SENATE BILL REPORT
SB 5000

As of February 15, 2021

Title: An act relating to creating a hydrogen fuel cell electric vehicle pilot sales and use tax exemption program.

Brief Description: Creating a hydrogen fuel cell electric vehicle pilot sales and use tax exemption program. [**Revised for 1st Substitute:** Concerning hydrogen fuel cell electric vehicles.]

Sponsors: Senators Hawkins, Lovelett, Billig, Braun, Carlyle, Conway, Das, Ericksen, Fortunato, Gildon, Hasegawa, Holy, Hunt, King, Kuderer, Mullet, Muzzall, Nguyen, Padden, Pedersen, Rivers, Robinson, Salomon, Sheldon, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C. and Wilson, J..

Brief History:

Committee Activity: Environment, Energy & Technology: 1/13/21, 1/21/21 [DP-TRAN, DNP].
Transportation: 1/26/21, 2/11/21 [DPS-WM].
Ways & Means: 2/18/21.

Brief Summary of First Substitute Bill

- Establishes an eight-year pilot tax incentive program for fuel cell electric vehicles.
- Allows a temporary partial sales and use tax exemption to reduce the price on fuel cell electric vehicles.
- Requires a feasibility study regarding opportunities to convert public fleet vehicles to hydrogen fuel cell technology.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: Do pass and be referred to Committee on Transportation.
Signed by Senators Carlyle, Chair; Lovelett, Vice Chair; Brown, Das, Fortunato,

---

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.

Hobbs, Liias, Nguyen, Sheldon, Short and Wellman.

Minority Report: Do not pass.
Signed by Senators Ericksen, Ranking Member; Stanford.

Staff: Julie Tran (786-7283)

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 5000 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.
Signed by Senators Hobbs, Chair; Saldaña, Vice Chair; King, Ranking Member; Cleveland, Das, Hawkins, Lovelett, Nguyen, Nobles, Padden, Randall, Sheldon, Wilson, C. and Wilson, J.

Staff: Bryon Moore (786-7726)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Alia Kennedy (786-7405)

Background: Connecting Washington. In 2015, the Governor signed a transportation and infrastructure package and set a goal of 50,000 electric vehicles (EVs) on Washington's roads by 2020. According to the Department of Licensing, Washington has approximately 63,855 registered EVs as of November 2020.

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 reinstated in 2019 with the passage of E2SHB 2042. The exemption was for qualifying new passenger cars, light duty trucks, and medium duty passenger vehicles that were either exclusively powered by a clean alternative fuel or used at least one method of propulsion that was capable of being re-energized by an external source of electricity and capable of traveling at least 30 miles using only battery power.

Fuel Cell. Under Washington State law, fuel cell is defined as a technology that uses an electrochemical reaction to generate electric energy by combining atoms of hydrogen in the presence of a catalyst.

Public Fleet Vehicles. In November 2020, the Joint Transportation Committee completed a study regarding the Electrification of Public Fleet Vehicles. The study team collected data from multiple sources across Washington and created an inventory of 56,080 public fleet vehicles, including 12,987 stage agency vehicles, 9,222 public transit agency vehicles, 10,838 school buses, and an estimated 23,033 city and county vehicles.

Summary of Bill (First Substitute): Fuel Cell Electric Vehicle Retail Sales and Use Tax Exemption Program. The fuel cell EV retail sales and use tax exemption applies to the sales or leases of new or used electric passenger cars, light duty trucks, and medium duty passenger vehicles powered by a fuel cell. The eight-year pilot program is effective beginning July 1, 2022, and the temporary exemption impacts the retail sales and use tax levied as follows:

- 50 percent of the sales and use tax does not apply to qualifying new vehicles; and
- the entire sales and use tax does not apply to qualifying used vehicles and the per vehicle exemption is based on the purchased vehicle's sale or fair market value.

Department of Revenue (DOR) must determine whether a vehicle meets the applicable qualifying criteria and Department of Licensing (DOL) must issue final rulings on vehicle model qualifications and maintain and publish a list of all vehicle models qualifying for the tax exemption until the exemption program's expiration.

Vehicles do not qualify for the exemption if the sales of vehicles delivered to the buyer or the leased vehicle's lease agreement occurs after the exemption's expiration. If a person has already claimed an alternative fuel tax incentive exemption, they may not also claim this exemption.

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

A report must be submitted to the Legislature's transportation committees with the following information by the last day of August 2023, and annually thereafter:

- cumulative number of fuel cell electric vehicles that qualified for the exemptions by month of purchase or lease start and vehicle make and model;
- the dollar amount of all state retail sales and use taxes exempted on or after the qualification period start date; and
- future cost estimates of leased vehicles that qualified for the exemptions.

The fuel cell electric vehicle retail sales and use tax exemption program's expiration date is set for June 30, 2029. All qualified leased vehicles must continue to receive the exemption on any lease payments through the remainder of the lease.

Maximum Exemptions. The maximum total exemptions for qualified new vehicles are 650 exemptions. Once the total number of exempt vehicles reaches 650, the exemption for qualified new vehicles will expire after the last day of the next calendar month. DOL must collect and provide information to determine the number of claimed exemptions, which will be posted on the website monthly. The website will contain the following information:

- amount of exemptions that have been applied for;
- amount issued;
- amount remaining before the limit of 650 exemptions has been reached; and

- the exemption expiration date once the limit has been reached.

For qualified used vehicles, there is no maximum exemption total. However, the value amount for an exemption is the lesser of either $16,000 or the fair market value of the vehicle.

The seller must keep records necessary for DOR to verify eligibility, and a person claiming the exemption must also submit certain specified information to DOR.

Tax Preference Performance Statement. The Legislature's public policy objective for establishing an eight-year pilot tax incentive program for fuel cell electric vehicles is to increase the use of hydrogen fuel cell electric vehicles in Washington as another way of promoting clean alternative fuel vehicle adoption. The Joint Legislative Audit Review Committee (JLARC) is directed to evaluate the tax incentive's effectiveness on the number of hydrogen fuel cell vehicles titled in the state by November 1, 2028. DOL and DOR are required to provide JLARC with information needed for this analysis to be conducted.

Feasibility Study for Public Fleet Conversion to Hydrogen Fuel Technology. The Washington State Department of Transportation (WSDOT) is directed to be the lead coordinating agency in conducting a feasibility study regarding opportunities to convert public fleet vehicles to hydrogen fuel cell technology. WSDOT is authorized to contract with a public university with expertise in this area to help conduct the study and may include relevant participation by state and local governments. The study is directed to include a variety of elements that would allow for the determination of the particular types of public fleets and specific vehicles where the use of hydrogen fuel cell technology is most cost-effective and feasible. The study must be completed by June 30, 2022.

EFFECT OF CHANGES MADE BY TRANSPORTATION COMMITTEE (First Substitute):

- Includes a provision making the WSDOT feasibility study of public fleet conversion to hydrogen technology null and void if specific funding for this purpose is not included in the transportation budget.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 25, 2021.

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

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

Staff Summary of Public Testimony on Original Bill (Environment, Energy & Technology): PRO: North Central Washington is well-positioned to be a leader of clean,

renewable energy and Washington would be one of the first states along with California and Hawaii to actively support the hydrogen marketplace and those producing hydrogen fuel vehicles. This bill would continue that leadership and create opportunities to use and develop renewable hydrogen in the state. Since the passage of SB 5588 in 2019, the Douglas County Public Utility District has been developing their hydrogen production facility and it will be producing hydrogen by the end of 2021. This bill has the potential to leverage the many benefits of the region's hydropower generation facilities and support zero-emission vehicles that will use this fuel. It also would accelerate the market availability of clean fuel vehicles and it is one of the best opportunities to help achieve the state's climate goals. This bill will provide an important incentive for consumers to consider a zero-emission vehicle and an option for those without a charging infrastructure in their home. We could have more vehicles that are home-grown with home-produced hydrogen fuels.

Persons Testifying (Environment, Energy & Technology): PRO: Senator Brad Hawkins, Prime Sponsor; Dave Warren, The Warren Group; Curt Augustine, Alliance for Automotive Innovation; La Stanja Baker, Toyota Motor North America; Jason Sekhon, Toyota Motor North America; Tim Sasseen, Ballard Power Systems; Gary Ivory, Public Utility District No. 1 of Douglas County; Jeff Wilkens, Chelan-Douglas Transportation Council.

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology): PRO: Randy Agnew, Chelan-Douglas Transportation Council.

Staff Summary of Public Testimony on Proposed Substitute (Transportation): *The committee recommended a different version of the bill than what was heard.* PRO: This bill provides another mechanism to help reach the state's climate goals. In part, this creates a technology neutral approach by extending the same kind of incentive available for battery powered electric vehicles to hydrogen fuel cell vehicles. With the abundance of hydropower available in the state to produce renewable hydrogen and with some added investment in hydrogen fueling stations, North Central Washington is well-positioned to be a demonstration project for the promotion of this clean alternative fuel source for the state and nation. Some of the benefits of hydrogen fuel technology include the relatively low infrastructure costs and the range of these vehicles. The incentives have an equity component because they are available for used and leased vehicles. Given the zero emission vehicle requirements, it is important to have a level playing field. This bill can be a significant part of promoting clean fuel use and builds off the developments of hydrogen fuel technology over the last several decades. The study of the potential use of hydrogen fuel technology in public fleets could have significant benefits, particularly for heavy duty fleets.

Persons Testifying (Transportation): PRO: Senator Brad Hawkins, Prime Sponsor; Curt Augustine, Alliance for Automotive Innovation; Stani Baker, Toyota Motor North America; Jason Sekhon, Toyota Motor North America; Dave Warren, Renewable Hydrogen Alliance,

Western States Hydrogen Alliance; Gary Ivory, Public Utility District No. 1 of Douglas County; Randy Agnew, City of Rock Island.

OTHER: Tonia Buell, Washington State Department of Transportation.

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