

HOUSE BILL REPORT

HB 1705

As Reported By House Committee On:
Energy & Utilities

Title: An act relating to excluding utility line clearing from the definition of retail sale.

Brief Description: Excluding utility line clearing from the definition of retail sale.

Sponsors: Representatives Huff, Casada, Kremen, Patterson, Grant, Kessler, G. Fisher, Mielke, Crouse, Chandler, Hankins, Mitchell, Hatfield, Campbell, Smith, L. Thomas, Horn and Benton.

Brief History:

Committee Activity:

Energy & Utilities: 2/7/95 [DPS].

HOUSE COMMITTEE ON ENERGY & UTILITIES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Casada, Chairman; Crouse, Vice Chairman; Hankins, Vice Chairman; Kessler, Ranking Minority Member; Kremen, Assistant Ranking Minority Member; Chandler; Huff; Mastin; Mielke; Mitchell and Patterson.

Staff: Margaret Allen (786-7110).

Background: In 1993, the Legislature extended the state and local retail sales taxes to sales of certain services, including landscape maintenance and horticultural services other than horticultural services provided to farmers.

The legislation did not define "landscape maintenance" service. Subsequently, the Department of Revenue issued a rule interpreting the term as including tree trimming performed for public and private utilities to keep power lines free of tree branches. These activities are commonly known as "line clearing."

The legislation also extended retail sales taxes to the use of coin-operated laundry facilities in apartment houses, hotels, trailer camps, and tourist camps, service charges associated with tickets to professional sporting events, guided tours and guided charters, physical fitness services, tanning salon services, tattoo parlor

services, massage services, steam bath services, turkish bath services, escort services, and dating services.

The state retail sales tax is imposed on retail sales of most items of tangible personal property and some services. The tax rate is 6.5 percent and is applied to the selling price of the article or service. In addition, local sales and use taxes apply. The total rate ranges between 7 percent and 8.2 percent, depending on the area.

Washington's major business tax is the business and occupation (B&O) tax. This tax is imposed on the gross receipts of business activities conducted within the state. There are several different rates, but the relevant rates for the purpose of the bill are:

Retailing	0.471 percent
Services (Other Activities)	2.09 percent

Businesses that collect retail sales taxes from customers for services rendered generally pay the retailing B&O tax rate, while businesses that do not collect retail sales taxes for services rendered generally pay the higher "services-other activities" rate.

The retail sales tax and the B&O tax use the same definition of retail sale. Consequently, when the 1993 Legislature added landscape maintenance services to the definition of retail sale, and the Department of Revenue interpreted "landscape maintenance" services to include line clearing, the B&O tax rate for line-clearing services was set at the retailing rate.

Summary of Substitute Bill: Line clearing (specifically, pruning, trimming, repairing, removing, and clearing of trees and brush near electric distribution or transmission lines or equipment, if performed by or at the direction of an electric utility purveyor) is removed from the definition of retail sale. A tax credit is provided for state retail sales taxes paid on utility line clearing after June 30, 1993. The credit may be applied against present and future B&O, use, and public utility tax liabilities.

The B&O tax on line-clearing is retained at the 0.471 percent rate.

Legislative history and findings are included, along with emergency and severability clauses.

Substitute Bill Compared to Original Bill: The proposed substitute omits legislative findings regarding Initiative 601, and includes a severability clause.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect on July 1, 1995.

Testimony For: (Note: Testimony was to a proposed substitute to HB 1038) People who do line clearing for electric utilities must have specialized training and equipment. The Department of Revenue's interpretation of the statute is not supported by the evidence. Utility line clearing is a significant expense for utilities. The retail sales tax impacts utilities inequitably, since some electric utilities provide in-house staff to perform utility line clearing, while other utilities hire contractors. Also, utilities in heavily treed western Washington are disproportionately affected.

Testimony Against: None.

Testified: (Pro) Representative Huff, prime sponsor; Ron Newbry, PacifiCorp; Collins Sprague, Washington Water Power; Mike Tracy, Puget Power; Ben Barnes; Daphne Daus, Peninsula Light Company; Scott Pollock, Grays Harbor PUD; Gary Johnston, Snohomish County PUD; Joan Hett, Seattle City Light; and Dave Arbaugh, Washington PUD Association.