HOUSE BILL REPORT
HB 1257

As Reported By House Committee On:
Energy & Utilities
Finance

Title: An act relating to the taxation of coal-fired thermal electric generating facilities placed in operation before July 1, 1975.

Brief Description: Providing tax exemptions and credits for coal-fired thermal electric generating facilities placed in operation before July 1, 1975.

Sponsors: Representatives DeBolt, Alexander, Pennington, Sheldon, Kessler, Poulsen, McMorris, Mielke, Van Luven, Grant, Crouse, Mastin, Doumit and Hatfield.

Brief History:

Committee Activity:

Energy & Utilities: 2/4/97, 2/5/97 [DP];
Finance: 3/3/97, 3/7/97 [DPS].

HOUSE COMMITTEE ON ENERGY & UTILITIES

Majority Report: Do pass. Signed by 11 members: Representatives Crouse, Chairman; DeBolt, Vice Chairman; Poulsen, Ranking Minority Member; Morris, Assistant Ranking Minority Member; Bush; Cooper; Honeyford; Kastama; Kessler; Mielke and Mulliken.

Minority Report: Do not pass. Signed by 1 member: Representative B. Thomas.

Staff: Margaret Allen (786-7110).

Background: The Centralia Steam Plant and adjacent coal mine are located in Lewis County approximately five miles northeast of Centralia. PacifiCorp operates the steam plant and owns the largest share, 47.5 percent. Other owners include Washington Water Power (15.0 percent), Seattle City Light, Tacoma Public Utilities, and Snohomish County PUD (each with 8.0 percent), Puget Power (7.0 percent), Grays Harbor PUD (4.0 percent), and Portland General Electric (2.5 percent). The plant has two coal-fired units capable of producing 1,300 megawatts of electricity, enough to serve Seattle.

The steam plant is the sole customer of the Centralia Coal Mine, which is operated by the Centralia Mining Company, a wholly owned subsidiary of PacifiCorp.

Together, the steam plant and coal mine employ approximately 670 people.

Air Pollution Control Requirements: The Centralia Steam Plant is the largest single source of sulfur dioxide pollution in the state. Sulfur dioxide emissions have been blamed for impairing visibility of Mount Rainier.

In the early 1990s, the federal and state clean air acts were revised to require existing industrial pollution sources to meet reasonably available control technology– standards.

In 1995, the Southwest Washington Air Pollution Control Authority issued an order requiring the Centralia Steam Plant to reduce sulfur dioxide emissions by 50 percent by the year 2001. When the order was issued, the National Park Service and the U.S. Forest Service argued greater emission reductions were needed. The Centralia plant owners then met with the National Park Service, U.S. Forest Service, U.S. Environmental Protection Agency, state Department of Ecology, Southwest Washington Air Pollution Control Agency, and the Puget Sound Air Pollution Control Agency to develop a recommendation on further emission reductions.

The final recommendation of this collaborative decision-making group was to require the Centralia Steam Plant to construct two scrubbers on site. The first scrubber would be in operation by December 31, 2001, and the second in operation by December 31, 2002, with an expected 90 percent reduction in sulfur dioxide emissions by the year 2003.

The two scrubbers reportedly are expected to cost approximately $264 million (nominal value, estimated at $172 million net present value).

Implementation of the agreement is contingent on the steam plant's owners receiving certain tax exemptions and credits.

Sales and Use Taxes: Sales tax is imposed on most items of tangible personal property. The state sales tax rate is 6.5 percent and is applied to the selling price of the article. In addition, local sales taxes are applied to all sales subject to the state sales tax.

Sales tax applies when items are purchased at retail in the state. Use tax is imposed on the use of an item in this state when the item's acquisition was not subject to sales tax. Use tax applies to items purchased from sellers who do not collect sales tax, items acquired from out of state, and items produced by the person using the item. The use tax is equal to the sales tax rate.

State Public Utility Tax: Public and privately-owned utilities pay a state public utility tax on gross receipts, instead of the business and occupation tax. The tax rate for light and power businesses is 3.873 percent.

Summary of Bill: The Legislature finds that state tax policy often serves as a disincentive to investment in technology to reduce industrial emissions, and that tax policies might lead a company to select a strategy that could adversely impact government revenues and local economies. The stated purpose of the legislation is to avoid such problems.

Sales and Use Tax Exemption: Sales and use taxes do not apply to sales of tangible personal property for, or to charges for labor and services performed in, the construction or installation of air pollution control activities at thermal electric generation facilities placed in operation before July 1, 1975.

The air pollution control facilities must be constructed to meet the regulatory requirements of the state and federal laws, including the Washington Clean Air Act.

The exemption will not apply to sales of tangible personal property, or charges for labor and services, used to maintain or repair the pollution control equipment.

State Public Utility Tax Credit: A tax credit against the state public utility tax is granted to thermal electric generating facilities placed in operation before July 1, 1975. The tax credit is equal to the amount of sales and use taxes paid on coal used by the facility, and the amount of property taxes paid and associated with new air pollution control facilities. The credit must be taken in the same calendar year in which the sales, use, or property taxes are paid.

To qualify for the tax credit, a business must demonstrate, in a timely manner, that it is making reasonable progress towards installation of air pollution control facilities to meet requirements of federal and state laws. If a business fails to demonstrate reasonable progress, the business must return any revenues previously credited against the public utility tax, plus interest at an annual rate of 6 percent. The demonstration is deemed timely if made within 18 months after the final determination of the regulatory requirements.

The Department of Revenue may adopt rules to implement the act.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: The Centralia Coal Mine is the largest taxpayer in Lewis County. The closure of the Centralia Coal Mine and Steam Generating Plant would be to Lewis County what the loss of Boeing would be to King County. The jobs at risk pay well and require highly trained employees. The steam plant is a highly reliable source of electricity generation for the region. The fly ash from the plant is needed to make concrete; if the plant closes there will be an adverse ripple effect throughout the area. While the state would forego some revenues under this bill, there would be substantial investments in the state in other ways. The company has an excellent environmental record. The collaborative decision is based on the assumption the mine and plant will be competitive and remain open for 25 years if the bill passes, but there are no guarantees.

Testimony Against: This bill raises policy issues such as whether public subsidies should be granted for complying with environmental laws, and whether the polluter pays– principle should be violated. The bill is too open-ended. It does not guarantee any specific reduction of pollution, and fails to take into consideration concerns about health and climatic changes. It contains no safeguards to protect taxpayers from possible windfall profits to the company or from the burden of possible future stranded costs. The bill contains no objective cost/benefit (or least-cost) analysis, and makes no provisions for workers if, or when, the plant closes. If the bill passes, Washington will be the only state in the West that does not tax coal. A cost-effective alternative measure would be to import low-sulfur coal into the state, thus reducing emissions without requiring tax reductions.

Testified: (PRO) Representative DeBolt, prime sponsor; Ron Newbry and Rich Wooley, PacifiCorp; Rose Bowman, Lewis County; Bill Lotto, Lewis County Economic Development Council; Clinton Kurtz, Pozzolanic Northwest, Inc.; and Bruce Blaine, Superintendent, Centralia Schools. (CON) Eugene Rosalie and Nancy Holbrook, Northwest Environmental Advocates; Gary Bowers, Clean Air Coalition; and Jerry Bartlett, Burlington Northern Santa Fe.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives B. Thomas, Chairman; Carrell, Vice Chairman; Mulliken, Vice Chairman; Dunshee, Ranking Minority Member; Dickerson, Assistant Ranking Minority Member; Boldt; Butler; Conway; Kastama; Mason; Morris; Pennington; Schoesler and Van Luven.

Staff: Linda Brooks,(786-7153).

Summary of Recommendation of Committee on Finance Compared to Recommendation of Committee on Energy & Utilities: The committee recommends that the legislative intent be described as assisting thermal electric generating facilities placed in operation before July 1, 1975, to reduce their emissions to ensure that the plants continue to play vital, long-term economic roles in their communities. The committee further recommends that the following provisions be added:

1) Repayment of Tax Exemptions If Facilities Shut Down Early: If thermal electric generating facilities are abandoned before 2023, then all or part of the sales and use tax exemptions granted on air pollution control facilities must be repaid. If facilities are abandoned in 2003, then the facilities' owners must repay 100 percent of sales and use tax exemptions taken under the provisions of this act. If facilities are abandoned in 2004, then the owners must repay 95 percent. For each additional year that facilities operate, the repayment amount is reduced by 5 percent. If facilities are not abandoned until 2023 or later, then the owners need not repay any sales or use tax exemptions.

2) Tax Credits Deferred Until Emissions Target Is Achieved: Sales and use taxes on coal and property taxes, paid on new air pollution control facilities, should not be credited against public utility tax obligations beginning on the effective date of this act. Instead, the tax credits should begin to accrue starting in 1999 as deferred tax credits in a new sulfur dioxide abatement account created in the state treasury, if a thermal electric generating facility demonstrates reasonable progress towards installing pollution control equipment. The deferred credits plus interest will be paid to the owners of a thermal electric generating facility, if the Department of Ecology certifies that a thermal electric generating facility has emitted no more than 10,000 tons of sulfur dioxide during the previous calendar year by no later than January 31, 2005. If no certification is provided by January 31, 2005, then the deferred credits plus any interest in the sulfur dioxide abatement account will be transferred to the state's general fund. The sulfur dioxide abatement account shall cease to exist after March 1, 2005.

3) Tax Credits Lost for Sulfur Dioxide Air Quality Violations: After a thermal electric generating facility has reduced its emissions below 10,000 tons of sulfur dioxide per year, the facility may directly credit sales and use taxes paid on coal and property taxes paid on new air pollution control equipment against its public utility tax obligations. However, if a facility receives a notice of violation for excessive sulfur dioxide emissions from a regional air pollution control authority or the Department of Ecology, then the facility loses its tax credits for an entire year.

4) Tax Credits Lost If Facilities Use Less Than 70 Percent Local Coal: At least 70 percent of the coal used by a thermal electric generating facility must be produced by a mine located in the same county as the facility or in a contiguous

county. If the amount of local coal used falls below 70 percent, then the facility loses its tax credits for an entire year.

5) Abandonment Costs Not to Be Recovered Through Rate Tariffs: The Utilities and Transportation Commission regulates rates charged by electrical utilities. If a utility company claims sales and use tax exemptions on new air pollution control equipment under the provisions of this act and then abandons the equipment before it has been fully depreciated, the company cannot recover the remaining, un-depreciated value of the equipment through a tariff rate filing. The Utilities and Transportation Commission is instructed to view a tariff filing to recover the un-depreciated value of pollution control equipment, on which sales and use tax exemptions had previously been granted, as unjust and unreasonable.

6) Severability Clause: If any provision of this act is found to be invalid, the finding of invalidity does not affect the other provisions.

Appropriation: None.

Fiscal Note: Available (original bill). Requested on March 10, 1997, for substitute bill.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: This bill ensures the future of Centralia. The steam plant and coal mine are very important to the community. The plant and mine account for many family-wage jobs, with the average worker at the plant or mine earning $55,000 per year. The plant and mine are not only major employers, but also important taxpayers. The plant and mine account for 10 percent of the total assessed valuation of property in Lewis County. In terms of the Centralia School District, the percentage is even higher. Property taxes paid by the plant and mine account for 25 percent of the district's property tax revenues.

Concerns: The bill does not set a time line for the installation of the pollution control equipment. The purpose of the pollution control equipment is to reduce emissions of sulfur dioxide to no more than 10,000 tons per year, but the bill does not specifically state a 10,000 ton limit. The bill also does not address what happens if the plant and/or mine becomes uneconomical and shut down early. There should be some provision made for the retraining of workers, if the workers are displaced by an early shut down.

Testimony Against: This power plant is not an efficient producer of power. As the wheeling of electricity becomes more commonplace, Centralia power will not be able to compete in the marketplace. The state should not invest in the power plant. State investments in other types of projects would do more to ensure the long-term economic health of Lewis County.

Testified: (Pro) Representative De Bolt, prime sponsor; Representative Alexander, secondary sponsor; Judy DeVaul, Lewis County; Ron Newbry and Rich Wooley, PacifiCorp; Joe Williams, Department of Ecology; Gordy Howins, International Union of Operating Engineers Local 612; and Bill Briggle, Superintendent, Mount Rainier National Park. (With Concerns) Eugene Rosalie, Northwest Environmental Advocates. (No Position) Anne Solwick, Department of Revenue; and Tim Ceis, Office of Financial Management. (Con) John Marshall.