

**Chapter 54.28 RCW
PRIVILEGE TAXES**

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RCW 54.28.010 Definitions. As used in this chapter:

- (1) "Operating property" means all of the property utilized by a public utility district in the operation of a plant or system for the generation, transmission, or distribution of electric energy for sale;
- (2) "Taxing districts" means counties, cities, towns, school districts, and road districts;
- (3) "Distributes to consumers" means the sale of electric energy to ultimate consumers thereof, and does not include sales of electric energy for resale by the purchaser;
- (4) "Wholesale value" means all costs of a public utility district associated with the generation and transmission of energy from its own generation and transmission system to the point or points of inter-connection with a distribution system owned and used by a district to distribute such energy to consumers, or in the event a distribution system owned by a district is not used to distribute such energy, then the term means the gross revenues derived by a district from the sale of such energy to consumers;
- (5) "Thermal electric generating facility" means a steam-powered electrical energy producing facility utilizing nuclear or fossil fuels;
- (6) "Placed in operation" means delivery of energy into a transmission or distribution system for use or sale in such a manner

as to establish a value accruing to the power plant operator, except operation incidental to testing or start-up adjustments;

(7) "Impacted area" for a thermal electric generating facility on a federal reservation means that area in the state lying within thirty-five statute miles of the most commonly used entrance of the federal reservation and which is south of the southern boundary of township fifteen north. [1977 ex.s. c 366 § 1; 1967 ex.s. c 26 § 22; 1959 c 274 § 1; 1957 c 278 § 7. Prior: (i) 1941 c 245 § 1, part; Rem. Supp. 1941 § 11616-1, part. (ii) 1949 c 227 § 1(f); Rem. Supp. 1949 § 11616-2(f).]

Effective date—1967 ex.s. c 26: See note following RCW 82.01.050.

RCW 54.28.011 "Gross revenue" defined. "Gross revenue" means the amount received from the sale of electric energy, which also includes any regularly recurring charge billed to consumers as a condition of receiving electric energy, and excluding any tax levied by a municipal corporation upon the district pursuant to RCW 54.28.070. [2010 1st sp.s. c 23 § 1001; 1957 c 278 § 12.]

Application—2010 1st sp.s. c 23 § 1001: "Section 1001 of this act applies prospectively only." [2010 1st sp.s. c 23 § 1718.]

Effective date—2010 1st sp.s. c 23: See note following RCW 82.32.655.

Findings—Intent—2010 1st sp.s. c 23: See notes following RCW 82.04.220.

RCW 54.28.020 Tax imposed—Rates—Additional tax imposed. (1) There is hereby levied and there shall be collected from every district a tax for the act or privilege of engaging within this state in the business of operating works, plants or facilities for the generation, distribution and sale of electric energy. With respect to each such district, except with respect to thermal electric generating facilities taxed under RCW 54.28.025, such tax shall be the sum of the following amounts: (a) Two percent of the gross revenues derived by the district from the sale of all electric energy which it distributes to consumers who are served by a distribution system owned by the district; (b) five percent of the first four mills per kilowatt-hour of wholesale value of self-generated energy distributed to consumers by a district; (c) five percent of the first four mills per kilowatt-hour of revenue obtained by the district from the sale of self-generated energy for resale.

(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section. [1983 2nd ex.s. c 3 § 8; 1982 1st ex.s. c 35 § 18; 1977 ex.s. c 366 § 2; 1959 c 274 § 2; 1957 c 278 § 2. Prior: 1949 c 227 § 1(a); 1947 c 259 § 1(a); 1941 c 245 § 2(a); Rem. Supp. 1949 § 11616-2(a).]

Construction—Severability—Effective dates—1983 2nd ex.s. c 3: See notes following RCW 82.04.255.

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Severability—1947 c 259: "If any section, subsection, clause, sentence or phrase of this act be for any reason adjudged unconstitutional, such adjudication shall not invalidate the remaining portions of this act, and the legislature hereby declares that it would have enacted this act notwithstanding the omission of the portion so adjudicated invalid." [1947 c 259 § 2.]

RCW 54.28.025 Tax imposed with respect to thermal electric generating facilities—Rate—Additional tax imposed. (1) There is hereby levied and there shall be collected from every district operating a thermal electric generating facility, as defined in RCW 54.28.010 as now or hereafter amended, having a design capacity of two hundred fifty thousand kilowatts or more, located on a federal reservation, which is placed in operation after September 21, 1977, a tax for the act or privilege of engaging within the state in the business of generating electricity for use or sale, equal to one and one-half percent of wholesale value of energy produced for use or sale, except energy used in the operation of component parts of the power plant and associated transmission facilities under control of the person operating the power plant.

(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section. [1983 2nd ex.s. c 3 § 9; 1982 1st ex.s. c 35 § 19; 1977 ex.s. c 366 § 6.]

Construction—Severability—Effective dates—1983 2nd ex.s. c 3: See notes following RCW 82.04.255.

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

RCW 54.28.040 Tax computed—Payment—Penalties—Disposition. (1) Before May 1st of each calendar year through calendar year 2018, the department of revenue must compute the tax imposed by this chapter for the last preceding calendar year and notify the district of the amount thereof, which shall be payable on or before the following June 1st.

(2) For tax reporting periods beginning on or after January 1, 2018, taxpayers must report the taxes due under RCW 54.28.020 and 54.28.025 on returns as prescribed by the department of revenue. Except as otherwise provided in this subsection (2), taxes imposed in RCW 54.28.020 and 54.28.025 are due for a taxpayer at the same time as the taxpayer's payment of taxes imposed under chapters 82.04 and 82.16 RCW. The department of revenue may allow taxpayers to report and pay the taxes due under RCW 54.28.020 and 54.28.025 on an annual basis, even if they report taxes imposed under chapters 82.04 and 82.16 RCW more frequently than annually. In such cases, the taxes imposed in RCW 54.28.020 and 54.28.025 are due on or before February 25th of the year immediately following the end of the year for which the taxes are being reported and paid.

(3) The department of revenue may require persons to report such information as needed by the department to administer this chapter.

(4) (a) Upon receipt of the amount of each tax imposed the department of revenue shall deposit the same with the state treasurer, who must deposit four percent of the revenues received under RCW 54.28.020(1) and 54.28.025(1) and all revenues received under RCW 54.28.020(2) and 54.28.025(2) in the general fund of the state and must distribute the remainder in the manner hereinafter set forth. The state treasurer must send a duplicate copy of each transmittal to the department of revenue.

(b) The state treasurer must distribute the taxes collected by the department under this chapter monthly at the same time distributions of local sales and use taxes are made in accordance with chapter 82.14 RCW. [2021 c 145 § 1; 2017 c 323 § 103; 1996 c 149 § 16; 1982 1st ex.s. c 35 § 20; 1975 1st ex.s. c 278 § 31; 1957 c 278 § 4. Prior: 1949 c 227 § 1(c); 1947 c 259 § 1(c); 1941 c 245 § 2(c); Rem. Supp. 1949 § 11616-2(c).]

Existing rights—Affect of repeal—2017 c 323: "The repeal in section 102 of this act and the amendments in section 103 of this act do not affect any existing right acquired or liability or obligation incurred under the sections repealed or amended or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections." [2017 c 323 § 109.]

Repeal of RCW 54.28.030—Application—2017 c 323: "Section 102 of this act does not apply with respect to reports due under RCW 54.28.030 in calendar year 2018 or any preceding calendar year." [2017 c 323 § 108.]

Effective dates—2017 c 323 §§ 101-109: See note following RCW 54.28.125.

Tax preference performance statement exemption—Automatic expiration date exemption—2017 c 323: See note following RCW 82.04.040.

Findings—Intent—Effective date—1996 c 149: See notes following RCW 82.32.050.

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

RCW 54.28.050 Distribution of tax. (1) Except as provided in subsection (2) of this section, the department of revenue must instruct the state treasurer, after placing thirty-seven and six-tenths percent of the taxes collected under RCW 54.28.020(1) in the state general fund to be dedicated for the benefit of the public schools, to distribute the balance collected under RCW 54.28.020(1) (a) to each county in proportion to the gross revenue from sales made within each county; and to distribute the balance collected under RCW 54.28.020(1) (b) and (c) as follows:

(a) If the entire generating facility, including reservoir, if any, is in a single county then all of the balance to the county where such generating facility is located;

(b) If any reservoir is in more than one county, then to each county in which the reservoir or any portion thereof is located a percentage equal to the percentage determined by dividing the total cost of the generating facilities, including adjacent switching facilities, into twice the cost of land and land rights acquired for any reservoir within each county, land and land rights to be defined the same as used by the federal energy regulatory commission;

(c) If the powerhouse and dam, if any, in connection with such reservoir are in more than one county, the balance must be divided sixty percent to the county in which the owning district is located and forty percent to the other county or counties or if the powerhouse and dam, if any, are owned by a joint operating agency organized under chapter 43.52 RCW, or by more than one district or are outside the county of the owning district, then to be divided equally between the counties in which such facilities are located. If all of the powerhouse and dam, if any, are in one county, then the balance must be distributed to the county in which the facilities are located.

(2) The department of revenue must instruct the state treasurer to adjust distributions under this section, in whole or in part, to account for each county's proportionate share of amounts previously distributed under this section and subsequently refunded to a public utility district under RCW 82.32.060.

(3) The provisions of this section do not apply to the distribution of taxes collected under RCW 54.28.025. [2017 c 323 § 104; 1982 1st ex.s. c 35 § 21; 1980 c 154 § 8; 1977 ex.s. c 366 § 4; 1975 1st ex.s. c 278 § 32; 1959 c 274 § 4; 1957 c 278 § 5. Prior: 1949 c 227 § 1(d); 1947 c 259 § 1(d); 1941 c 245 § 2(d); Rem. Supp. 1949 § 11616-2(d).]

Effective dates—2017 c 323 §§ 101-109: See note following RCW 54.28.125.

Tax preference performance statement exemption—Automatic expiration date exemption—2017 c 323: See note following RCW 82.04.040.

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter 82.45 RCW digest.

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Effective date—1959 c 274: "The effective date of section 4 of this 1959 amendatory act shall be January 1, 1960." [1959 c 274 § 6.]

RCW 54.28.055 Distribution of tax proceeds from thermal electric generating facilities. (1) Except as provided in subsection (3) of this section, the department of revenue must instruct the state

treasurer to distribute the amount collected under RCW 54.28.025(1) as follows:

(a) Fifty percent to the state general fund for the support of schools; and

(b) Twenty-two percent to the counties, twenty-three percent to the cities, three percent to the fire protection districts, and two percent to the library districts.

(2) Each county, city, fire protection district, and library district must receive a percentage of the amount for distribution to counties, cities, fire protection districts, and library districts, respectively, in the proportion that the population of such district residing within the impacted area bears to the total population of all such districts residing within the impacted area. For the purposes of this chapter, the term "library district" includes only regional libraries, rural county library districts, intercounty rural library districts, and island library districts as those terms are defined in RCW 27.12.010. The population of a library district, for purposes of such a distribution, does not include any population within the library district and the impact area that also is located within a city or town.

(3) Distributions under this section must be adjusted as follows:

(a) If any distribution pursuant to subsection (1)(b) of this section cannot be made, then that share must be prorated among the state and remaining local districts.

(b) The department of revenue must instruct the state treasurer to adjust distributions under this section, in whole or in part, to account for each county's, city's, fire protection district's, and library district's proportionate share of amounts previously distributed under this section and subsequently refunded to a public utility district under RCW 82.32.060.

(4) All distributions directed by this section to be made on the basis of population must be calculated in accordance with population data as last determined by the office of financial management. [2021 c 145 § 2; 2017 3rd sp.s. c 28 § 502; (2017 3rd sp.s. c 28 § 501 expired January 1, 2018); 2017 c 323 § 105; 1986 c 189 § 1; 1982 1st ex.s. c 35 § 22; 1979 c 151 § 165; 1977 ex.s. c 366 § 7.]

Expiration date—2017 3rd sp.s. c 28 § 501: "Section 501 of this act expires January 1, 2018." [2017 3rd sp.s. c 28 § 607.]

Existing rights and liability—Severability—Application—Effective dates—2017 3rd sp.s. c 28: See notes following RCW 82.08.0531.

Effective dates—2017 c 323 §§ 101-109: See note following RCW 54.28.125.

Tax preference performance statement exemption—Automatic expiration date exemption—2017 c 323: See note following RCW 82.04.040.

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

RCW 54.28.060 Interest. Interest at the rate as computed under RCW 82.32.050(2) shall be added to the tax hereby imposed from the due date until the date of payment. The tax shall constitute a debt to the state and may be collected as such. [1996 c 149 § 12; 1957 c 278 § 6. Prior: 1949 c 227 § 1(e); 1947 c 259 § 1(e); 1941 c 245 § 2(e); Rem. Supp. 1949 § 11616-2(e).]

Findings—Intent—Effective date—1996 c 149: See notes following RCW 82.32.050.

RCW 54.28.070 Municipal taxes—May be passed on. Any city or town in which a public utility district operates works, plants or facilities for the distribution and sale of electricity shall have the power to levy and collect from such district a tax on the gross revenues derived by such district from the sale of electricity within the city or town, exclusive of the revenues derived from the sale of electricity for purposes of resale. Such tax when levied shall be a debt of the district, and may be collected as such. Any such district shall have the power to add the amount of such tax to the rates or charges it makes for electricity so sold within the limits of such city or town. [1941 c 245 § 3; Rem. Supp. 1941 § 11616-3.]

RCW 54.28.080 Additional tax for payment on bonded indebtedness of school districts. Whenever any district acquires an operating property from any private person, firm, or corporation and a portion of the operating property is situated within the boundaries of any school district and at the time of such acquisition there is an outstanding bonded indebtedness of the school district, then the public utility district shall, in addition to the tax imposed by this chapter, pay directly to the school district a proportion of all subsequent payments by the school district of principal and interest on said bonded indebtedness, said additional payments to be computed and paid as follows: The amount of principal and interest required to be paid by the school district shall be multiplied by the percentage which the assessed value of the property acquired bore to the assessed value of the total property in the school district at the time of such acquisition. Such additional amounts shall be paid by the public utility district to the school district not less than fifteen days prior to the date that such principal and interest payments are required to be paid by the school district. In addition, any public utility district which acquires from any private person, firm, or corporation an operating property situated within a school district, is authorized to make voluntary payments to such school district for the use and benefit of the school district. [1957 c 278 § 8. Prior: 1949 c 227 § 1(g); 1941 c 245 § 2; Rem. Supp. 1949 § 11616-2(g).]

RCW 54.28.090 Deposit of funds to credit of certain taxing districts—Retention and distribution of tax proceeds for county with district owned by another county. (1) The county legislative authority of each county must direct the county treasurer to deposit funds to the credit of each taxing district in the county, other than school districts, according to the manner they deem most equitable; except not less than an amount equal to three-fourths of one percent

of the gross revenues obtained by a district from the sale of electric energy within any incorporated city or town must be remitted to such city or town. Information furnished by the district to the county legislative authority must be the basis for the determination of the amount to be paid to such cities or towns under this subsection.

(2) In the event that a county receives tax proceeds under RCW 54.28.050 because a public utility district operated by another county owns fee title to property in a city or town in the county that receives such tax proceeds, and that city or town adjoins a reservoir on the Columbia river wholly or partially created by such district's hydroelectric facility which began commercial power generation in 1967, but the district has no sales of electrical energy in that city or town, the county may retain seventy percent of such tax proceeds. The county must remit the remainder of the tax proceeds to the city or town in which the district owns fee title to property but has no sales of electrical energy. If the district owns fee title to property in more than one city or town in the county receiving such tax proceeds, and has no sales of electrical energy in those cities or towns, the remainder of the tax must be divided evenly among all such cities and towns.

(3) The provisions of this section do not apply to the distribution of taxes collected under RCW 54.28.025. [2011 c 361 § 1; 1980 c 154 § 9; 1977 ex.s. c 366 § 5; 1957 c 278 § 10.]

Application—2011 c 361: "This act applies to public utility district privilege taxes to be distributed in 2012 and each year thereafter." [2011 c 361 § 2.]

Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter 82.45 RCW digest.

RCW 54.28.100 Use of moneys received by taxing district. All moneys received by any taxing district shall be used for purposes for which state taxes may be used under the provisions of the state constitution. [1957 c 278 § 11.]

Revenue and taxation: State Constitution Art. 7.

RCW 54.28.110 Voluntary payments by district to taxing entity for removal of property from tax rolls. Whenever, hereafter, property is removed from the tax rolls as a result of the acquisition of operating property or the construction of a generating plant by a public utility district, such public utility district may make voluntary payments to any municipal corporation or other entity authorized to levy and collect taxes in an amount not to exceed the amount of tax revenues being received by such municipal corporation or other entity at the time of said acquisition or said construction and which are lost by such municipal corporation or other entity as a result of the acquisition of operating property or the construction of a generating plant by the public utility district: PROVIDED, That this section shall not apply to taxing districts as defined in RCW 54.28.010, and: PROVIDED FURTHER, That in the event any operating property so removed from the tax rolls is dismantled or partially

dismantled the payment which may be paid hereunder shall be correspondingly reduced. [1957 c 278 § 13.]

RCW 54.28.120 Amount of tax if district acquires electric utility property from public service company. In the event any district hereafter purchases or otherwise acquires electric utility properties comprising all or a portion of an electric generation and/or distribution system from a public service company, as defined in RCW 80.04.010, the total amount of privilege taxes imposed under chapter 278, Laws of 1957 to be paid by the district annually on the combined operating property within each county where such utility property is located, irrespective of any other basis of levy contained in this chapter, will be not less than the combined total of the ad valorem taxes, based on regular levies, last levied against the electric utility property constituting the system so purchased or acquired plus the taxes paid by the district for the same year on the revenues of other operating property in the same county under terms of this chapter. If all or any portion of the property so acquired is subsequently sold, or if rates charged to purchasers of electric energy are reduced, the amount of privilege tax required under this section shall be proportionately reduced. [1957 c 278 § 14.]

RCW 54.28.125 Public utility district privilege tax—Tools for administration. (1) The following provisions of chapter 82.32 RCW apply with respect to the state taxes administered by the department of revenue under this chapter, unless the context clearly requires otherwise: RCW 82.32.050, 82.32.060, 82.32.070, 82.32.080, 82.32.085, 82.32.090, 82.32.100, 82.32.105, 82.32.110, 82.32.117, 82.32.120, 82.32.130, 82.32.135, 82.32.150, 82.32.160, 82.32.170, 82.32.180, 82.32.190, 82.32.200, 82.32.210, 82.32.235, 82.32.237, 82.32.240, 82.32.270, 82.32.310, 82.32.320, 82.32.330, 82.32.340, 82.32.350, 82.32.360, 82.32.410, and any other provision of chapter 82.32 RCW specifically referenced in the statutes listed in this subsection (1). (2) Chapter 82.32 RCW also applies with respect to the state taxes administered by the department of revenue under this chapter to the extent provided in any other provision of law. (3) The definitions in this chapter have full force and application with respect to the application of chapter 82.32 RCW to this chapter unless the context clearly requires otherwise. [2017 c 323 § 101.]

Effective dates—2017 c 323 §§ 101-109: "(1) Except as otherwise provided in this section, part I of this act takes effect January 1, 2018.

(2) Section 102 of this act takes effect April 1, 2018." [2017 c 323 § 1102.]

Tax preference performance statement exemption—Automatic expiration date exemption—2017 c 323: See note following RCW 82.04.040.

RCW 54.28.140 Tax preferences—Expiration dates. (1) See RCW 82.32.805 for the expiration date of new tax preferences for the tax imposed under this chapter.

(2) See RCW 82.32.808 for reporting requirements for any new tax preference for the tax imposed under this chapter. [2013 2nd sp.s. c 13 § 1722.]

Effective date—2013 2nd sp.s. c 13: See note following RCW 82.04.43393.