SENATE BILL REPORT
SB 5406

As of January 24, 2023

Title: An act relating to clarifying ambiguities in statutory provisions administered by the Department of Revenue relating to periodic adjustments.

Brief Description: Clarifying ambiguities in statutory provisions administered by the Department of Revenue relating to periodic adjustments.

Sponsors: Senator Robinson; by request of Department of Revenue.

Brief History:
Committee Activity: Ways & Means: 1/24/23.

Brief Summary of Bill

- Updates and clarifies how the Department of Revenue annually adjusts certain statutory values and tax rates.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Alia Kennedy (786-7405)

Background: Port District Surplus Property Sales. Port districts may, by resolution, sell certain port district property of $10,000 or less in value. The value limit of $10,000 must be adjusted annually by the governmental price index established in statute and calculated by the Department of Revenue (DOR). The statute establishing the governmental price index was repealed in 2012. As a result, DOR no longer calculates a governmental price index and has determined that DOR no longer has the legal authority to update the value limit applicable to the sale of surplus port property by the port commission.

Use Tax on Self-Produced Fuel. Self-produced fuel is subject to use tax. Refinery fuel gas is valued for use tax purposes based on the most recent monthly United States natural gas wellhead spot price, published by the federal Energy Information Administration (EIA).

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 EIA no longer publishes a natural gas wellhead spot price. The information was last published in December 2012.

Hazardous Substance Tax. The hazardous substance tax (HST) rate on non-petroleum hazardous substances is 0.7 percent of the wholesale value of the substance. Beginning July 1, 2019, the HST rate for petroleum products was set at $1.09 per barrel. Beginning July 1, 2020, and every July 1st thereafter, the per-barrel tax rate of $1.09 increases by a percentage that equals the implicit price deflator for nonresidential structures, published by the US Department of Commerce, Bureau of Economic Analysis.

Summary of Bill: Port District Surplus Property Sales. The value limit on property for which a port district may sell is changed from $10,000 to $22,000 or less. Beginning in December 2024, DOR must annually adjust the value limit based on the consumer price index, rounded to the nearest $10.

"Consumer price index" means the consumer price index for all urban consumers, all items less food and energy, for the Seattle area calculated by the United States Bureau of Labor Statistics or a successor agency.

"Seattle area" means the geographic area sample that includes Seattle and surrounding areas.

Use Tax on Self-Produced Fuel. The data source used to calculate the value of refinery fuel gas for use tax purposes is changed to the most recent monthly United States Henry Hub natural gas spot price, published by the EIA.

Hazardous Substance Tax. The HST rate adjustments are cumulative and permanent.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill is a result of DOR finding instances in the revised code where inflation indexes are defunct and inactive, and therefore where the dollar values have not kept up with time. The bill replaces outdated indexes so that taxpayers operate on a level playing field and are able to comply with state law. The bill does not change any policy and is instead intended to make the code easier to read. This bill provides a very narrow increase, sets a new benchmark, and allows commissioners to delegate to port staff.

CON: This bill would assign the Henry Hub price as the new metric for the tax rate on refinery fuel. The bill is problematic because the Henry Hub metric is two and a half times higher than the previous EIA rate and also underscores the volatility of this new metric. There are three questions that should help inform this bill: is there an intent to impact state revenue? Do you want a static or dynamic tax? Why is self-produced fuel taxed in the first place?

Persons Testifying: PRO: Steve Ewing, Department of Revenue; Chris Herman, Washington Public Ports Association.

CON: Greg Hanon, Western States Petroleum Assoc..

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