



# Hidden Gas Taxes Vote NO on HB 1614

Is this really the right time for a \$1 Billion Hidden Gas Tax?

## IMPORTANT POLICY QUESTIONS RAISED BY HB 1614

HB 1614 is a proposal to impose a “fee” - in essence, a hidden tax - on every barrel of gasoline and diesel fuel consumed in Washington State in order to pay for stormwater clean-up efforts in Puget Sound. The measure raises a number of important policy questions. These issues clearly demonstrate that HB 1614 is not an appropriate vehicle for funding important stormwater management efforts.

### ➤ **Scientific Justification Not Yet Developed**

The scientific analysis of stormwater contamination in Puget Sound is not yet complete. The Department of Ecology and the Puget Sound Partnership are scheduled to wrap up a three-phase study of stormwater pollution in June of 2010. Until that study is complete, policy-makers will not have data available to identify all the sources of the pollution, analyze their relative levels of toxicity, and calculate their potential impacts on the environment and human health. All of this information is important for the development of a sound and equitable stormwater management policy. It is critical to understand not only the volume of contaminants, but also their relative toxicity as well. As an example, one tablespoon of mercury in the Sound has a much greater environmental and health impact than the same volume of motor oil. Without this toxicity analysis, it will be impossible to accurately ascribe clean-up costs to responsible parties. For instance, HB 1614 concentrates the entire financial impact on only one industry out of the 14 sources of stormwater pollution identified to date. However, both the Department of Ecology and the Puget Sound Partnership recently issued findings that the cumulative impact of stormwater run-off on Puget Sound water quality had been overstated by approximately 67-70 percent in their earlier studies. This significant adjustment is in addition to Ecology’s earlier conclusion that its initial estimate of the impact of total petroleum hydrocarbons (TPH) in stormwater run-off was overstated by some 40 percent. Clearly, Ecology needs the time to develop accurate numbers in order to develop an effective and equitable stormwater clean-up program.

### ➤ **Significant Economic and Job Impacts**

Both the state and national economies remain weak. Washington families have seen the values of their homes plummet, their incomes decline, and many are dealing with job insecurity or unemployment. Into this state of economic uncertainty, HB 1614 would inject a total cost estimated to be more than \$1.2 billion over the next decade. Is this really the time to force more costs on individual motorists? And, perhaps even more pressing, is this the time to force more costs onto a major manufacturing sector that provides thousands of well-paying jobs for Washington families? The Boeing South Carolina decision is both timely and instructive. The State of South Carolina offered Boeing an incentive package reportedly worth \$450 million in exchange for commitments from the company to create 3,800 jobs and invest \$750 million over the next seven years. In contrast, a recent study by the Washington Research Council found that the petroleum industry in Washington is directly responsible for more than 5,100 family-wage jobs at the five refineries located in the state. The industry has invested more than \$1.3 billion to increase efficiency, enhance safety and improve environmental controls over the past five years. In contrast to proffered economic incentives, HB 1614 instead would impose an average of \$128 million in additional costs annually over the next decade on top of the nearly \$183 million the industry paid in state and local taxes in 2007, a 70

percent increase. Economic disruption in the form of higher fuel prices or job losses – or both – will almost certainly occur if this proposal is adopted.

➤ **HB 1614 Is a Tax – Not a Fee**

The Department of Revenue generally defines a tax as a measure levied for the purpose of raising revenue for a general government purpose. In contrast, a fee is imposed for the purpose of regulating a specific activity and covering the cost of providing that regulation. Under this definition, HB 1614 is clearly a tax. It would generate funds for the purpose of general stormwater management and clean-up. Because there is no practical way to separate and regulate the stormwater contributions of the petroleum industry from those from other sources such as pet waste or pesticides, the programmatic aspects of the proposal cannot be focused on or provide any new regulation of the petroleum industry. The only aspect of HB 1614 that is focused on the petroleum industry is the cost imposed. If the intention of HB 1614 were to provide some new regulation of stormwater run-off, why are none of the other 13 major sources of stormwater contamination, such as animal waste, lawn fertilizers, and pesticides, included in the funding proposal? The only conceivable answer is that proponents believe that HB 1614 becomes more palatable if packaged and marketed as a fee on a single, large industry sector. Calling it a fee (rather than the tax that it is) clearly is an attempt to avoid the I-960 requirements for a supermajority vote. Also, the scale of the proposal, resulting in a 70 percent increase in the industry's state revenue burden, makes it clear that this is a tax rather than a mere fee.

➤ **Transportation Impacts Raise Constitutional Questions**

HB 1614 exempts a number of petroleum products, including crude oil, aviation and jet fuel, dyed diesel for farm use, and home heating oil. This leaves gasoline and diesel motor fuels – the products on which the state gas tax is levied. Because of these exemptions, HB 1614 is nothing more than a gas tax and, as such, subject to the 18<sup>th</sup> amendment of the State Constitution, which limits revenues raised through gas taxes to transportation-related purposes. It is clear that HB 1614 would be open to a serious constitutional challenge. At the very least, increasing the cost of motor fuels through HB 1614 will limit any future legislative effort to utilize additional gas taxes to fund vitally important transportation programs and projects. As such, it will impair the legislature's ability to take the necessary steps to improve safety, facilitate the movement of people and product around the state, and reduce congestion and air pollution.

➤ **Misalignment of Costs and Benefits**

Because HB 1614 would impose a tax on all gasoline and diesel fuels consumed in Washington, the impacts of the measure would be borne by drivers throughout the state. However, the proposed stormwater clean-up efforts are focused on the waters flowing into Puget Sound. As a result, the benefits of the measure would accrue primarily to those living in the Central Puget Sound region while the costs would be borne statewide. Those living east of the Cascades would be funding a program to solve a problem that they had very little, if any, role in creating.

In summary, HB 1614 is bad policy for the state of Washington. It is not based on solid scientific analysis and would impose a major economic burden on one contributor to the stormwater problem while ignoring all others. The impact on fuel costs and manufacturing jobs – at a time when Washington can least afford it – are unknown. And it would impair our ability to invest in needed transportation infrastructure and open the state to a constitutional challenge. It is the wrong answer at the wrong time.