

SENATE BILL REPORT

SB 6172

As of March 2, 2020

Title: An act relating to 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.

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: Senators Braun, Saldaña and Wilson, C.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/28/20, 2/06/20 [DP-WM].
Ways & Means: 2/20/20.

Brief Summary of Bill

- Reinstates the business and occupation tax exemption for energy conservation and demand-side management credits and funding from the Bonneville Power Administration, if the tax savings are used for low-income ratepayer assistance and weatherization.
- Expires the new exemption on January 1, 2030.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Carlyle, Chair; Lovelett, Vice Chair; Ericksen, Ranking Member; Fortunato, Assistant Ranking Member, Environment; Sheldon, Assistant Ranking Member, Energy & Technology; Brown, Das, Hobbs, Lias, McCoy, Nguyen, Rivers, Short, Stanford and Wellman.

Staff: Kimberly Cushing (786-7421)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jeffrey Mitchell (786-7438)

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.

Background: 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 United States Army Corps of Engineers and the Bureau of Reclamation operate the dams. Just over one-fourth of the electric power used in the Northwest comes from BPA. BPA also operates and maintains approximately three-fourths of the high-voltage transmission in its service territory, which includes the states of Washington, Oregon, and Idaho, as well as parts of Montana, California, Nevada, Utah, and Wyoming.

BPA provides credits and funding for the costs of some or all utility energy savings through various mechanisms under specific power contracts. Legislation was passed in 2010 creating an exemption for credits or funds received by utility customers of BPA for implementing energy conservation or demand-side management programs. This exemption expired on June 30, 2015.

Business and Occupation Tax. The Business and Occupation (B&O) tax is imposed on the gross receipts, income, or sales of a business operating in Washington. The tax rate varies depending on the classification of the business activity.

Summary of Bill: Business and Occupation Tax Exemption. Credits or funds provided by BPA for implementing energy conservation programs or demand-side management programs are exempt from B&O tax, provided that the tax savings are used for low-income ratepayer assistance or weatherization.

The funds generated for low-income ratepayer assistance and weatherization under this subsection must be additive to and not supplant existing funds used for this purpose. The exemption from the B&O tax expires January 1, 2030.

Joint Legislative Audit and Review Committee. For Washington utilities that have power contracts with BPA, the Joint Legislative Audit and Review Committee must evaluate (1) the average annual investment in energy conservation projects, and (2) the average additional funds from the tax savings resulting from this exemption that are dedicated to low-income ratepayer assistance and weatherization.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on July 1, 2020.

Staff Summary of Public Testimony (Environment, Energy & Technology): PRO: This puts the BPA credit back in place. The credit is not income, but just acknowledges that the utility has spent money on energy efficiency. The bill makes good sense. The intent section is robust with good measures to ensure we are meeting the bill's objectives. The bill has three elements: tax fairness, energy conservation, and low-income ratepayer assistance. The

structure is better if utilities implement energy efficiency themselves, but then the utilities are subject to B&O tax even though there is no revenue to the utility. Last year's energy bills were groundbreaking, but there are concerns about costs for low-income ratepayers. This bill will create savings for tax payers. Re-enactment of the tax exemption will eliminate double taxation.

Persons Testifying (Environment, Energy & Technology): PRO: Senator John Braun, Prime Sponsor; Bill Clarke, Washington PUD Association; Diana Carlen, Cowlitz PUD.

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: Virtually all public utilities in the state have long term power contracts with the BPA. A small portion of the money that the BPA collects under these contracts is used to fund federally mandated energy conservation obligations. Local utilities acquire this conservation and those utilities are reimbursed through a credit. In 2009, the Department of Revenue declared that that credit is income to the utility. We strongly disagree. We see this credit as having provided no new revenue for utilities. This bill is consistent with other state policy that encourages conservation and provides assistance to low-income customers. Also, revenues from utility customers is already subject to state public utility tax. This bill will eliminate the double taxation that was addressed in law for five years between 2010 and 2015. One-third of our customers served by Tacoma Public Utilities are low income so this bill will make a difference. It will help low income weatherization and low-income ratepayer programs for our customers. This bill will restore equity in the application of state taxes, benefit our utility customers, further our low-income energy assistance obligations under the Clean Energy Transformation Act, and bolster our efforts to help reduce the energy burden for the members of our community served by Cowlitz PUD.

Persons Testifying (Ways & Means): PRO: Dena Diamond-Ott, Cowlitz PUD; Nicolas Garcia, WPUDA; Diana Carlen, Tacoma Public Utilities.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.