
SENATE BILL 5385

State of Washington

65th Legislature

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By Senator Hobbs

1 AN ACT Relating to creating a fossil fuel carbon pollution tax;
2 amending RCW 47.66.070; reenacting and amending RCW 43.84.092; adding
3 a new chapter to Title 82 RCW; and providing a contingent expiration
4 date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires
8 otherwise.

9 (1) "Coal" means bituminous coal, subbituminous coal, lignite,
10 and coke.

11 (2) "First taxable event" means:

12 (a) The first possession of natural gas acquired by a gas
13 distribution business;

14 (b) The first possession of natural gas acquired by a person
15 subject to the tax under RCW 82.12.022 with respect to such natural
16 gas;

17 (c) The first possession of coal acquired by a person using the
18 coal for the generation of electricity, heat, or steam within the
19 state of Washington;

20 (d) The first possession of a petroleum product subject to tax
21 under chapter 82.21 RCW; and

1 (e) The use of fossil fuels by a facility in Washington that
2 results in carbon dioxide emissions in conjunction with the process
3 of distilling, fractionating, refining, or processing of crude oil or
4 petroleum products.

5 (3) "Fossil fuel" means coal, natural gas, crude oil, and
6 petroleum products.

7 (4) "Gas distribution business" has the same meaning as provided
8 in RCW 82.16.010.

9 (5) "Petroleum product" has the same meaning as provided in RCW
10 82.21.020.

11 NEW SECTION. **Sec. 2.** (1) Except as provided in section 3 of
12 this act, there is levied and imposed, at the time of the first
13 taxable event and upon the first taxable person within this state, a
14 fossil fuel carbon pollution tax upon the carbon content of fossil
15 fuels extracted, manufactured, or introduced into this state equal to
16 fifteen dollars per metric ton of carbon dioxide.

17 (2) The department must calculate the carbon content of fossil
18 fuels, in consultation with the department of ecology, by using
19 relevant methods based on those established by the United States
20 department of energy or the United States environmental protection
21 agency. The department must develop and make available worksheets and
22 guidance documents necessary to calculate the carbon content of
23 fossil fuels.

24 (3) No state agency may adopt or enforce a statewide program that
25 sets a greenhouse gas emissions standard, limit, cap, or charge
26 except as provided in chapter 82.--- RCW (the new chapter created in
27 section 9 of this act). Any rule, policy, or standard previously
28 adopted is repealed.

29 (4)(a) If the United States government adopts by statute or rule
30 a charge, tax, regulatory limit, or standard upon the emission of
31 greenhouse gases that is imposed broadly upon those persons subject
32 to the state tax in this section, this section expires on the date
33 that such federal statute or rule is adopted.

34 (b) The department must provide written notice of the expiration
35 date of this section to affected parties, the chief clerk of the
36 house of representatives, the secretary of the senate, the office of
37 the code reviser, and others as deemed appropriate by the department.

1 NEW SECTION. **Sec. 3.** (1) The following fossil fuels are exempt
2 from the fossil fuel carbon pollution tax imposed under this chapter:

3 (a) Fossil fuels used for air or marine travel between Washington
4 and a jurisdiction outside the geographic borders of Washington;

5 (b) Fossil fuels purchased in Washington for export for use
6 outside of Washington;

7 (c) Fossil fuels brought into this state by means of the fuel
8 supply tank of a motor vehicle, vessel, locomotive, or aircraft; and

9 (d) Fossil fuels that the state is prohibiting from taxing under
10 the Constitution of this state or the Constitution or laws of the
11 United States.

12 (2) Any reductions to the fossil fuel carbon pollution tax rates
13 due under this section may not be considered a credit and may not be
14 transferred, traded, or banked.

15 NEW SECTION. **Sec. 4.** (1) The carbon pollution revenues account
16 is created in the state treasury. All receipts from the tax imposed
17 under section 2 of this act must be deposited in the account. Moneys
18 in the account may be spent only after appropriation.

19 (2) Expenditures from the account may be used for the following
20 activities:

21 (a) Not less than fifteen percent must be expended for project-
22 specific planning, design, and construction projects that reduce
23 storm water impacts from existing infrastructure and development.
24 Grants to cities and counties must be provided through the statewide
25 storm water financial assistance program required by the capital
26 budget in section 3081, chapter 19, Laws of 2013 2nd sp. sess.
27 (Engrossed Substitute Senate Bill No. 5035). Grants may also be
28 provided for projects that reduce storm water impacts from existing
29 infrastructure and development, where there is a substantial water
30 quality benefit and the project is not required by court order or
31 required as a condition of a local or state permit;

32 (b) Not less than fifteen percent must be expended by the
33 department of transportation for fish barrier correction projects at
34 state highways required by the injunction entered in *United States v.*
35 *Washington* (Civ. No. CV9213RSM). Where the department determines that
36 the amounts appropriated exceed the current biennial appropriation
37 necessary to meet the overall timeline for compliance with the
38 injunction, the department may provide funding for fish barrier
39 correction projects on state or local roadways, with the highest

1 priority for funding to be accorded to projects with the greatest
2 restoration of fish habitat access. In making awards for projects not
3 subject to the injunction the department must obtain the
4 recommendations of the fish passage barrier removal board created in
5 RCW 77.95.160;

6 (c) Not less than fifteen percent must be expended by the
7 department of commerce for programs that advance renewable energy and
8 energy efficiency. Appropriations to the department for this purpose
9 may include:

10 (i) Funding projects that provide a benefit to the public through
11 development, demonstration, and deployment of clean energy
12 technologies that save energy and reduce energy costs, reduce harmful
13 air emissions, or otherwise increase energy independence for the
14 state. In funding such projects, the department must be guided by the
15 project selection procedures and standards required by the capital
16 budget in section 1028, chapter 3, Laws of 2015 3rd sp. sess. (Second
17 Engrossed House Bill No. 1115).

18 (ii) Funding community energy efficiency programs that provide
19 assistance for energy efficiency assessments and retrofits, with an
20 emphasis upon residential housing serving moderate and low-income
21 families.

22 (iii) Funding to offset some or all of the state fiscal impacts
23 of the credits against state taxes owing by retail electric utilities
24 for the renewable energy incentive payments made to customers
25 installing solar or other renewable energy facilities at their
26 premises, pursuant to RCW 82.16.130. On April 1st of each year the
27 state treasurer must transfer from the carbon pollution revenues
28 account to the general fund the amount determined by the department
29 of revenue to be the total in public utility tax credits under RCW
30 82.16.130, or such lesser amount as specifically appropriated for
31 this purpose;

32 (d) Not less than fifty percent must be transferred to the
33 multimodal account to be expended from that account for the purposes
34 provided in RCW 47.66.070(2); and

35 (e) Not less than five percent may be expended for highway
36 maintenance and preservation activities at the state department of
37 transportation.

1 NEW SECTION. **Sec. 5.** (1) The fossil fuel carbon pollution tax
2 imposed under this chapter is to be collected in addition to all
3 other taxes imposed on fossil fuels.

4 (2) To the extent practical, the department must integrate the
5 administration and collection of the fossil fuel carbon pollution
6 taxes imposed under this chapter with the administration and
7 collection of other taxes imposed on the taxpayer. The administrative
8 provisions of chapter 82.32 RCW apply to this chapter.

9 **Sec. 6.** RCW 47.66.070 and 2000 2nd sp.s. c 4 s 2 are each
10 amended to read as follows:

11 (1) The multimodal transportation account is created in the state
12 treasury. Moneys in the account may be spent only after
13 appropriation. Expenditures from the account may be used only for
14 transportation purposes.

15 (2) Not less than fifty percent of the funds transferred to the
16 account pursuant to section 4 of this act may be expended to assist
17 school district programs under chapter 28A.160 RCW.

18 **Sec. 7.** RCW 43.84.092 and 2016 c 194 s 5, 2016 c 161 s 20, and
19 2016 c 112 s 4 are each reenacted and amended to read as follows:

20 (1) All earnings of investments of surplus balances in the state
21 treasury shall be deposited to the treasury income account, which
22 account is hereby established in the state treasury.

23 (2) The treasury income account shall be utilized to pay or
24 receive funds associated with federal programs as required by the
25 federal cash management improvement act of 1990. The treasury income
26 account is subject in all respects to chapter 43.88 RCW, but no
27 appropriation is required for refunds or allocations of interest
28 earnings required by the cash management improvement act. Refunds of
29 interest to the federal treasury required under the cash management
30 improvement act fall under RCW 43.88.180 and shall not require
31 appropriation. The office of financial management shall determine the
32 amounts due to or from the federal government pursuant to the cash
33 management improvement act. The office of financial management may
34 direct transfers of funds between accounts as deemed necessary to
35 implement the provisions of the cash management improvement act, and
36 this subsection. Refunds or allocations shall occur prior to the
37 distributions of earnings set forth in subsection (4) of this
38 section.

1 (3) Except for the provisions of RCW 43.84.160, the treasury
2 income account may be utilized for the payment of purchased banking
3 services on behalf of treasury funds including, but not limited to,
4 depository, safekeeping, and disbursement functions for the state
5 treasury and affected state agencies. The treasury income account is
6 subject in all respects to chapter 43.88 RCW, but no appropriation is
7 required for payments to financial institutions. Payments shall occur
8 prior to distribution of earnings set forth in subsection (4) of this
9 section.

10 (4) Monthly, the state treasurer shall distribute the earnings
11 credited to the treasury income account. The state treasurer shall
12 credit the general fund with all the earnings credited to the
13 treasury income account except:

14 (a) The following accounts and funds shall receive their
15 proportionate share of earnings based upon each account's and fund's
16 average daily balance for the period: The aeronautics account, the
17 aircraft search and rescue account, the Alaskan Way viaduct
18 replacement project account, the brownfield redevelopment trust fund
19 account, the budget stabilization account, the capital vessel
20 replacement account, the capitol building construction account, the
21 carbon pollution revenues account, the Cedar River channel
22 construction and operation account, the Central Washington University
23 capital projects account, the charitable, educational, penal and
24 reformatory institutions account, the Chehalis basin account, the
25 cleanup settlement account, the Columbia river basin water supply
26 development account, the Columbia river basin taxable bond water
27 supply development account, the Columbia river basin water supply
28 revenue recovery account, the common school construction fund, the
29 community forest trust account, the connecting Washington account,
30 the county arterial preservation account, the county criminal justice
31 assistance account, the deferred compensation administrative account,
32 the deferred compensation principal account, the department of
33 licensing services account, the department of retirement systems
34 expense account, the developmental disabilities community trust
35 account, the diesel idle reduction account, the drinking water
36 assistance account, (~~the drinking water assistance administrative~~
37 ~~account, the drinking water assistance repayment account,~~) the
38 Eastern Washington University capital projects account, the
39 Interstate 405 express toll lanes operations account, the education
40 construction fund, the education legacy trust account, the election

1 account, the electric vehicle charging infrastructure account, the
2 energy freedom account, the energy recovery act account, the
3 essential rail assistance account, The Evergreen State College
4 capital projects account, the federal forest revolving account, the
5 ferry bond retirement fund, the freight mobility investment account,
6 the freight mobility multimodal account, the grade crossing
7 protective fund, the public health services account, the high
8 capacity transportation account, the state higher education
9 construction account, the higher education construction account, the
10 highway bond retirement fund, the highway infrastructure account, the
11 highway safety fund, the high occupancy toll lanes operations
12 account, the hospital safety net assessment fund, the industrial
13 insurance premium refund account, the judges' retirement account, the
14 judicial retirement administrative account, the judicial retirement
15 principal account, the local leasehold excise tax account, the local
16 real estate excise tax account, the local sales and use tax account,
17 the marine resources stewardship trust account, the medical aid
18 account, the mobile home park relocation fund, the money-purchase
19 retirement savings administrative account, the money-purchase
20 retirement savings principal account, the motor vehicle fund, the
21 motorcycle safety education account, the multimodal transportation
22 account, the multiuse roadway safety account, the municipal criminal
23 justice assistance account, the natural resources deposit account,
24 the oyster reserve land account, the pension funding stabilization
25 account, the perpetual surveillance and maintenance account, the
26 pollution liability insurance agency underground storage tank
27 revolving account, the public employees' retirement system plan 1
28 account, the public employees' retirement system combined plan 2 and
29 plan 3 account, the public facilities construction loan revolving
30 account beginning July 1, 2004, the public health supplemental
31 account, the public works assistance account, the Puget Sound capital
32 construction account, the Puget Sound ferry operations account, the
33 Puget Sound taxpayer accountability account, the real estate
34 appraiser commission account, the recreational vehicle account, the
35 regional mobility grant program account, the resource management cost
36 account, the rural arterial trust account, the rural mobility grant
37 program account, the rural Washington loan fund, the site closure
38 account, the skilled nursing facility safety net trust fund, the
39 small city pavement and sidewalk account, the special category C
40 account, the special wildlife account, the state employees' insurance

1 account, the state employees' insurance reserve account, the state
2 investment board expense account, the state investment board
3 commingled trust fund accounts, the state patrol highway account, the
4 state route number 520 civil penalties account, the state route
5 number 520 corridor account, the state wildlife account, the
6 supplemental pension account, the Tacoma Narrows toll bridge account,
7 the teachers' retirement system plan 1 account, the teachers'
8 retirement system combined plan 2 and plan 3 account, the tobacco
9 prevention and control account, the tobacco settlement account, the
10 toll facility bond retirement account, the transportation 2003
11 account (nickel account), the transportation equipment fund, the
12 transportation fund, the transportation future funding program
13 account, the transportation improvement account, the transportation
14 improvement board bond retirement account, the transportation
15 infrastructure account, the transportation partnership account, the
16 traumatic brain injury account, the tuition recovery trust fund, the
17 University of Washington bond retirement fund, the University of
18 Washington building account, the volunteer firefighters' and reserve
19 officers' relief and pension principal fund, the volunteer
20 firefighters' and reserve officers' administrative fund, the
21 Washington judicial retirement system account, the Washington law
22 enforcement officers' and firefighters' system plan 1 retirement
23 account, the Washington law enforcement officers' and firefighters'
24 system plan 2 retirement account, the Washington public safety
25 employees' plan 2 retirement account, the Washington school
26 employees' retirement system combined plan 2 and 3 account, the
27 Washington state health insurance pool account, the Washington state
28 patrol retirement account, the Washington State University building
29 account, the Washington State University bond retirement fund, the
30 water pollution control revolving administration account, the water
31 pollution control revolving fund, the Western Washington University
32 capital projects account, the Yakima integrated plan implementation
33 account, the Yakima integrated plan implementation revenue recovery
34 account, and the Yakima integrated plan implementation taxable bond
35 account. Earnings derived from investing balances of the agricultural
36 permanent fund, the normal school permanent fund, the permanent
37 common school fund, the scientific permanent fund, the state
38 university permanent fund, and the state reclamation revolving
39 account shall be allocated to their respective beneficiary accounts.

1 (b) Any state agency that has independent authority over accounts
2 or funds not statutorily required to be held in the state treasury
3 that deposits funds into a fund or account in the state treasury
4 pursuant to an agreement with the office of the state treasurer shall
5 receive its proportionate share of earnings based upon each account's
6 or fund's average daily balance for the period.

7 (5) In conformance with Article II, section 37 of the state
8 Constitution, no treasury accounts or funds shall be allocated
9 earnings without the specific affirmative directive of this section.

10 NEW SECTION. **Sec. 8.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 9.** Sections 1 through 5 of this act
15 constitute a new chapter in Title 82 RCW.

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