

FINAL BILL REPORT

EHB 2755

C 245 L 00

Synopsis as Enacted

Brief Description: Clarifying the taxation of electrical energy sales.

Sponsors: Representatives Gombosky, Crouse, Wood, Poulsen, Bush, Reardon, Mielke, Grant, McDonald, Delvin and Mastin.

House Committee on Technology, Telecommunications & Energy
Senate Committee on Energy, Technology & Telecommunications
Senate Committee on Ways & Means

Background:

The public utility tax (PUT) is applied to the gross revenues of a light and power business, which includes both public and private electric utilities, for the privilege of operating within Washington. Seventy-eight businesses fall within the definition of a light and power business, and are thereby subject to the PUT. These businesses include such entities as investor-owned utilities, mutuals, cooperatives, municipally owned service providers, and public utility districts.

Light and power businesses have two exemptions from the PUT: (1) amounts derived from sales of electricity to another company in the same public service business for resale as such within the state, and (2) amounts derived from the production, sale, or transfer of electrical energy for resale or consumption outside the state. Entities that are not subject to the PUT for energy resales are then subject to the business and occupations tax (B&O).

Federal deregulation of the electricity wholesale market has created an active wholesale market in which electricity is traded by new entities such as "power marketers" and existing electricity service providers. Depending on the activity generating the income, gross receipts of regulated utilities are subject to either the B&O tax or the PUT. Some businesses (ports, water and irrigation districts) whose primary function is not to provide electricity service fall within the definition of a light and power business and are, therefore, subject to the PUT. Other businesses include power marketers, whose gross receipts are taxed under the B&O tax, but who are not subject to the PUT.

Exemptions from the PUT are only for light and power businesses. Neither the PUT nor the B&O tax provide an exemption for the sale of electricity by a light and power

business to a non-light and power business for resale within Washington, regardless of whether that resale will be back to a light and power business or to an end user.

The Department of Revenue recently completed a study of electricity taxation in Washington. As a result of this study, the department determined that sales for resale by a utility to a non-utility in the state do not qualify for the exemption from the PUT (revenue from sales of electricity to another light and power business for resale as such within the state).

A light and power business is defined as the business of operating a plant or system for the generation, production, or distribution of electrical energy for hire or sale.

Summary of Bill:

Public utility tax exemptions are expanded to apply to revenue earned by any entity involved in the production, sale, or transfer of electrical energy for resale either within or outside the state, or for resale for consumption outside the state.

Business and occupation tax exemptions are expanded to apply to revenues derived from the sale of electrical energy for resale within or outside the state.

The public utility tax exemptions take effect immediately and apply to amounts due before and after the effective date.

Votes on Final Passage:

House 96 0

Senate 40 0

Effective: June 8, 2000
March 31, 2000 (Section 1)