
SUBSTITUTE HOUSE BILL 1346

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Energy & Utilities (originally sponsored by Representatives B. Thomas and Crouse; by request of Department of Revenue)

Read first time 02/27/97.

1 AN ACT Relating to use tax on electricity; adding a new section to
2 chapter 82.12 RCW; adding a new section to chapter 82.14 RCW; and
3 providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.12 RCW
6 to read as follows:

7 (1) There is hereby levied and there shall be collected from every
8 person in this state a use tax for the privilege of consuming
9 electrical energy within this state.

10 (2) The tax shall be levied and collected in an amount equal to the
11 value of electrical energy multiplied by the rate in effect for the
12 public utility tax on a light and power business as defined under RCW
13 82.16.010. For the purposes of this section:

14 (a) "Value of electrical energy" means the consideration paid,
15 given, or contracted to be paid or given by the purchaser of the
16 electrical energy to the seller of the electrical energy, but does not
17 include any amounts that are paid for distributing and transmitting
18 electrical energy subject to tax under this subsection if those amounts
19 are subject to tax under chapter 82.16 RCW.

1 (b) "Wheeling" means distributing and transmitting electrical
2 energy.

3 (3) The tax levied under this section does not apply to the
4 consumption of electrical energy generated for that person's own use.
5 For the purposes of this subsection:

6 (a) Electrical energy is considered as generated by a person for
7 that person's own use if the person owns or leases the generating
8 facility, or a portion of the facility, that supplies electrical energy
9 to the person, or has other financial arrangements with the owner of
10 the facility that are comparable to an ownership or lease interest.

11 (b) "Person" includes the person, affiliated parties to the person,
12 and the person's tenants.

13 (4) The tax levied under this section does not apply to the
14 consumption of electrical energy and capacity if the user is:

15 (a) A company that was identified in section 5(d)(4)(A) of the
16 Pacific Northwest electric power planning and conservation act (P.L.
17 96-501), as enacted on December 5, 1980, or such company's successor-
18 in-interest, in whole or in part, including, without limitation, such
19 company's assignee, parent, or subsidiary, a company with which such
20 company was merged, or a company that acquired such company's assets,
21 in whole or in part; or

22 (b) A company that had the ability, as of the effective date of
23 this section, to import into the state, over interstate transmission
24 facilities owned by such company, electrical energy purchased out-of-
25 state, or such company's successor-in-interest, in whole or in part,
26 including, without limitation, such company's assignee, parent, or
27 subsidiary, a company with which such company was merged, or a company
28 that acquired such company's assets, in whole or in part.

29 (5) Insofar as the exemption provided under subsection (4) of this
30 section applies to a company's successor-in-interest, the exemption
31 shall apply only to the consumption of electrical energy at production
32 sites that were subject to the exemption, or would have been subject to
33 the exemption had the exemption been in place, prior to or at the time
34 of the acquisition of such company by its successor-in-interest, or to
35 facilities that are located at production sites designated in an
36 assignment under section 5(d)(4)(C)(ii) of the Pacific Northwest
37 electric power planning and conservation act (P.L. 96-501).

38 (6) The exemption provided under subsection (4)(a) of this section
39 shall not apply to that portion of the company's facilities that, as of

1 December 5, 1980, was served by an electrical company that owned or
2 operated an electric plant in the state and had dedicated such plant to
3 public use at rates established by the Washington utilities and
4 transportation commission.

5 (7) The tax levied in this section does not apply to the
6 consumption of electrical energy purchased from a seller who has paid
7 a tax under RCW 82.16.020 with respect to electrical energy for which
8 exemption is sought under this subsection.

9 (8) There shall be a credit against the tax levied in this section
10 in an amount equal to the tax paid by:

11 (a) The seller or buyer of the electrical energy if that tax is a
12 gross receipts tax similar to that imposed under RCW 82.16.020 by any
13 other state or political subdivision of any other state and any foreign
14 country or political subdivision of any foreign country with respect to
15 the electrical energy for which a credit is sought under this
16 subsection; or

17 (b) The person consuming the electrical energy upon which a use tax
18 similar to the tax imposed under this section was paid to another state
19 with respect to the electrical energy for which a credit is sought
20 under this subsection.

21 (9) Notwithstanding any other provision of this title or Title 35
22 RCW, electrical energy to which the use tax provided in this section is
23 exempt, under subsection (3), (4), (5), or (6) of this section, shall
24 be exempt from all other taxes, whether applied to the buyer or seller
25 or any intermediary seller or purchaser of such electrical energy,
26 under this chapter and chapters 82.16, 82.08, and 82.04 RCW, and RCW
27 35.21.860, 35.21.865, and 35.21.870.

28 (10)(a) The tax imposed in this section shall be paid by the person
29 consuming the electrical energy to the department. The department may
30 contract with a light and power business wheeling the electrical energy
31 subject to the tax levied under this section for the collection of the
32 tax imposed under this section. The contract must provide for a
33 deduction of a percentage amount of the tax collected, not to exceed
34 two percent of the taxes collected, for expenses incurred for the
35 collection of the tax. This subsection should not be construed as
36 requiring a light and power business to enter into a contract with the
37 department for the collection of the tax.

38 (b) Except as provided in (c) of this subsection, a light and power
39 business wheeling electrical energy to a person subject to the tax

1 under this section shall make a quarterly report to the department.
2 The report must contain the kilowatt hours of electrical energy
3 delivered, the name of the person to whom it is delivered, and any
4 nonproprietary information held by the light and power business that is
5 essential for the department to facilitate the collection of the tax.
6 The light and power business wheeling the electrical energy subject to
7 the tax under this section and subject to the reporting requirements of
8 this subsection may require reimbursement for costs incurred for making
9 quarterly reports to the department from the person on whose behalf the
10 electrical energy is wheeled. Information reported under this
11 subsection is not subject to public disclosure under chapter 42.17 RCW.

12 (c) The obligation of a light and power business to make a
13 quarterly report under (b) of this subsection shall not apply to the
14 light and power business if the seller of the electrical energy subject
15 to the tax under this section is licensed, incorporated, certified, or
16 registered to do business in the state or to sell electrical energy at
17 retail within the state, in which circumstance the department may apply
18 the reporting obligation under (b) of this subsection to the seller.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.14 RCW
20 to read as follows:

21 (1) The governing body of a city, while not required by legislative
22 mandate to do so, may, by resolution or ordinance for the purposes
23 authorized by this chapter, fix and impose on every person a use tax
24 for the privilege of consuming electrical energy within the city.

25 (2) The tax shall be levied and collected in an amount equal to the
26 value of electrical energy multiplied by the rate in effect for the tax
27 on electrical energy businesses under RCW 35.21.870 in the city in
28 which the electrical energy is consumed. For the purposes of this
29 section:

30 (a) "Value of electrical energy" means the consideration paid,
31 given, or contracted to be paid or given by the purchaser of the
32 electrical energy to the seller of the electrical energy, but does not
33 include any amounts that are paid for distributing and transmitting
34 electrical energy subject to tax under this subsection if those amounts
35 are subject to tax under chapter 35.21 RCW.

36 (b) "Wheeling" means distributing and transmitting electrical
37 energy.

1 (3) The tax levied under this section does not apply to the
2 consumption of electrical energy generated for that person's own use.
3 For the purposes of this subsection:

4 (a) Electrical energy is considered as generated by a person for
5 that person's own use if the person owns or leases the generating
6 facility, or a portion of the facility, that supplies electrical energy
7 to the person, or has other financial arrangements with the owner of
8 the facility that are comparable to an ownership or lease interest.

9 (b) "Person" includes the person, affiliated parties to the person,
10 and the person's tenants.

11 (4) The tax levied under this section does not apply to the
12 consumption of electrical energy and capacity if the user is:

13 (a) A company that was identified in section 5(d)(4)(A) of the
14 Pacific Northwest electric power planning and conservation act (P.L.
15 96-501), as enacted on December 5, 1980, or such company's successor-
16 in-interest, in whole or in part, including, without limitation, such
17 company's assignee, parent, or subsidiary, a company with which such
18 company was merged, or a company that acquired such company's assets,
19 in whole or in part; or

20 (b) A company that had the ability, as of the effective date of
21 this section, to import into the state, over interstate transmission
22 facilities owned by such company, electrical energy purchased out-of-
23 state, or such company's successor-in-interest, in whole or in part,
24 including, without limitation, such company's assignee, parent, or
25 subsidiary, a company with which such company was merged, or a company
26 that acquired such company's assets, in whole or in part.

27 (5) Insofar as the exemption provided under subsection (4) of this
28 section applies to a company's successor-in-interest, the exemption
29 shall apply only to the consumption of electrical energy at production
30 sites that were subject to the exemption, or would have been subject to
31 the exemption had the exemption been in place, prior to or at the time
32 of the acquisition of such company by its successor-in-interest, or to
33 facilities that are located at production sites designated in an
34 assignment under section 5(d)(4)(C)(ii) of the Pacific Northwest
35 electric power planning and conservation act (P.L. 96-501).

36 (6) The exemption provided under subsection (4)(a) of this section
37 shall not apply to that portion of the company's facilities that, as of
38 December 5, 1980, was served by an electrical company that owned or
39 operated an electric plant in the state and had dedicated such plant to

1 public use at rates established by the Washington utilities and
2 transportation commission.

3 (7) The tax levied in this section does not apply to the
4 consumption of electrical energy purchased from a seller who has paid
5 a tax under RCW 35.21.870 with respect to electrical energy for which
6 exemption is sought under this subsection.

7 (8) There shall be a credit against the tax levied in this section
8 in an amount equal to the tax paid by:

9 (a) The seller or buyer of the electrical energy if that tax is a
10 gross receipts tax similar to that authorized under RCW 35.21.870 and
11 imposed by any other state or political subdivision of any other state
12 with respect to the electrical energy for which a credit is sought
13 under this subsection; or

14 (b) The person consuming the electrical energy upon which a use tax
15 similar to the tax imposed under this section was paid to another state
16 with respect to the electrical energy for which a credit is sought
17 under this subsection.

18 (9) Notwithstanding any other provision of this title or Title 35
19 RCW, electrical energy to which the use tax provided in this section is
20 exempt, under subsection (3), (4), (5), or (6) of this section, shall
21 be exempt from all other taxes, whether applied to the buyer or seller
22 or any intermediary seller or purchaser of such electrical energy,
23 under chapters 82.16, 82.12, 82.08, and 82.04 RCW, and RCW 35.21.860,
24 35.21.865, and 35.21.870.

25 (10) The tax imposed in this section shall be paid by the person
26 consuming the electrical energy. The administration and collection of
27 the tax imposed under this section shall be under RCW 82.14.050.

28 NEW SECTION. **Sec. 3.** This act takes effect August 1, 1997.

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