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Lawmakers don't have time to fool with doomed gas tax

By Richard S. Davis

The clock winds down quickly on the 60-day legislative session that began Monday. There's no time to waste on bad ideas. So lawmakers should dismiss efforts to impose a new gas tax to use for, well, that's something that's not really clear right now.

Few taxpayers will applaud a 4-cent hike at the pump. Yet, last year the state House of Representatives narrowly passed a \$1.50 per barrel fee on petroleum products. The money – about \$120 million a year – supposedly would have been used to pay to clean up and manage stormwater runoff, mostly tied to the ongoing Puget Sound restoration project. The bill never reached a Senate vote.

Now, with a \$2.6 billion budget hole to fill, rumors abound that legislators might revisit the tax, with this twist: For the first few years, the new money would be diverted to help with the general fund bailout. When the budget crisis subsides, the revenue stream would flow to the Sound.

The logic is, unsurprisingly, unsound. The legislation would be immediately subject to constitutional challenge. Washington's gas tax is already among the nation's highest. And the measure places a disproportionate share of cleanup costs on a single industry.

The 18th Amendment of the state constitution requires that fuel tax revenues “be used exclusively for highway purposes.” If the legislation passes, the certain constitutional challenge is one that lawmakers will lose.

Calling the tax a fee, as the bill does, reminds me of Lincoln's joke: How many legs does a horse have if you call his tail a leg? Still four. What you call it doesn't change what it is. It's a gas tax. Regardless of whether lawmakers want the money for Sound cleanup or budget bailout, the constitution won't let them spend it.

When the tax gets passed to consumers, it amounts to a 4 cent per gallon bump at the pump. Taxpayers expect a say in these decisions. In 2005, voters accepted a 9.5 cent per gallon gas tax increase, giving Washington a 37.5 cents per gallon tax, one of the highest in the nation. The key to winning voter approval: guaranteeing improvements in transportation safety and mobility.

With increased fuel efficiency and the recession parking more cars, the package is in jeopardy. Even if it were constitutional, boosting gas taxes for other purposes puts further stress on road projects in a weak economy.

The proposed tax is expected to raise about \$1.2 billion over 10 years. The measure that passed the House last session would put the money into a special account under the control of the Department of Ecology. The department would then pass money to local governments to pay for projects to mitigate petroleum contamination, often requiring local governments to

match state money. Where are cash-strapped cities and counties going to find it the money? The feds?

Supporters say stormwater projects will stimulate construction jobs. By now, it's a threadbare argument. More than public works programs, the state economy needs private sector recovery. A gas tax hike applies more pressure to the brakes than to the accelerator.

The rush to tax also comes ahead of the justification for the tax. After the bill passed the House last year, it turned out that the ecology department's analysis of the problem was flawed. Responding to an industry critique last month, the department acknowledged errors in its estimates of runoff and the contributions of petroleum.

Given that the department has just concluded the second phase of a three phase study of the toxic chemicals on Puget Sound, midcourse corrections can be expected. The third phase should be completed this June.

Why rush to adopt a plan and revenue package ahead of the evidence? Why not distribute the burden of cleanup costs more equitably over known contributors? Unquestionably, stormwater contamination degrades water quality. And when the research has been completed, lawmakers will decide how to mitigate the adverse effects. Even then, an unconstitutional gas tax diversion will not be the solution.

Time is short. The economy is fragile. And the budget crunch is real. In the limited time available this year, lawmakers should avoid unproductive detours and quickly shelve the fuel tax.

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