

SENATE BILL REPORT

SB 6700

As Passed Senate, February 10, 2000

Title: An act relating to the sales and use tax exemption for coal-fired thermal electric generation facilities.

Brief Description: Removing provisions that would forfeit the sales and use tax exemption for coal-fired thermal electric generation facilities if the coal used was mined outside of specified counties.

Sponsors: Senators Swecker, Rasmussen, Snyder, Eide, Hargrove, Roach, Honeyford, Jacobsen, Sheahan, Zarelli, Oke, Hochstatter, Fraser and Benton.

Brief History:

Committee Activity: Energy, Technology & Telecommunications: 1/27/2000, 2/1/2000 [DP].

Passed Senate, 2/10/2000, 44-0.

SENATE COMMITTEE ON ENERGY, TECHNOLOGY & TELECOMMUNICATIONS

Majority Report: Do pass.

Signed by Senators Brown, Chair; Fairley, Fraser, Hochstatter, Roach and Rossi.

Staff: Andrea McNamara (786-7483)

Background: In 1997, the Legislature enacted a tax incentive package to assist the owners of the Centralia Steam Plant and adjacent coal mine update their air pollution control equipment and sustain the operations of the plant and mine, which together employ approximately 675 workers.

One element of the tax incentive package was an exemption from sales and use tax on the purchase of coal used at the thermal electric generating facility. The exemption is contingent on two qualifying requirements: (1) facility owners must demonstrate reasonable progress in installing air pollution control technologies ("scrubbers") and meeting air pollution abatement targets; and (2) at least 70 percent of the coal used at the steam plant must be from a coal mine in Lewis County or a contiguous county.

In 1999, the Centralia plant was put up for sale by its eight owners, all regional utilities. If the sale is approved by regulators, the successful bidder has announced its intentions to complete installation of the scrubbers and maintain the current work force, contingent upon being able to take advantage of the tax incentives.

In December 1999, three companies that produce and transport coal from Wyoming and Montana filed a lawsuit against the state Department of Revenue challenging the constitutionality of the original 1997 law enacting the tax exemptions. They claim the 70 percent local coal preference requirement for the sales and use tax exemption violates the

interstate commerce clause of the U.S. Constitution and puts their lower-sulfur coal at a competitive disadvantage.

Concerns have been raised that the presence of the lawsuit creates a level of uncertainty that could cloud the sale of the plant.

Summary of Bill: The requirement that at least 70 percent of the coal consumed at a thermal electric generation facility be produced by a local mine in order for the facility to qualify for a tax exemption is repealed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Trans Alta was attracted to the Centralia Steam Plant and Mine sale opportunity in part due to the tax exemptions that resulted from the Collaborative Decision Making (CDM) agreement. It intends to fulfill the obligations under the CDM agreement with respect to installing new air pollution control facilities and is on schedule to meet the negotiated timelines. The lawsuit threatens the sale and could threaten the chances for implementing the scrubbers. This bill removes the threat to the sale and preserves the coal tax exemptions. This solution also retains the intent of the original legislation since the preference for local coal will be incorporated into the collective bargaining agreement with the plant and mine labor union, which as a private agreement does not offend the interstate commerce clause of the Constitution.

Testimony Against: None.

Testified: PRO: Brian Clewes, Rich Wooley, Trans Alta; Larry Archer, International Union of Operating Engineers; Tim Thompson, Gordon, Thomas, Honeywell; Collins Sprague, AVISTA Corp; Al Aldrich, Snohomish PUD.