

HOUSE BILL REPORT

HB 2709

As Reported By House Committee On:

Finance

Title: An act relating to elimination of double taxation of municipal utility taxes.

Brief Description: Eliminating double taxation of municipal utility taxes.

Sponsors: Representatives B. Thomas, Pennington, Butler, Cole, Kastama, Crouse, D. Sommers, Carrell, Cooke, O'Brien and Thompson.

Brief History:

Committee Activity:

Finance: 1/28/98, 2/4/98 [DP].

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 11 members: Representatives B. Thomas, Chairman; Carrell, Vice Chairman; Mulliken, Vice Chairman; Boldt; Butler; Kastama; Morris; Pennington; Schoesler; Thompson and Van Luven.

Minority Report: Do not pass. Signed by 4 members: Representatives Dunshee, Ranking Minority Member; Dickerson, Assistant Ranking Minority Member; Conway and Mason.

Staff: Linda Brooks (786-7153).

Background: Cities and towns may impose a gross receipts tax on a light and power business. A city's tax rate cannot exceed 6 percent of gross receipts, unless voters approve a higher rate. Most cities tax light and power business's gross receipts that are earned from making sales of electricity to consumers located within their cities. Municipal light and power businesses are an exception. Cities and towns operate 19 municipal light and power businesses. These cities generally tax the full gross receipts of their light and power businesses, even though some of the gross receipts might be earned by selling electricity to out-of-city consumers.

When a municipal light and power business owned by a first city provides electricity to consumers located in a second city, there are legal questions regarding the ability of the second city to tax the first city's utility. In 1990, the Attorney General issued an opinion stating that a city needs express authority to impose a tax on another municipality. Since

no law specifically states that a city may tax another city's municipal light and power business, the opinion concluded that a city could not tax another city's light and power business. Some city attorneys have questioned the attorney general opinion, because the opinion does not discuss court decisions that involve taxation of proprietary, rather than governmental, functions of cities. Thus, it is unclear whether a city may tax a light and power business operated by another city.

If it is possible that a first city owning a municipal light and power business and a second city served by the first city's business may both impose a 6 percent tax on the same gross receipts, then the gross receipts earned from sales of electricity in the second city could be subject to a total 12 percent rate in city taxes.

The two largest municipal light and power businesses, Seattle City Light and Tacoma City Light, do sell electricity to consumers located in other cities. Tacoma City Light says that it has agreed to pay the new cities of Lakewood and University Place certain administrative fees. This year the administrative fees are set at 1 percent of Tacoma City Light's gross sales of electricity in University Place and Lakewood. The administrative fees will increase by 1 percent each subsequent year until the fees reach a 6 percent cap.

Summary of Bill: A city or town cannot tax its municipal light and power business's gross receipts that are earned by delivering electricity or electrical distribution services in other cities or towns. Electricity is delivered at the situs of the meter measuring the amount of electricity used by a consumer.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on July 1, 1998.

Testimony For: There is a need to end taxation without representation. Persons who pay taxes should derive a benefit from those tax dollars, but these tax dollars do not pay for local services. Instead, the taxes paid to Seattle are deposited into Seattle's general fund. The solution is not to double tax citizens but to end Seattle's tax. Seattle collects \$1 million in taxes from Shoreline's residents. Shoreline is a new city that needs to address many needs such as sidewalks and flood control. An extra \$1 million dollars would mean a 7 percent increase in Shoreline's budget to help pay for needed improvements. On the other hand, if Seattle lost all of its out-of-city tax revenues that it collects from other city's residents, the decrease in Seattle's budget would be 0.6 percent. This tax issue is not new. Steilacoom has been working on this issue for several years.

HB 2709 is preferable to HB 2708, because it prohibits any city from taxing electrical customers located in another city.

Testimony Against: This is a complicated and new issue, and the cities should have more time to work on it. Historically, Seattle and Tacoma extended service to unincorporated areas, believing that those areas would either remain unincorporated or would become annexed to Seattle or Tacoma. Seattle and Tacoma have taken the financial risk in establishing and operating these utilities. Tacoma has demonstrated that it is possible to work out these issues with neighboring cities through negotiation.

Testified: Kathleen Collins, Shoreline (pro); Scott Jepson, Mayor of Shoreline (pro); Bob Dice, City Manager of Shoreline (pro); Dave Hutchinson, Mayor of Lake Forest Park (pro); Paul Chasco, Steilacoom Town Administrator (pro); Joe Daniels and Elizabeth Spencer, City of SeaTac (pro); and Mike Tracy, Puget Sound Energy (pro). Randy Lewis and Bob Mack, City of Tacoma (con); Margaret Pageler, Seattle City Council Member (con); and Jim Echert and Jim Harding, City of Seattle (con).