

FINAL BILL REPORT

HB 2505

FULL VETO

Synopsis as Enacted

Brief Description: Extending the business and occupation tax exemption for amounts received as credits against contracts with or funds provided by the Bonneville power administration and used for low-income ratepayer assistance and weatherization.

Sponsors: Representatives Robinson, Boehnke, Chapman, Leavitt, Orcutt, Doglio and Tharinger.

House Committee on Finance
Senate Committee on Ways & Means

Background:

Business and Occupation Tax.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss.

A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for services and for activities not classified elsewhere. Several preferential rates also apply to specific business activities.

In addition, a taxpayer may be eligible to utilize other tax preferences, including credits and deductions, to reduce their tax liability. For example, a taxpayer engaging in activities subject to different B&O tax rates may be eligible for a Multiple Activities Tax Credit. A B&O tax exemption can provide a dollar-for-dollar offset against tax liability.

Bonneville Power Administration.

The Bonneville Power Administration (BPA) is a federal nonprofit agency that markets wholesale electrical power from 31 federal hydroelectric projects in the Columbia River Basin, one nonfederal nuclear plant, and several other small nonfederal power plants. The dams are operated by the United States Army Corps of Engineers and the Bureau of Reclamation. About one-third of the electric power used in the northwest comes from the BPA.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Under the federal Northwest Power Act, consumer-owned utilities have preference and priority in purchasing-power from the BPA. Investor-owned utilities can purchase power from the BPA under certain conditions. The BPA provides credits and funding for the costs of some or all utility energy savings through various mechanisms under specific power contracts.

The Department of Revenue has concluded that the credits and payments received by utilities under the BPA's energy savings programs are subject to the B&O tax.

Legislation was passed in 2010 creating an exemption for credits or funds received by utility customers of the BPA for the purpose of implementing energy conservation or demand-side management programs. This exemption expired on June 30, 2015.

Consumer-owned and investor-owned utilities may provide reduced utility rates for low-income customers. According to the Low-Income Home Energy Assistance Program within the United States Department of Health and Human Services, some consumer-owned utilities and all investor-owned utilities within the state offer some type of low-income rate assistance.

Tax Preference Performance Statement.

State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Summary:

Credits against power contracts with, or funds provided by, the BPA for energy conservation programs or demand-side management programs are exempt from the B&O tax, provided that the tax savings are used for low-income ratepayer assistance. This tax exemption expires on January 1, 2030.

A TPPS provides that this tax preference is designed to induce certain behavior by taxpayers and to create low-income ratepayer tax and utility rate relief. It further provides that the Legislature's specific public policy objectives are to: (1) increase investment in energy efficiency and conservation programs; (2) support efforts by utilities to acquire all cost-effective energy conservation and noncarbon-emitting energy resources as required under Washington law; and (3) increase funds dedicated to low-income ratepayer assistance and weatherization in Washington.

The JLARC, at a minimum, must evaluate the average annual investment in energy conservation projects by Washington State utilities that have power contracts with BPA. In

addition, the JLARC must evaluate the average additional funds from tax savings resulting from this act that are dedicated to low-income ratepayer assistance and weatherization by Washington State utilities that have power contracts with BPA.

Votes on Final Passage:

House	96	0
Senate	46	0