
SECOND SUBSTITUTE SENATE BILL 5210

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Swecker, Fraser, Newhouse, Goings, Rasmussen, Snyder, Morton, Hochstatter, Zarelli, Oke and McAuliffe)

Read first time 04/01/97.

1 AN ACT Relating to the taxation of coal-fired thermal electric
2 generating facilities placed in operation before July 1, 1975; adding
3 new sections to chapter 82.08 RCW; adding new sections to chapter 82.12
4 RCW; adding a new section to chapter 82.16 RCW; creating new sections;
5 and providing an effective date.

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

7 NEW SECTION. **Sec. 1.** When establishing policies that are designed
8 to achieve the greatest reductions in industrial emissions, the
9 legislature recognizes that state tax policy often serves as a
10 disincentive to encouraging the maximum investment in technological
11 solutions. Sales and use taxes on pollution control equipment
12 effectively reduce the amount of capital that might otherwise be
13 invested in additional pollution reduction measures. Property tax
14 requirements on new pollution control technologies also serve as an
15 additional business expense penalty against utilities who might be
16 willing to commit greater capital to achieve higher emissions
17 reductions.

18 Finally, tax policies might also lead to economic disparities
19 between alternative solutions that can lead to the selection of

1 strategies that might not be in the best interest of Washington state
2 residents. The sales and use taxes on coal places Washington state
3 coal mining operations at an economic disadvantage with coal suppliers
4 located outside the state. Reductions in employment at Washington
5 state's coal mining industry could have serious impacts on local
6 government revenues and the local economies.

7 It is the purpose of this legislation to provide an adjustment that
8 will offset the present disincentives of existing tax policy and
9 encourage the greatest reduction in air pollution emissions at coal-
10 fired generating plants while minimizing the potential adverse impacts
11 on the state and local economies.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW
13 to read as follows:

14 (1) For the purposes of this section, "air pollution control
15 facilities" mean any treatment works, control devices and disposal
16 systems, machinery, equipment, structures, property, property
17 improvements, and accessories, that are installed or acquired for the
18 primary purpose of reducing, controlling, or disposing of industrial
19 waste that, if released to the outdoor atmosphere, could cause air
20 pollution, or that are required to meet regulatory requirements
21 applicable to their construction, installation, or operation.

22 (2) The tax levied by RCW 82.08.020 does not apply to:

23 (a) Sales of tangible personal property to a light and power
24 business, as defined in RCW 82.16.010, for construction or installation
25 of air pollution control facilities at a thermal electric generation
26 facility; or

27 (b) Sales of, cost of, or charges made for labor and services
28 performed in respect to the construction or installation of air
29 pollution control facilities.

30 (3) The exemption provided under this section applies only to
31 sales, costs, or charges:

32 (a) Incurred for air pollution control facilities constructed or
33 installed after the effective date of this act and used in a thermal
34 electric generation facility first placed in operation after December
35 31, 1969, and before July 1, 1975;

36 (b) If the air pollution control facilities are constructed or
37 installed to meet applicable regulatory requirements established under

1 state or federal law, including the Washington clean air act, chapter
2 70.94 RCW; and

3 (c) For which the purchaser provides the seller with an exemption
4 certificate, signed by the purchaser or purchaser's agent, that
5 includes a description of items or services for which payment is made,
6 the amount of the payment, and such additional information as the
7 department reasonably may require.

8 (4) This section does not apply to sales of tangible personal
9 property purchased or to sales of, costs of, or charges made for labor
10 and services used for maintenance or repairs of pollution control
11 equipment.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW
13 to read as follows:

14 (1) For the purposes of this section, "air pollution control
15 facilities" mean any treatment works, control devices and disposal
16 systems, machinery, equipment, structures, property, property
17 improvements, and accessories, that are installed or acquired for the
18 primary purpose of reducing, controlling, or disposing of industrial
19 waste that, if released to the outdoor atmosphere, could cause air
20 pollution, or that are required to meet regulatory requirements
21 applicable to their construction, installation, or operation.

22 (2) The provisions of this chapter do not apply in respect to the
23 use of air pollution control facilities installed and used by a light
24 and power business, as defined in RCW 82.16.010, in generating electric
25 power.

26 (3) The exemption provided under this section applies only to air
27 pollution control facilities that are:

28 (a) Constructed or installed after the effective date of this act
29 and used in a thermal electric generation facility first placed in
30 operation after December 31, 1969, and before July 1, 1975; and

31 (b) Constructed or installed to meet applicable regulatory
32 requirements established under state or federal law, including the
33 Washington clean air act, chapter 70.94 RCW.

34 (4) This section does not apply to the use of tangible personal
35 property for maintenance or repairs of the pollution control equipment.

36 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.16 RCW
37 to read as follows:

1 (1) Light and power businesses engaged in the generation of
2 electric energy at thermal electric generating facilities first placed
3 in operation after December 31, 1969, and before July 1, 1975, and that
4 are subject to taxation under this chapter, shall be allowed a tax
5 credit equal to the amount of sales and use taxes paid on coal used by
6 the facility in generating electricity. The credit shall not exceed
7 the amount of taxes otherwise due under this chapter.

8 (2) The credit shall be taken against taxes due for the same
9 calendar year in which the amounts, for which the credit is claimed,
10 were paid on sales or use taxes by the light and power business.

11 (3) This credit remains effective only if the light and power
12 business using or consuming the coal makes a timely demonstration to
13 the department of revenue that it is making reasonable progress to
14 install air pollution control facilities to meet applicable regulatory
15 requirements established under state or federal law, including the
16 Washington clean air act, chapter 70.94 RCW. The demonstration shall
17 be deemed timely if made within eighteen months after the final
18 determination of the regulatory requirements. Evidence of reasonable
19 progress may include contracts to purchase pollution control equipment
20 or contracts for construction of air pollution control facilities.

21 (4) If a light and power business fails to make the demonstration
22 required in subsection (3) of this section, the light and power
23 business shall return to the state all tax revenues equal to the tax
24 credits that have been allowed before the time of revocation, together
25 with interest, but not penalties, accruing from the date the tax would
26 have been due until date of payment.

27 (5) For the purposes of this section, "air pollution control
28 facilities" mean any treatment works, control devices and disposal
29 systems, machinery, equipment, structures, property, property
30 improvements, and accessories, that are installed or acquired for the
31 primary purpose of reducing, controlling, or disposing of industrial
32 waste that, if released to the outdoor atmosphere, could cause air
33 pollution, or that are required to meet regulatory requirements
34 applicable to their construction, installation, or operation.

35 (6) Tax credits authorized under this section shall be discontinued
36 if the total amount of sales and use taxes paid on coal used by the
37 facility in generating electricity is less than four million dollars
38 annually.

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

3 (1) Air pollution control equipment constructed or installed after
4 the effective date of this act, by businesses engaged in the generation
5 of electric energy at thermal electric generating facilities first
6 placed in operation after December 31, 1969, and before July 1, 1975,
7 shall be exempt from property taxation.

8 (2) For the purposes of this section, "air pollution control
9 equipment" means any treatment works, control devices and disposal
10 systems, machinery, equipment, structures, property, property
11 improvements, and accessories, that are installed or acquired for the
12 primary purpose of reducing, controlling, or disposing of industrial
13 waste that, if released to the outdoor atmosphere, could cause air
14 pollution, or that are required to meet regulatory requirements
15 applicable to their construction, installation, or operation.

16 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.08 RCW
17 to read as follows:

18 The tax exemptions or credits authorized by sections 2, 3, 4, and
19 5 of this act become effective only if a thermal electric generation
20 facility first placed in operation after December 31, 1969, and before
21 July 1, 1975, is issued an order by the local air pollution control
22 authority requiring emission levels consistent with provisions agreed
23 to and resulting from a collaborative decision-making process among
24 agencies authorized to regulate air emissions and the thermal electric
25 generating project owners.

26 NEW SECTION. **Sec. 7.** The department of revenue may adopt rules to
27 implement this act.

28 NEW SECTION. **Sec. 8.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 9.** This act takes effect January 1, 1999.

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