distribution, and use of renewable fuels including, but not limited to, green electrolytic hydrogen;
- request recommendations from the Washington State Association of Fire Marshals regarding fire and safety standards adopted by the federal government and other authorities; and

- develop a plan and recommendations for consideration by the Legislature and the Governor on renewable fuels and electrolytic hydrogen policy and public funding, by December 1, 2023.

The Office may take all appropriate steps to seek and apply for federal funds, grants, and donations. These funds must be deposited in the Renewable Fuels Accelerator Account.

Renewable Fuels Accelerator Account.

The Renewable Fuels Accelerator Account is created in the state treasury. Revenues to the account consist of appropriations made by the Legislature, federal funds, gifts or grants from the private sector or foundations, and other sources deposited in the account. Moneys in the account may be spent only after appropriation.

Regional Clean Energy Hub.

Subject to funds appropriated, and for the purpose of providing support for a timely and competitive application to the United States Department of Energy for a regional hydrogen hub, the Director of Commerce must provide support to a public-private partnership entity that leverages private sector leadership and is composed of multiple interests, including public and private project developers, manufacturers and end users, research institutions, academia, government, and communities around the state.

The public-private partnership entity should, among other things:

- agree to prepare a timely and responsive application for federal funding to develop a regional clean hydrogen hub in Washington, consistent with the requirements of the federal application process and the policies and strategy of the state of Washington; and
- include specific commitments, as required by the federal application, from industries, transportation agencies, utilities, and other public and private sector entities to assist in funding the application and to develop plans to either construct infrastructure for or to incorporate, or both, the production, distribution, and end use of renewable hydrogen and green electrolytic hydrogen fuels into their transition to cleaner energy.

Valuation of Property Related to Renewable Energy.

It is the policy of the state to promote the development of renewable energy projects to support the state's renewable energy goals.

The Department of Revenue must publish guidance, in cooperation with industry stakeholders, to advise county assessors when appraising renewable energy facilities. This guidance must include a cost-based appraisal method and the development of industry-specific valuation tables for equipment used to generate solar power, generate wind power, and store electricity.

The cost-based appraisal method and industry-specific valuation tables must be published by January 1, 2023, for solar and wind power equipment; and by January 1, 2024, for

electricity storage equipment.

County assessors must refer to this guidance, including cost-based appraisal method and industry-specific valuation tables, when valuing renewable energy property. However, county assessors may also consider one or more additional valuation methods in determining the true and fair value of a property when there is a compelling reason to do so.

A "renewable energy property" means property that uses solar or wind energy as the sole fuel source for the generation of at least one megawatt of nameplate capacity, alternating current, and all other equipment and materials that comprise the property, including equipment used to store electricity from the property to be released at a later time.

"Renewable energy property" does not include any equipment or materials attached to a single-family residential building.

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.

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.

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.

Renewable Fuels Accelerator Account.

The Renewable Fuels Accelerator Account (Account) is created in the state treasury. Revenues to the Account consist of appropriations made by the Legislature, federal funds, gifts or grants from the private sector or foundations, and other sources deposited in the Account. Moneys in the Account may be spent only after appropriation. The Director of the Office, or Director's designee, may authorize expenditures from the Account for the Office.

Green Electrolytic 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.

Gas Company Notice.

A gas company must file a notice with the Utilities and Transportation Commission prior to

replacing natural gas with renewable hydrogen or green electrolytic hydrogen to serve customers. The notice must establish that the company has received all necessary siting and permitting approvals. The notice must also include a description of the following:

- whether the use of clean electricity to produce hydrogen is consistent with the company's most recent integrated resource plan;
- potential impacts to electrical grid reliability, including resource adequacy, resulting from renewable hydrogen and green electrolytic hydrogen production and deployment; and
- standards, including safety standards, for blending of green electrolytic hydrogen and renewable hydrogen into natural gas distribution infrastructure.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 3, 2022.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 104, relating to the creation of the Renewable Fuels Accelerator Account, and except for Section 201, relating to funding for an application for federal funding for a regional hydrogen hub, which take effect immediately. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony (Environment & Energy):

(In support) Embracing innovation and opening up opportunities is a good idea. The natural gas industry is working hard to accelerate the use of hydrogen, which would make use of the 43,000 miles of natural gas distribution system in Washington.

There is an ongoing quest for appliances that are cost-effective and provide supplemental heating sources. Washington should not ban natural gas, but instead should look at how to apply renewable gases in order to use the same infrastructure. It is good to include hydrogen in the mix of available fuels. Moving to electric-only could leave people stranded, especially during storms. There is interest in looking to how the state blends and transitions to renewable fuels.

The renewable hydrogen hub authorized in the recent federal infrastructure bill is Washington's to lose. The hub will generate considerable investment. The deadline to submit applications for the hubs is May 15. There is currently no money in the proposed budgets to provide funds to support the application process.

This bill is vital in establishing Washington as a leader in the production of electrolytic hydrogen. Electrolytic hydrogen is an opportunity to build a renewable fuels workforce. A single state-coordinated application is the best way to produce a successful application for federal hydrogen hub funding.

The bill provides a vision for future generations. Accelerating the generation and distribution of green hydrogen will serve to take stress off the electrical grid. Washington is perfectly positioned to be a national hydrogen hub. The bill will help support a safe and sustainable future.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) There is between \$500 million and \$1 billion in the Infrastructure Investment and Jobs Act of 2021 to fund hydrogen networks and demonstrate end-use projects. Multiple potential projects exist in Washington, so being awarded a regional hydrogen hub is Washington's to lose. The bill sets up a structure that puts the state in a position to be a successful applicant for a regional hydrogen hub.

(Opposed) None.

Persons Testifying (Environment & Energy): Dan Kirschner, Northwest Gas Association; Dave Warren, Washington Green Hydrogen Alliance and Renewable Hydrogen Alliance; Carolyn Logue, Northwest Hearth, Patio and Barbecue Association and Washington Air Conditioning Contractors Association; Logan Bahr, Tacoma Public Utilities; and Christine Reid, International Brotherhood of Electrical Workers Local 77.

Persons Testifying (Appropriations): Dave Warren, Washington Green Hydrogen Alliance and Renewable Hydrogen Alliance.

Persons Signed In To Testify But Not Testifying (Environment & Energy): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.