
SENATE BILL 5210

State of Washington

55th Legislature

1997 Regular Session

By Senators Swecker, Fraser, Newhouse, Goings, Rasmussen, Snyder, Morton, Hochstatter, Zarelli, Oke and McAuliffe

Read first time 01/20/97. Referred to Committee on Agriculture & Environment.

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

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 placed in operation before July 1, 1975;

35 (b) If the air pollution control facilities are constructed or
36 installed to meet applicable regulatory requirements established under
37 state or federal law, including the Washington clean air act, chapter
38 70.94 RCW; and

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

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

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

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

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

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

26 (a) Constructed or installed after the effective date of this act
27 and used in a thermal electric generation facility placed in operation
28 before July 1, 1975; and

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

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

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

36 (1) Light and power businesses engaged in the generation of
37 electric energy at thermal electric generating facilities placed in

1 operation before July 1, 1975, and that are subject to taxation under
2 this chapter, shall be allowed a tax credit equal to the amount of
3 sales and use taxes paid on coal used by the facility in generating
4 electricity plus the amount of property taxes paid and associated with
5 new air pollution control facilities constructed after the effective
6 date of this act.

7 (2) The credit shall be taken against taxes due for the same
8 calendar year in which the amounts, for which the credit is claimed,
9 were paid on sales, use, or property taxes by the light and power
10 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, including
25 interest at an annualized rate of six percent.

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

34 NEW SECTION. **Sec. 5.** The department of revenue may adopt rules to
35 implement this act.

36 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
37 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 immediately.

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