SENATE BILL REPORT
SB 5659

As of February 13, 2023

Title: An act relating to incentivizing gas companies to develop and acquire renewable energy resources.

Brief Description: Incentivizing gas companies to develop and acquire renewable energy resources.

Sponsors: Senators Boehnke, Liias, Torres and Wellman.

Brief History:
Committee Activity: Environment, Energy & Technology: 2/14/23.

Brief Summary of Bill

- Creates a sales and use tax exemption for machinery and equipment used to generate renewable natural gas (RNG) and to connect a RNG facility to an end user or existing pipelines.
- Authorizes gas companies to construct and maintain facilities and projects that reduce greenhouse gas emissions and to recover these investments in their rates.
- Removes the restriction on the amount that a natural gas company may charge customers for a RNG program.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Staff: Kimberly Cushing (786-7421)

Background: Retail Sales and Use Tax. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or

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services, then use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.9 percent, depending on the location.

In 2019, enacted legislation amended the business and occupation tax definition of "to manufacture" to include the production or processing of renewable natural gas (RNG). According to the Department of Revenue (DOR), the retail sales and use tax exemption for machinery and equipment used in manufacturing also applies to the machinery and equipment used to produce RNG.

Manufacturers of RNG may also be eligible for other tax preferences, including sales and use tax exemptions for anaerobic digesters.

Renewable Natural Gas Programs. In 2019, the Legislature authorized natural gas companies to propose a RNG program under which the company would supply RNG for a portion of the natural gas sold or delivered to its retail customers. The RNG program is subject to review and approval by the Utilities and Transportation Commission (UTC).

The customer charge for a RNG program may not exceed 5 percent of the amount charged to retail customers for natural gas. The environmental attributes of RNG must be retired using procedures established by the UTC and may not be used for any other purpose. The UTC must approve procedures for banking and transferring environmental attributes.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Sales and Use Tax Exemption for Renewable Natural Gas Machinery and Equipment. Beginning January 1, 2024, a retail sales and use tax exemption is available for machinery and equipment, and related labor and services, used directly in:

- generating RNG, by gathering and processing methane into a useable form of natural gas that would otherwise be released into the atmosphere, including, but not limited to, machinery, equipment, and labor for a facility that can connect to existing natural gas infrastructure; or
- connecting a RNG facility to an end user of the RNG, or to the existing natural gas pipeline infrastructure.

A taxpayer claiming an exemption must keep records for DOR to verify eligibility and the seller must retain the exemption certification. A taxpayer claiming this tax preference must also file an annual tax performance report with DOR.

The exemption expires January 1, 2035.

A tax preference performance statement is included, stating the Legislature intends to extend the expiration date of the tax preference if the total number of methane emission capture projects increase over the time of adoption of the exemption, and the majority of those projects process the methane into RNG that is sold in Washington.

Gas Company Investments for Reducing Green House Gas Emissions. Gas companies may construct and maintain facilities and projects that reduce greenhouse gas emissions from the full combustion of natural gas delivered to customers and consumption of electricity generated from fossil fuels by retail electric customers in the state.

Gas companies may seek to recover the costs of these investments in rates from the UTC. These investments may include:

- rooftop solar, including battery storage and supplemental solar for residential and commercial buildings;
- community solar projects, designed to offset carbon associated with using natural gas;
- ground source heat pumps, as a compliance strategy under Washington's Cap and Invest Program for district heating and targeted load reduction in new buildings;
- renewable gas fuels projects, including RNG and green electrolytic hydrogen and the associated facility and pipeline infrastructure, upgrades, and improvements for industrial and heavy duty transportation;
- carbon capture and sequestration projects associated with natural gas projects and facilities, and
- research, development, and pilot efforts related to nonemitting natural gas equipment and technologies.

Renewable Natural Gas Program Cost Limit. The requirement to limit the customer charge for a RNG program at 5 percent of the amount charged for natural gas is removed.

Appropriation: None.

Fiscal Note: Requested on February 1, 2023.

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

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