

HOUSE BILL REPORT

SB 5008

As Passed House:

April 22, 2021

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 Robinson, Short, Brown, Hasegawa and Wilson, C..

Brief History:

Committee Activity:

Finance: 4/16/21 [DP].

Floor Activity:

Passed House: 4/22/21, 97-0.

Brief Summary of Bill

- Reinstates the business and occupation tax exemption for power conservation and demand management credits and funding from the Bonneville Power Administration, if the tax savings are used for low-income ratepayer assistance.
- Expires the new exemption on January 1, 2030.
- Adds a tax preference performance statement.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 17 members: Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Dufault, Assistant

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

Ranking Minority Member; Chase, Chopp, Harris-Talley, Morgan, Orwall, Ramel, Springer, Stokesbary, Thai, Vick, Wylie and Young.

Staff: Nick Tucker (786-7383).

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 (businesses with taxable income of less than \$1 million) or 1.75 percent (businesses with taxable income of \$1 million or more) 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 taxpayer may also be eligible for a small business credit that will either eliminate or reduce their B&O tax liability. In general, the credit is \$70 per month for service businesses and \$35 per month for all other businesses, multiplied by the number of months in the reporting period. The amount of the credit available phases out based on the business's gross receipts.

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.

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.

Business and occupation tax exemptions provide a dollar-for-dollar offset against tax liability. 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 of Bill:

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, 2031.

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. 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 Legislature directs the JLARC to, at a minimum, evaluate the average annual investment in energy conservation projects by Washington utilities that have power contracts with BPA and to evaluate the average additional funds from tax savings resulting from this act that are dedicated to low-income ratepayer assistance and weatherization by Washington utilities that have power contracts with BPA.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2021.

Staff Summary of Public Testimony:

(In support) This bill is the same as a bill that passed the Finance Committee and the Legislature, but was vetoed in response to revenue concerns at the start of the pandemic. This bill reenacts an exemption that ensures that energy conservation credits against contracts that utilities fulfill with Bonneville Power Administration are not subject to the B&O tax. These tax savings are then used to provide low-income ratepayer assistance. The bill is supported by a range of utilities, energy efficiency groups, and the low-income community.

(Opposed) None.

Persons Testifying: Bill Clarke, Washington Public Utilities Districts Association.

Persons Signed In To Testify But Not Testifying: None.