

Summer Magazine 2019

Washington Wire by Lea McCullough

In what was undoubtedly the worst legislative session in history for businesses and all other taxpayers in the state of Washington, the legislature adjourned the 2019 session just prior to midnight on April 28th, the last day of the 105 day session. With solid majorities in both the House and Senate, democrats passed billions of dollars in new taxes and increased state spending by over 17 percent above the previous two-year budget (\$43.7 billion) by passing a \$52.4 billion 2019 – 2021 state operating budget. This massive increase in taxes and spending occurred despite record revenues flowing into state coffers due to unprecedented economic conditions. As we have seen in previous times when spending went out of control, the first hint of a dip in the economy or a recession will result in a major deficit where state programs will be slashed and additional tax proposals will, yet again, be on the table.

See chart in summer 2019 magazine for projections on the revenue impact of several new taxes passed this session.

What some of these major taxes are and what they do:

- **Payroll Tax:** Creates a long-term care program by imposing a 0.58 percent tax on individual wages.
- **Property Tax:** Increases levy authority for school districts.
- **B&O Tax on Services:** This is a three-tier tax that starts with a 20 percent surcharge on specific professional services. The second tier is a 33.3 percent surcharge on advanced computing businesses with worldwide revenues between \$25 and \$100 billion. The third tier is a 66.7 percent surcharge on the same type of advanced computing companies with revenues exceeding \$100 billion.
- **Graduated Real Estate Excise Tax:** The current REET on home sales is 1.28 percent. The new tax would elevate to 2.75 percent on homes between \$1.5 and \$3.0 million and 3 percent on home sales above \$3 million.
- **Banks:** Adds a 1.2 percent B&O tax on out-of-state banks above the 1.5 percent B&O tax currently paid.
- **MTCA:** This measure changed the formula in the MTCA tax from a percentage of the wholesale price of a barrel of oil to a volumetric tax. Under the volumetric formula the current barrel tax would have been .70 cents; instead, it was raised to \$1.09 per barrel, representing a 60 percent increase.

WOMA Priority Action Items in 2019 Legislative Session

WOMA's 2019 legislative activities were 100 percent defensive. We went into the session knowing we would be facing an unworkable climate agenda advanced by Governor Inslee and worked from the first day until the last day to defeat the most harmful proposals. The following are the three carbon reduction bills we fought and defeated:

- **HB 1110 – Low Carbon Fuel Standard:** Lawmakers ended the 2019 Session without passing a Low Carbon Fuel Standard. Killing the LCFS is a major victory for WOMA given the impact on fuel prices. An LCFS is a cost driver and has increased the price of fuel in Oregon and California. By way of example, CA officials estimate the LCFS will raise the cost of gasoline by 46 cents per gallon by 2030 and the cost of diesel by 50 cents per gallon also by 2030.
- **SB 5971 – Carbon and Gas Tax Transportation Legislation:** If enacted, this bill would have imposed a \$15/metric ton price on carbon and enact an additional five cent tax on motor vehicle fuel.
- **SB 5981 – Cap and Trade:** This bill would have implemented a GHG emission cap and trade program. Under the bill, upper limits would be set on carbon emissions from transportation fuels supplied by oil marketers (among other carbon emitting entities), where additional capacity above the set cap would have to be purchased from other entities that don't use their full allowances.

GHG and Other Climate Related Measures that Passed the Legislature

- **HB 1070 – Renewable Natural Gas Tax Exemption:** Provides a public utility tax exemption on the sale by a gas distribution business of renewable natural gas. States that the sale of natural gas, including compressed natural gas and liquefied natural gas used or sold to manufacture transportation fuel, and renewable natural gas by a gas distribution business, are not exempt from business and occupation taxes under certain circumstances
- **HB 1257 – Green Buildings:** Requires the State Building Code Council to develop rules for electric vehicle infrastructure that require electric vehicle charging capability at all new buildings that provide on-site parking. By November 1, 2020, the Department of Commerce (Department) must establish by rule a State Energy Performance Standard (Standard) for covered commercial buildings. “Covered commercial building” means a building where the sum of nonresidential, hotel, motel, and dormitory floor areas exceeds 50,000 gross square feet, excluding the parking garage area. The Department must provide the owners of covered buildings with notification of compliance requirements no later than July 1, 2021.
- **HB 1444 – Energy Efficient Appliances:** State appliance efficiency and testing standards are established for the following appliances: commercial fryers, commercial dishwashers, and commercial steam cookers; air compressors; computers and computer monitors; faucets, except for metering faucets; portable air conditioners; residential ventilating fans; showerheads; spray sprinkler bodies; uninterruptible power supplies; urinals and toilets; water coolers; general service lamps; and high color rendering index fluorescent lamps. Any of these appliances manufactured after January 1, 2021 that do not meet state standards may not be sold.
- **SB 5116 – Clean Energy:** Requires all electric utilities to eliminate from their allocation of electricity coal-fired resources by December 31, 2025. Requires each electric utility to make all retail sales of electricity greenhouse gas neutral by January 1, 2030. Sets a standard for each electric utility to meet 100 percent of its retail electric load using non-emitting and renewable resources by January 1, 2045. Establishes an administrative penalty equal to \$60 for each megawatt-hour for noncompliance, adjusted for inflation. Requires electrical and gas companies to use the social cost of carbon for planning, evaluating, and acquiring all resources.
- **SB 5145 – Hydraulic Fracturing:** Prohibits the use of hydraulic fracturing in the exploration for and production of oil and natural gas.

Other Bills of Interest

- **HB 1074 – Tobacco and Vapor Products /Age:** Raises the legal age to twenty-one years for the lawful sale or distribution of tobacco and vapor products. Authorizes the governor, in recognition of the sovereign authority of tribal governments, to seek government-to-government consultations with Indian tribes regarding raising the minimum legal age of sale in certain compacts.
- **HB 1873 – Vapor Products Tax:** Establishes a tax on vapor products in an amount equal to \$0.10 per milliliter of nicotine solution for any accessible container and \$0.30 per milliliter of nicotine solution for all other vapor products.
- **HB 1633 – Fuel Tax Rate Posting (Did Not Pass)** This bill would have made permanent the requirement for posting state and federal fuel tax rate information on fuel pumps that was directed in the 2017-19 transportation budget. Although this bill passed the House by a vote of 97 – 1, it failed in the Senate due to objections from climate change advocates that did not want Washington consumers to know what their various GHG reduction proposals, if passed, would translate to at the pump.

Conclusion

While the 2019 legislative session proved to be extremely challenging we have a lot to be proud of in our success in working with energy coalition members to defeat extremely costly and unworkable carbon bills that would increase our fuel costs and those to our customers. That said, the unnecessary tax increases, including MTCA, that were imposed will reverberate throughout the economy and will no doubt impact our businesses and the people we serve.

While we were able to dodge a bullet on LSFC, Cap and Trade and Carbon Taxes, we will be faced with these issues next year and our opponents will have better opportunities for success given the many climate change/green energy bills that passed and are now off their lists.

If there was ever a time when the fuel supplier industry should up its game, the time is now. WOMA members must be prepared to meet the challenges ahead by continuing to show their willingness to participate in the legislative process by putting a real face on who they are and who they serve. In addition, we must take very seriously the need for direct political action through WOMA's PAC where we support candidates to the legislature who understand and support our industry and seek to defeat those that don't. If we wait until next year to get motivated, it will be too late. Again, the time is now!