

HOUSE BILL REPORT

ESHB 2278

As Passed House:

March 9, 2009

Title: An act relating to the sales and use tax exemption for livestock nutrient management equipment and facilities.

Brief Description: Concerning the sales and use tax exemption for livestock nutrient management equipment and facilities.

Sponsors: House Committee on Finance (originally sponsored by Representatives Pettigrew, Chandler, Blake, Johnson, Bailey and Schmick).

Brief History:

Committee Activity:

Finance: 2/27/09, 3/2/09 [DPS].

Floor Activity

Passed House: 3/9/09, 92-2.

Brief Summary of Engrossed Substitute Bill

- Modifies the sales and use tax exemption for livestock nutrient management equipment and facilities by providing a fixed list of equipment and facilities subject to the exemption.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Condotta, Conway, Ericks, Santos and Springer.

Staff: Jeffrey Mitchell (786-7139)

Background:

Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property and some

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.

services. If retail sales taxes were not collected when the property or services were acquired by the user, then use taxes are applied to the value of most tangible personal property and some services when used in this state. Use tax rates are the same as retail sales tax rates. The state tax rate is 6.5 percent. Depending on the location, local tax rates vary from 0.5 percent to 2.4 percent. The average local tax rate is 2.0 percent, for an average combined state and local tax rate of 8.5 percent.

A sales and use tax exemption applies to the materials, machinery, equipment, and labor and services purchased or used in relation to the operation, repair, cleaning, alteration, or improvement of livestock nutrient management facilities and equipment. Livestock nutrient management facilities and equipment are machinery, equipment, and structures used in the handling and treatment of livestock manure, such as aerators, agitators, alley scrapers, and augers. The exemption includes repair and replacement parts. The exemption requires facilities and equipment to be used exclusively for activities necessary to maintain a livestock nutrient management plan.

Summary of Engrossed Substitute Bill:

The nutrient management sales and use tax exemption is limited to a fixed list of equipment and facilities. Labor and services related to the construction of a new livestock nutrient management facility or the replacing of such a facility are explicitly excluded from the sales and use tax exemption. A statutory definition of "handling and treatment of livestock manure" is provided.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) In 2001 the Legislature granted the first nutrient management tax break to the dairy industry due to Washington passing the most strict dairy nutrient management requirements in the country. In 2006 the tax break was expanded to anybody who had a nutrient management plan. A farmer admitted to someone at the Department of Revenue (DOR) that a bobcat was occasionally used for some other purpose. The auditors at the DOR generally thought an occasional unrelated use would not disqualify the equipment from the tax break. However, a court case reinterpreted the statute and narrowed the exemption. Farmers have a problem with a fixed list because people could get a tax break just because the equipment is on the list even though it might not be used for the handling and treatment of livestock nutrient. Farming operations can vary substantially so a fixed list can be problematic. This will help farmers become better environmental stewards. The reason a 90 percent threshold was originally proposed, as opposed to a fixed list, was to require substantial usage related to the nutrient management, and so that an occasional unrelated use would not disqualify the equipment.

(With concerns) The bill has significant administrative concerns from the DOR. The DOR has ongoing disputes regarding what qualifies for the exemption. The bill further complicates our efforts by changing it from an “exclusive” standard to a 90 percent threshold. This could require additional documentation and verification. The DOR would recommend establishing a specific list of equipment that qualifies for the exemption. This would eliminate the need to examine how or to what extent qualifying equipment is used.

(Opposed) None.

Persons Testifying: (In support) Chris Cheney, Washington Dairy Federation and Washington Fryer Commission; and Jack Field, Washington Cattlemen's Association.

(With concerns) Drew Shirk, Department of Revenue.

Persons Signed In To Testify But Not Testifying: None.