

SENATE BILL REPORT

SB 5910

As of January 26, 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: Senators Carlyle, Billig, Conway, Hawkins, Hunt, Mullet, Saldaña and Stanford.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/26/22.

Brief Summary of Bill

- Establishes the statewide Office of Renewable Fuels and creates the Renewable Fuels Accelerator Account.
- Authorizes the director of the Department of Commerce to provide state funding assistance to help promote and strengthen applications to secure federal funding to develop a regional clean hydrogen hub.
- Directs the Utilities and Transportation Commission to submit a report to the Legislature addressing specific issues relevant to advancing the production and use of hydrogen fuel in Washington.
- Adds renewable or electrolytic hydrogen and energy storage facilities as alternative energy resources eligible to opt in to the Energy Facility Site Evaluation review and certification process.
- Authorizes municipal utilities and public utility districts to produce, use, sell, and distribute renewable and electrolytic hydrogen.
- Adds the production of 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

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.

the production of electrolytic hydrogen and renewable hydrogen.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Staff: Kimberly Cushing (786-7421)

Background: Federal Infrastructure Investment and Jobs Act. The federal Infrastructure Investment and Jobs Act (IIJA) 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 U.S. Department of Energy (DOE) must solicit proposals for regional clean hydrogen hubs by May 15, 2022, and select the four hubs one year later.

According to DOE, electrolysis is a promising option for carbon-free hydrogen production from renewable and nuclear resources. Electrolysis is the process of using electricity to split water into hydrogen and oxygen. This reaction takes place in a unit called an electrolyzer.

Energy Facility Site Evaluation Council. Created in 1970, the Energy Facility Site Evaluation Council (EFSEC) is the permitting and certifying authority for siting major energy facilities in Washington. An EFSEC site certification agreement authorizes an applicant to construct and operate an energy facility in lieu of permits or documents required by any other state agency or subdivision. Energy facilities of any size that exclusively use alternative energy resources, such as wind power, can also opt into the EFSEC review and certification process.

Utility and Transportation Commission Energy Decarbonization Study. In the 2021-23 operating budget, the Legislature provided the Utilities and Transportation Commission (UTC) funding to examine feasible and practical pathways for investor-owned electric and natural gas utilities to contribute their share to the statutory greenhouse gas emissions reductions limits and the impacts of energy decarbonization on residential and commercial customers and the utilities that serve them. The results of the examination must be reported to the Legislature by June 1, 2023.

Tax Exemptions for Renewable Hydrogen. Certain aspects of the production of renewable hydrogen are exempt from 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.

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

Summary of Bill: Office of Renewable Fuels. The statewide Office of Renewable Fuels (Office) is established within the Department of Commerce (Commerce). The Governor must appoint the director of the Office. The Office 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 production and distribution;
- drive job creation, improve economic vitality, and support the transition to clean energy;
- enhance resiliency by using renewable fuels to support climate change mitigation and adaptation; and
- partner with overburdened communities to ensure communities equitably benefit from renewable fuels efforts.

The Office must:

- coordinate with specified local, state, and federal governments, private entities, and the public four-year institutions of higher education to drive research, development, and deployment efforts in the production, distribution, and use of renewable fuels including electrolytic hydrogen;
- review existing renewable fuels initiatives, policies, and public and private investments;
- encourage new and support existing public-private partnership and consider funding opportunities that provide for the coordination of public and private funds for the purposes of developing and deploying renewable fuels;
- assess opportunities for and barriers to deployment of renewable fuels in hard to decarbonize sectors;
- 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 Governor on renewable fuels policy and public funding, by July 1, 2024.

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 (Account).

Regional Clean Energy Hub. The Legislature finds that Washington State is strongly positioned to develop a regional clean energy hub meeting the criteria of the IIJA and that through state funding assistance may help to promote and strengthen applications to DOE for federal funding.

Subject to funds appropriated, the director of Commerce may provide funding to a port

district, a public utility district, a city, a county, or any combination of local governments to assist in the preparation of an application to secure federal funding to develop a regional clean hydrogen hub in Washington. If the director determines that a single application from a strong partnership in Washington representing public and private sectors will make the application more competitive than supporting multiple applications, the director may choose not to make more than one award of funding.

The director must solicit proposals that demonstrate a broad assembly of participants in developing and implementing the infrastructure of a regional hydrogen hub, demonstrate a strong and timely application, and include commitments from manufacturing industries, transportation, utilities, and other sectors to incorporate hydrogen fuels into their transition to cleaner energy.

In addition to application assistance, the Legislature intends that the state fully support a regional clean energy hub with further direct financial assistance in developing the hub and the acquisition of hydrogen fuels for state agency and local government uses.

The sum of \$500,000, or as much as necessary, is appropriated for the 2021-23 biennium from the Account for Commerce to assist in applying for and supporting a regional clean energy hub.

Utilities and Transportation Commission Hydrogen Fuel Study. By December 1, 2024, the UTC must submit to the Legislature a report addressing the following:

- whether the production and distribution of hydrogen fuels is a matter of public interest such that the rates and services should be regulated by the UTC, like other public service companies;
- whether electric utilities regulated by the UTC should be required to analyze the costs and benefits of adopting special tariffs for the electrolytic production of hydrogen fuels;
- the adoption of safety standards for hydrogen fuel distribution, including ensuring consistency and clarity of standards applicable to distribution and end-use dispensing infrastructure throughout the state;
- recommended standards for blending hydrogen into natural gas distribution infrastructure; and
- hydrogen fuel's role in the natural gas decarbonization study required in the the 2021-23 operating budget.

Energy Facility Site Evaluation Council. Renewable or electrolytic hydrogen or energy storage facilities are eligible to opt-in to the EFSEC review and certification process.

Public Utility Districts—Electrolytic Hydrogen. Public utility districts are authorized to produce, use, sell, and distribute electrolytic hydrogen to the same extent that they are currently authorized to produce, use, sell, and distribute renewable hydrogen.

Municipal Utilities—Renewable Hydrogen and Electrolytic Hydrogen. Municipal utilities are authorized to produce, use, sell, and distribute renewable hydrogen and electrolytic hydrogen to the same extent that they are currently authorized to produce, use, sell, and distribute gas and electricity.

Tax Exemptions—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 electrolytic hydrogen.

Public Utility Tax Exemption—Renewable Hydrogen and Electrolytic Hydrogen. A tax exemption is created for sales of electricity by a electric utility to a electrolytic hydrogen production business, a renewable hydrogen production business, or a business compressing, liquifying, or dispensing 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 the contract for sale of electricity to the business meets certain requirements.

Tax Preference Performance Statement. The stated intent of the Legislature is to provide a public utility tax (PUT) exemption on the sale of electricity used in the production of electrolytic hydrogen, the production of renewable hydrogen, and the compression, liquification, and dispensing of electrolytic hydrogen and renewable hydrogen, in order to achieve certain public policy objectives, including:

- promoting the construction and operation of renewable and electrolytic hydrogen production and dispensing facilities in Washington; and
- providing tax treatment parity for electricity available to produce hydrogen from all utilities; and with the electricity used to charge and serve other storage technologies and transportation fuel markets.

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

Renewable Fuels Accelerator Account. The 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.

Electrolytic Hydrogen. 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.

Appropriation: The bill contains an appropriation totaling \$500,000 from various accounts.

Fiscal Note: Available.

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: PRO: We need to unleash the marketplace for hydrogen. Washington has private sector leadership and large scale customers interested in hydrogen, including maritime, aviation, long-haul trucking, energy storage, and industrial manufacturing. The state needs to be the thought leader for renewable hydrogen and to create a strong ecosystem. The office will bring parties together to apply for regional hub grant. The office reporting date should be moved up if a grant is won. The \$500,000 might not be enough money. There is lots of interest in hydrogen in Washington and we would appreciate having someone in the state to talk to. Businesses are thinking about moving to Washington given the new policies. Zero emission aviation is technically viable. Washington has the best business case in the nation to develop green hydrogen. We have advantages with the Climate Commitment Act. We have the potential to create more green electrons with our water and clean electricity. Hydrogen is a molecule that serves as a battery. Supporting hydrogen does not conflict with concerns about grid reliability. Hydrogen production is a perfect fit for when electricity is not needed and helps utilities respond to moment-to-moment demands in generation. Innovation is as important, or more, than top down regulation. Hydrogen is one element of decarbonization. This bill positions Washington as a candidate for federal funding. The food industry can use hydrogen for fueling stations. Other business are looking at how to blend hydrogen, how it will provide alternative heat when the power grid is not available, and the creation of appliances to work with new renewable fuels. This is a way for small businesses to participate in climate change.

OTHER: We support creating an office in Commerce and appreciate that it focuses on all renewable fuels. The state energy strategy points to hydrogen and we want to make sure investments in hydrogen are as effective as possible. The Office should report to Commerce, and the Joint Center for Deployment and Research in Earth Abundant Materials should be allowed to get funding. The tax incentives should be harmonized with other bills.

Persons Testifying: PRO: Senator Reuven Carlyle, Prime Sponsor; Dave Warren, Washington Green Hydrogen Alliance, Renewable Hydrogen Alliance; Patricia Kelley, New Day Hydrogen; Tim Zenk, Universal Hydrogen; Isaac Kastama, Clean & Prosperous Washington; Nicolas Garcia, Washington Public Utility Districts Association; Dan Kirschner, Northwest Gas Association; Logan Bahr, Tacoma Public Utilities; Carolyn Logue, WA ACCA and NWHPBA.

OTHER: Michael Furze, Washington State Department of Commerce.

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