

HOUSE BILL REPORT

SHB 1257

As Passed Legislature

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: By House Committee on Finance (originally sponsored by Representatives DeBolt, Alexander, Pennington, Sheldon, Kessler, Poulsen, McMorris, Mielke, Van Luvan, 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].

Floor Activity:

Passed House: 3/15/97, 96-0.

Senate Amended.

House Concurred.

Passed Legislature.

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).

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).

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 plant is the only thermal electric generating facility in the state that was placed in operation after December 31, 1969, and before July 1, 1975.

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 owners of the steam plant receiving certain tax exemptions.

Sales and Use Taxes: Sales tax is imposed on retail sales of most items of tangible personal property, and on some services. The state sales tax rate is 6.5 percent and is applied to the selling price of the article or service. In addition, local sales taxes apply. The total tax rate is between 7 percent and 8.6 percent, depending on location. Sales tax is paid by the purchaser and collected by the seller.

Use tax is imposed on the use of an item in the state, when the acquisition of the item has not been 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 rate is equal to the sales tax rate. Use tax is paid directly to the Department of Revenue.

Property Tax: Unless a specific exemption is provided by law, annual state and local property taxes are imposed on all real and personal property in the state. Property is assessed at its true and fair market value, and the amount of tax owed is determined by multiplying the assessed value by the tax rate for each taxing district in which the property is located.

Rate Regulation: The Utilities and Transportation Commission regulates the rates charged by investor-owned utilities. By statute, the rates must be reasonable and just. An investor-owned utility planning to change a rate must file a tariff schedule of proposed rates and charges with the commission.

Summary of Bill: By providing for certain tax exemptions, the Legislature intends to assist thermal electric generating facilities in updating their air pollution control equipment and abating pollution. The tax exemptions, which apply only to thermal electric generating facilities placed in operation after December 31, 1969, and before July 1, 1975, are as follows:

Sales and Use Tax Exemptions for Pollution Control Equipment: Retail sales and use taxes will not apply to purchases of tangible personal property for, or to charges for labor and services performed in, the construction or installation of air pollution control facilities at a thermal electric generating facility. The exemptions apply to both state and local taxes, and may be claimed as of the effective date of the act. The exemptions do not apply to purchases of tangible personal property, labor, or services used for maintenance or repairs of pollution control equipment.

If a generating facility is abandoned before the year 2023, all or part of the sales and use tax exemptions granted on air pollution control equipment must be repaid to the state. If the facility is abandoned in the year 2003, the facility's owners must repay 100 percent of sales and use tax exemptions taken under the provisions of this act. If the facility is abandoned in the year 2004, the owners must repay 95 percent. For each additional year the facility operates, the repayment amount is reduced by 5 percent. If a facility is not abandoned until the year 2023 or later, the owners need not repay any sales or use tax exemptions.

If a company has claimed sales and use tax exemptions on the purchase of new air pollution control equipment and abandons the equipment before it has been fully depreciated, the company cannot recover the remaining, un-depreciated value of the equipment through a tariff filing with the Utilities and Transportation Commission, as such a filing will be considered unjust and unreasonable.

Sales and Use Tax Exemptions for Coal: Beginning January 1, 1999, new sales and use tax provisions will apply to coal used at a thermal electric generating facility, provided facility owners demonstrate reasonable progress in installing air pollution control facilities, and at least 70 percent of the coal used was from a coal mine in Lewis County or a contiguous county. If the facility owners filed an application with the Department of Revenue, and the Department of Ecology verifies initial and continued progress in the construction of the air pollution control facilities, sales and use taxes on the coal will be paid into a newly created sulfur dioxide abatement account.

When sulfur dioxide emissions have been reduced to no more than 10,000 tons during a previous consecutive 12-month period, facility owners will receive the funds in the account. Unless the failure is due to regulatory delays or defensive litigation, funds in the account will be transferred to the state general fund and to appropriate local governments if the facility fails to achieve the emission reduction by March 1, 2005. The sulfur dioxide abatement account will cease to exist after March 1, 2005.

A facility will forfeit these exemptions for at least one year if less than 70 percent of the coal consumed at the facility during the previous calendar year was from a coal mine in Lewis County or a contiguous county. In addition, if the facility emits excessive sulfur dioxide during a consecutive 12-month period, the facility will lose the exemptions until the facility emits no more than 10,000 tons of sulfur dioxide during a consecutive 12-month period.

Property Tax Exemptions: Air pollution control equipment is exempted from state and local property taxes.

Displaced Workers Account: If a thermal electric generating facility takes advantage of the sales and use tax exemptions granted by the act, but ceases operations prior to

December 31, 2015, the facility must deposit money into the displaced workers account created by the act. The amount of money deposited must equal the fair market value of one-fourth of the facility's total federal sulfur dioxide allowances. The Legislature will appropriate money in the account to compensate and retrain workers displaced by the facility's closure.

Rule-making Authority. The Department of Revenue and Department of Ecology 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: (Energy & Utilities - Original Bill) 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.

(Finance - Original Bill) 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 - Original Bill: 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: (Energy & Utilities - Original Bill) 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 facility 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.

(Finance - Original Bill) 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: (Energy & Utilities) (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.

(Finance) (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 Briggie, 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.

Appropriation: None.

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

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