BILL ANALYSIS

Finance Committee

HB 2410

Brief Description: Expanding tax preferences for jet fuel.

Sponsors: Representatives Ybarra and Caldier.

Brief Summary of Bill

- Reduces the threshold for earning tax credits from 20 million gallons to 500, 000 gallons for businesses that produce alternative jet fuel in the counties that meet the definition of a distressed area in Washington as of January 1, 2024.

Hearing Date: 2/23/24

Staff: Tracey Taylor (786-7152).

Background:

Business and Occupation Tax.
Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss.

A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent (businesses with taxable income of less than $1 million) or 1.75 percent (businesses with taxable income of $1 million or more) for services and for activities not classified elsewhere. Several preferential tax rates also apply to specific business activities.

In addition, a taxpayer may be eligible to utilize other tax preferences, including credits and deductions, to reduce their tax liability.

Alternative Jet Fuel—Tax Rates and Tax Incentives.
In 2023 the Legislature provided a preferential B&O tax rate of 0.275 percent for the manufacturing and wholesaling of alternative jet fuel. The preferential tax rate begins after the Department of Revenue (DOR) receives notification from the Department of Ecology (Ecology) that there are one or more facilities operating in Washington with a cumulative production capacity of at least 20 million gallons of alternative jet fuel per year. The preferential tax rate lasts for ten years.

Eligibility for the credit for sales of alternative jet fuel is limited to businesses located in a qualifying county or a business's designated alternative jet fuel blender located in Washington. A qualifying county is defined as a county that has a population of less than 650,000.

Credits may only be earned on purchases of alternative jet fuel for flights departing in Washington.

Contract pricing for sales of alternative jet fuel between a person claiming the credit and the final consumer must be adjusted to reflect the per gallon credit.

The credit is calculated only on the portion of jet fuel that is considered alternative jet fuel and does not include conventional jet fuel when the fuels are blended or used in a jet fuel mixture.

Credits against the B&O tax for sales of alternative jet fuel may only be claimed on alternative jet fuel manufacturing and wholesaling activities that would otherwise qualify for the new preferential B&O tax rate. Credits earned against the B&O or public utility tax for purchases of alternative fuel may be claimed against any B&O tax liability.

Credits may not be earned until DOR receives notification from Ecology that there are one or more facilities operating in Washington with a cumulative production capacity of at least 20 million gallons of alternative jet fuel per year. Credits may be earned for ten years. A credit earned during one calendar year may be carried over and claimed against taxes incurred for the next subsequent year but may not be carried over for any calendar year thereafter.

Credits may not be earned until Ecology, in consultation with the Department of Archeology and Historic Preservation (Department), verifies that persons applying for a tax credit are not engaged in the manufacturing of alternative jet fuel at a location listed by the Department as a historic cemetery or tribal burial grounds.

The preferential tax rate and tax credits are subject to review by the Joint Legislative Audit and Review Committee (JLARC). The automatic ten-year expiration for tax preferences does not apply to this act.

Distressed Areas.
Distressed areas are defined as counties where the three-year unemployment rate is at least 20 percent higher than the statewide average.

The list of distressed areas in Washington is compiled by averaging the employment and unemployment numbers for the prior three years. The Employment Security Department creates the distressed areas list in cooperation with the Federal Bureau of Labor Statistics. The list is updated annually, usually in the spring.

The latest list was published in 2022 and includes 14 counties: Clallum, Jefferson, Grays Harbor, Mason, Pacific, Lewis, Yakima, Grant, Franklin, Garfield, Pend Oreille, Stevens, Ferry, and Okanogan.

Tax Preference Performance Statement.
State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics that the JLARC can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Summary of Bill:

The threshold to reach for earning tax credits is reduced from 20 million gallons to 500,000 for businesses that produce alternative jet fuel in a distressed area of Washington. The term "distressed area" is defined as a county that has been designated as such by the Employment Security Department as of January 1, 2024, with a population less than 650,000.

The automatic ten-year expiration for tax preferences does not apply to this act.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains multiple effective dates.