
HOUSE BILL 1004

State of Washington

58th Legislature

2003 Regular Session

By Representatives Morris and Sullivan

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Committee on Technology, Telecommunications & Energy.

1 AN ACT Relating to energy; amending RCW 82.16.020, 82.16.050,
2 82.16.053, 82.16.055, and 35.21.870; adding a new section to chapter
3 82.16 RCW; repealing RCW 82.12.022 and 82.14.230; providing an
4 effective date; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to read
7 as follows:

8 (1) There is levied and there shall be collected from every person
9 a tax for the act or privilege of engaging within this state in any one
10 or more of the businesses herein mentioned.

11 (a) For the following businesses, the tax shall be equal to the
12 gross income of the business, multiplied by the rate set out after the
13 business, as follows:

14 ~~((a))~~ (i) Express, sewerage collection, and telegraph businesses:
15 Three and six-tenths percent;

16 ~~((b) Light and power business: Three and sixty two one hundredths~~
17 ~~percent;~~

18 ~~(c) Gas distribution business: Three and six tenths percent;~~

1 ~~(d)~~) (ii) Urban transportation business: Six-tenths of one
2 percent;

3 ~~((e))~~) (iii) Vessels under sixty-five feet in length, except
4 tugboats, operating upon the waters within the state: Six-tenths of
5 one percent;

6 ~~((f))~~) (iv) Motor transportation, railroad, railroad car, and
7 tugboat businesses, and all public service businesses other than ones
8 mentioned above: One and eight-tenths of one percent;

9 ~~((g))~~) (v) Water distribution business: Four and seven-tenths
10 percent.

11 (b)(i) For a light and power business, the tax is equal to the rate
12 of twenty-one one-hundredths of a cent per kilowatt hour multiplied by
13 the number of kilowatt hours of electricity that are generated,
14 produced, transported, or distributed for hire or sale and/or wheeled
15 for others.

16 (ii) For a gas distribution business, the tax is equal to the rate
17 of twenty-three cents multiplied by the number of thousand cubic feet
18 of natural or manufactured gas that are produced, transported, or
19 distributed for hire or sale.

20 (2) An additional tax is imposed equal to the rate specified in RCW
21 82.02.030 multiplied by the tax payable under subsection (1) of this
22 section.

23 (3) Twenty percent of the moneys collected under subsection (1) of
24 this section on water distribution businesses and sixty percent of the
25 moneys collected under subsection (1) of this section on sewerage
26 collection businesses shall be deposited in the public works assistance
27 account created in RCW 43.155.050.

28 **Sec. 2.** RCW 82.16.050 and 2000 c 245 s 1 are each amended to read
29 as follows:

30 Except for a light and power business or a gas distribution
31 business, in computing tax there may be deducted from the gross income
32 the following items:

33 (1) Amounts derived by municipally owned or operated public service
34 businesses, directly from taxes levied for the support or maintenance
35 thereof: PROVIDED, That this section shall not be construed to exempt
36 service charges which are spread on the property tax rolls and
37 collected as taxes;

1 (2) Amounts derived from the sale of commodities to persons in the
2 same public service business as the seller, for resale as such within
3 this state. This deduction is allowed only with respect to water
4 distribution(~~(, gas distribution)~~) or other public service businesses
5 which furnish water, gas or any other commodity in the performance of
6 public service businesses;

7 (3) Amounts actually paid by a taxpayer to another person taxable
8 under this chapter as the latter's portion of the consideration due for
9 services furnished jointly by both, if the total amount has been
10 credited to and appears in the gross income reported for tax by the
11 former;

12 (4) The amount of cash discount actually taken by the purchaser or
13 customer;

14 (5) The amount of credit losses actually sustained by taxpayers
15 whose regular books of accounts are kept upon an accrual basis;

16 (6) Amounts derived from business which the state is prohibited
17 from taxing under the Constitution of this state or the Constitution or
18 laws of the United States;

19 (7) Amounts derived from the distribution of water through an
20 irrigation system, for irrigation purposes;

21 (8) Amounts derived from the transportation of commodities from
22 points of origin in this state to final destination outside this state,
23 or from points of origin outside this state to final destination in
24 this state, with respect to which the carrier grants to the shipper the
25 privilege of stopping the shipment in transit at some point in this
26 state for the purpose of storing, manufacturing, milling, or other
27 processing, and thereafter forwards the same commodity, or its
28 equivalent, in the same or converted form, under a through freight rate
29 from point of origin to final destination; and amounts derived from the
30 transportation of commodities from points of origin in the state to an
31 export elevator, wharf, dock or ship side on tidewater or navigable
32 tributaries thereto from which such commodities are forwarded, without
33 intervening transportation, by vessel, in their original form, to
34 interstate or foreign destinations: PROVIDED, That no deduction will
35 be allowed when the point of origin and the point of delivery to such
36 an export elevator, wharf, dock, or ship side are located within the
37 corporate limits of the same city or town;

1 (9) (~~Amounts derived from the production, sale, or transfer of~~
2 ~~electrical energy for resale within or outside the state or for~~
3 ~~consumption outside the state;~~

4 ~~(10))~~ Amounts derived from the distribution of water by a
5 nonprofit water association and used for capital improvements by that
6 nonprofit water association;

7 ~~((11))~~ (10) Amounts paid by a sewerage collection business
8 taxable under RCW 82.16.020(1)(a)(i) to a person taxable under chapter
9 82.04 RCW for the treatment or disposal of sewage.

10 **NEW SECTION.** **Sec. 3.** A new section is added to chapter 82.16 RCW
11 to read as follows:

12 The taxes imposed in RCW 82.16.020(1)(b) do not apply to
13 electricity, natural gas, or manufactured gas delivered to a person who
14 acquires the electricity, natural gas, or manufactured gas for the
15 purpose of resale in the regular course of business.

16 **Sec. 4.** RCW 82.16.053 and 1996 c 145 s 1 are each amended to read
17 as follows:

18 (1) (~~In computing tax under this chapter,~~) A light and power
19 business (may deduct from gross income) is allowed a credit against
20 taxes due under this chapter in an amount equal to the lesser of the
21 amounts determined under subsections (2) through (4) of this section.

22 (2)(a) An amount equal to fifty percent of (wholesale power cost
23 paid) the amount of kilowatt hours of wholesale electricity purchased
24 during the reporting period, multiplied by the rate in RCW
25 82.16.020(1)(b)(i), if the light and power business has fewer than five
26 and one-half customers per mile of line.

27 (b) An amount equal to forty percent of (wholesale power cost
28 paid) the amount of kilowatt hours of wholesale electricity purchased
29 during the reporting period, multiplied by the rate in RCW
30 82.16.020(1)(b)(i), if the light and power business has more than five
31 and one-half but less than eleven customers per mile.

32 (c) An amount equal to thirty percent of the (wholesale power cost
33 paid) amount of kilowatt hours of wholesale electricity purchased
34 during the reporting period, multiplied by the rate in RCW
35 82.16.020(1)(b)(i), if the light and power business has more than
36 eleven but less than seventeen customers per mile of line.

1 (d) Zero if the light and power business has more than seventeen
2 customers per mile of line.

3 (~~(Wholesale power cost)~~) An amount equal to the amount of
4 kilowatt hours of wholesale electricity purchased, multiplied by the
5 rate in RCW 82.16.020(1)(b)(i), and multiplied by the percentage by
6 which the average retail electric power rates for the light and power
7 business exceed the state average electric power rate. If more than
8 fifty percent of the kilowatt hours sold by a light and power business
9 are sold to irrigators, then only sales to nonirrigators shall be used
10 to calculate the average electric power rate for that light and power
11 business. For purposes of this subsection, the department shall
12 determine state average electric power rate each year based on the most
13 recent available data and shall inform taxpayers of its determination.

14 (4) (~~(Four hundred thousand)~~) Fifteen thousand five hundred
15 dollars per month.

16 **Sec. 5.** RCW 82.16.055 and 1980 c 149 s 3 are each amended to read
17 as follows:

18 (1) (~~(In computing tax under this chapter there shall be deducted~~
19 ~~from the gross income)~~) A business is allowed a credit against taxes
20 due under this chapter in an amount equal to:

21 (a) (~~(An amount equal to the cost of production at the plant for~~
22 ~~consumption within the state of Washington of:~~

23 ~~(i))~~) The amount of kilowatt hours of electrical energy produced or
24 generated from cogeneration as defined in RCW 82.35.020, multiplied by
25 the rate in RCW 82.16.020(1)(b)(i); and

26 ~~((i))~~) (b) The amount of kilowatt hours of electrical energy or
27 the amount of thousand cubic feet of gas produced or generated from
28 renewable energy resources (~~(such as)~~), multiplied by the applicable
29 rate in RCW 82.16.020(1)(b). Renewable energy resources include, but
30 are not limited to, solar energy, wind energy, hydroelectric energy,
31 geothermal energy, wood, wood wastes, municipal wastes, agricultural
32 products and wastes, and end-use waste heat; and

33 ~~((b))~~) (c) Those amounts expended to improve consumers' efficiency
34 of energy end use or to otherwise reduce the use of electrical energy
35 or gas by the consumer, multiplied by 0.03873 percent.

36 (2) This section applies only to new facilities for the production
37 or generation of energy from cogeneration or renewable energy resources

1 or measures to improve the efficiency of energy end use on which
2 construction or installation is begun after June 12, 1980, and before
3 January 1, 1990.

4 (3) (~~Deductions~~) Credits under subsection (1)(a) of this section
5 shall be allowed for a period not to exceed thirty years after the
6 project is placed in operation.

7 (4) Measures or projects encouraged under this section shall at the
8 time they are placed in service be reasonably expected to save,
9 produce, or generate energy at a total incremental system cost per unit
10 of energy delivered to end use which is less than or equal to the
11 incremental system cost per unit of energy delivered to end use from
12 similarly available conventional energy resources which utilize nuclear
13 energy or fossil fuels and which the gas or electric utility could
14 acquire to meet energy demand in the same time period.

15 (5) The department of revenue, after consultation with the
16 utilities and transportation commission in the case of investor-owned
17 utilities and the governing bodies of locally regulated utilities,
18 shall determine the eligibility of individual projects and measures for
19 (~~deductions~~) credits under this section.

20 **Sec. 6.** RCW 35.21.870 and 1984 c 225 s 6 are each amended to read
21 as follows:

22 (1)(a) Except as provided in (b) of this subsection, no city or
23 town may impose a tax on the privilege of conducting an electrical
24 energy, natural gas, steam energy, or telephone business at a rate
25 which exceeds six percent of gross receipts unless the rate is first
26 approved by a majority of the voters of the city or town voting on such
27 a proposition.

28 (b)(i) For the privilege of conducting an electrical energy
29 business, a city or town may impose a volumetric tax in lieu of a gross
30 receipts tax under (a) of this subsection. A city or town that chooses
31 to impose a tax under this subsection may not impose the tax at a rate
32 which exceeds twenty-nine one-hundredths of a cent per kilowatt hour
33 unless the rate is first approved by a majority of the voters of the
34 city or town voting on the proposition.

35 (ii) For the privilege of conducting a natural gas business, a city
36 or town may impose a volumetric tax in lieu of a gross receipts tax
37 under (a) of this subsection. A city or town that chooses to impose a

1 tax under this subsection may not impose the tax at a rate which
2 exceeds forty-one cents per thousand cubic feet unless the rate is
3 first approved by a majority of the voters of the city or town voting
4 on the proposition.

5 (2) If a city or town is imposing a rate of tax under subsection
6 (1)(a) of this section in excess of six percent on April 20, 1982, the
7 city or town shall decrease the rate to a rate of six percent or less
8 by reducing the rate each year on or before November 1st by ordinances
9 to be effective on January 1st of the succeeding year, by an amount
10 equal to one-tenth the difference between the tax rate on April 20,
11 1982, and six percent.

12 Nothing in this subsection prohibits a city or town from reducing
13 its rates by amounts greater than the amounts required in this
14 subsection.

15 Voter approved rate increases under subsection (1) of this section
16 shall not be included in the computations under this subsection.

17 NEW SECTION. Sec. 7. The following acts or parts of acts are each
18 repealed:

19 (1) RCW 82.12.022 (Natural or manufactured gas--Use tax imposed--
20 Exemption) and 1994 c 124 s 9 & 1989 c 384 s 3; and

21 (2) RCW 82.14.230 (Natural or manufactured gas--Cities may impose
22 use tax) and 1989 c 384 s 2.

23 NEW SECTION. Sec. 8. This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of the
25 state government and its existing public institutions, and takes effect
26 July 1, 2003.

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