

SENATE BILL REPORT

ESSB 6440

As Amended by House, March 12, 2014

Title: An act relating to compressed natural gas and liquefied natural gas used for transportation purposes.

Brief Description: Concerning compressed natural gas and liquefied natural gas used for transportation purposes.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators King, Eide and Kline).

Brief History:

Committee Activity: Transportation: 2/04/14, 2/06/14 [DPS, DNP, w/oRec].

Passed Senate: 3/04/14, 40-7.

Passed House: 3/12/14, 87-11.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 6440 be substituted therefor, and the substitute bill do pass.

Signed by Senators Eide, Co-Chair; King, Co-Chair; Hobbs, Vice Co-Chair; Fain, Budget Leadership Cabinet; Cleveland, Ericksen, Liias, Litzow, Mullet, O'Ban and Sheldon.

Minority Report: Do not pass.

Signed by Senator Dansel.

Minority Report: That it be referred without recommendation.

Signed by Senators Angel, Brown and Rolfes.

Staff: Amanda Cecil (786-7429)

Background: Transportation Taxes and Fees. Under current law there is a motor vehicle fuel tax of \$0.375 per gallon imposed on motor vehicle fuel and special fuel. In order to encourage the use of nonpolluting fuels, there is an annual license fee in lieu of the motor vehicle fuel tax on vehicles powered by natural gas and propane. The annual license fee in lieu of motor vehicle fuel tax is based on the weight of the vehicle and the current motor fuel tax rate, which is currently between \$140.00 and \$781.25 plus a \$5 handling fee.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Public Utility Tax (PUT). Income from utility operations is taxed under the PUT and is in lieu of the business and occupation (B&O) tax. Different rates apply depending upon the specific utility activity. The current rate, including permanent surtaxes, for the distribution of natural gas is 3.852 percent.

Summary of Engrossed Substitute Bill: Transportation Taxes and Fees. The annual license fee in lieu of motor vehicle fuel tax is clarified to include vehicles that are powered by liquefied natural gas and compressed natural gas. Additionally, vehicles that are registered as part of the international registration plan would be subject to a prorated share of the annual license fee in lieu of motor vehicle fuel tax.

The Department of Licensing must convene a stakeholder workgroup of industry stakeholders and other stakeholders as deemed necessary to:

- evaluate the existing annual license fee in lieu of fuel tax to determine a fee that more closely represents the average consumption of vehicles by weight and to make recommendations to the transportation committees of the Legislature by December 1, 2014, on an updated fee schedule; and
- develop a transition plan to move vehicles powered by liquefied natural gas, compressed natural gas, and propane from the annual license fee in lieu of fuel tax to the fuel tax. The transition plan must incorporate stakeholder feedback and must include draft legislation and cost and revenue estimates. The transition plan must be submitted to the transportation committees of the Legislature by December 1, 2015.

Vehicles powered by liquefied natural gas are added to the list of vehicles that are exempt from motor vehicle emission control inspections.

PUT and B&O Taxes. Liquefied natural gas and compressed natural gas that are sold or used as transportation fuel are exempt from state and local PUTs, and the state and local use tax if they are subject to fuel taxes. Liquefied natural gas and compressed natural gas that are exempt from PUT are subject to the state B&O tax at the manufacturing rate of 0.484 percent of the gross receipts of the business activity. Local B&O taxes on liquefied natural gas and compressed natural gas that are sold or used as transportation fuel are limited to the rate that is in place for the sale of tangible personal property, or 0.2 percent if the jurisdiction does not impose a B&O tax on the sale of tangible personal property. Transportation fuels include fuels used in motor vehicles, vessels, locomotives, and railroad cars.

The provisions in this bill are permanent and not subject to the ten-year expiration date or a tax preference performance statement.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2015.

Staff Summary of Public Testimony on Original Bill: PRO: Large trucking fleets are looking at converting to LNG and this helps the environment by encouraging the use of cleaner fuels. It also allows the state transportation system to capture the use from all the vehicles using the system. There are a lot of economic development opportunities since liquefied and compressed natural gas as a transportation fuel is an expanding market. The investment that Puget Sound Energy plans to make will create at least 500 direct and indirect jobs. Currently natural gas that is supplied by a utility company is taxed at the utility rates and this bill would make it so that it is treated the same way for everyone. The decal system that is used for vehicles that are powered by natural gas does not account for the use of the system so there needs to be a pathway to imposing the actual fuel tax.

Persons Testifying: PRO: Larry Pursley, WA Trucking Assns.; Nancy Atwood, Clay Riding, Puget South Energy.

House Amendment(s):

- Identifies the provisions of the act as a tax preference with the following public policy objectives: (1) promoting job creation and positive economic development; (2) lowering carbon dioxide, sulfur dioxide, nitrogen dioxide, and particulate emissions; and (3) securing optimal liquefied natural gas (LNG) pricing for the Washington State ferry system and other public entities.
- Converts the state and local sales and use tax exemption that a gas distribution business is eligible for on machinery and equipment (M&E) that is used in the production of compressed natural gas and LNG for transportation purposes to a refund. Delays the date that a gas distribution business may apply for M&E refunds by two years until July 1, 2017, at which time they would be eligible for a refund for the prior two years. After that time the gas distribution business may apply for refunds quarterly.
- Eliminates the M&E refund program for gas distribution businesses on July 1, 2028.
- Narrows the existing exemption from state and local sales taxes on tangible personal property for private and common carriers operating by water in interstate or foreign commerce to 90 percent of LNG that is transported or consumed outside the state. Eliminates the narrowing of this section on July 1, 2028.
- Specifies that the narrowing of the sales tax exemption for LNG that is used as a marine vessel transportation fuel is to support Washington State Ferries and other state highway system needs.
- Requires that an amount equal to the sales tax paid on LNG as marine vessel transportation fuel be transferred from the General Fund-State to the Motor Vehicle Fund quarterly until July 1, 2028.
- Requires that a natural gas company that sells LNG for marine vessels charge a rate to the Washington State Ferry system and other public entities that is no higher than the rate charged to private customers that operate marine vessels.
- Requires the Department of Revenue to convene a workgroup to examine the appropriate level and manner of taxing LNG used for marine vessel transportation.