

# HB 2709

## Bill Analysis

January 28, 1998

**Brief Description:** Eliminating double taxation of municipal utility taxes.

**Bill Sponsors:** Representatives B. Thomas, Pennington, Butler, Cole, Kastama, Crouse, D. Sommers, Carrell, Cooke, O'Brien and Thompson.

**Staff:** Linda Brooks, 786-7153.

**Background:** Cities and towns may impose a gross receipts tax on a light and power business. A city's tax rate cannot exceed 6 percent of gross receipts, unless voters approve a higher rate. Most cities tax light and power business's gross receipts that are earned from making sales of electricity to consumers located within their cities. Municipal light and power businesses are an exception. Cities and towns operate nineteen municipal light and power businesses. These cities generally tax the full gross receipts of their light and power businesses, even though some of the gross receipts might be earned by selling electricity to out-of-city consumers.

When a municipal light and power business owned by a first city provides electricity to consumers located in a second city, there are legal questions regarding the ability of the second city to tax the first city's utility. In 1990, the Attorney General issued an opinion stating that a city needs express authority to impose a tax on another municipality. Since no law specifically states that a city may tax another city's municipal light and power business, the opinion concluded that a city could not tax another city's light and power business. Some city attorneys have questioned the attorney general opinion, because the opinion does not discuss court decisions that involve taxation of proprietary, rather than governmental, functions of cities. Thus, it is unclear whether a city may tax a light and power business operated by another city.

If it is possible that a first city owning a municipal light and power business and a second city served by the first city's business may both impose a 6 percent tax on the same gross receipts, then the gross receipts earned from sales of electricity in the second city could be subject to a total 12 percent rate in city taxes.

The two largest municipal light and power businesses, Seattle City Light and Tacoma City Light, do sell electricity to consumers located in other cities. Tacoma City Light says that it

has agreed to pay the new cities of Lakewood and University Place certain administrative fees. This year the administrative fees are set at 1 percent of Tacoma City Light's gross sales of electricity in University Place and Lakewood. The administrative fees will increase by 1 percent each subsequent year until the fees reach a 6 percent cap.

**Summary of Bill:** A city or town cannot tax its municipal light and power business's gross receipts that are earned by delivering electricity or electrical distribution services in other cities or towns. Electricity is delivered at the situs of the meter measuring the amount of electricity used by a consumer.

**Appropriation:** None.

**Fiscal Note:** Requested.

**Effective Date:** July 1, 1998.