HOUSE BILL REPORT
HB 1207

As Reported by House Committee On:
Technology, Telecommunications & Energy

Title: An act relating to energy.

Brief Description: Modifying energy provisions.

Sponsors: Representatives Morris, Poulsen, Carrell, Reardon, Conway, Edwards and Linville.

Brief History:
Committee Activity:
Technology, Telecommunications & Energy: 2/5/01, 2/26/01 [DPS].

Brief Summary of Substitute Bill

- The measure of tax for light and power businesses and gas distribution businesses under the public utility tax is changed from a gross receipts basis to a volumetric basis.

- An option is provided to cities to adopt volumetric utility taxes in lieu of gross receipts taxes for electric or gas distribution businesses.

HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 20 members: Representatives Crouse, Republican Co-Chair; Poulsen, Democratic Co-Chair; Casada, Republican Vice Chair; Ruderman, Democratic Vice Chair; Anderson, Berkey, Bush, B. Chandler, Cooper, DeBolt, Delvin, Esser, Hunt, Linville, Mielke, Morris, Pflug, Reardon, Simpson and Wood.

Staff: Mark Matteson (786-7145)

Background:

The Public Utility Tax

Public and privately-owned utilities and certain other businesses are subject to the state public utility tax (PUT). Two of the classes of PUT taxpayers are light and power businesses and gas distribution businesses. Light and power businesses include plants or systems that generate, produce, wheel, or distribute electrical energy. Gas distribution businesses include plants or systems that produce or distribute manufactured or natural gas.

The PUT is applied to the gross receipts of the business. For light, power and gas distribution businesses, the applicable tax rates are 3.873 percent and 3.852 percent, respectively. Revenues are deposited to the state general fund.

The PUT does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. Nonetheless, several deductions for specific types of business activities are allowed under the PUT. These activities include the wholesales of electrical energy, production of energy through cogeneration or by using renewable energy resources and the distribution of electricity by light and power businesses whose customers are geographically disbursed.

The Brokered Natural Gas Use Tax

Natural or manufactured gas that is consumed within the state is subject to the state brokered natural gas use tax, if the supplier was not subject to the state public utility tax. The brokered natural gas use tax is applied to the value of the gas as delivered to the customer. The rate is the same as that for natural or manufactured gas under the PUT. Revenues are deposited in the state general fund.

Municipal Utility Taxes

Cities also impose taxes on the gross receipts of business activities conducted within the cities without any deduction for the cost of doing business. Cities, similar to the state, impose utility taxes. Cities may impose utility taxes at a rate up to 6 percent of gross receipts, unless approved otherwise by the voters. Cities that impose a utility tax on gas distribution businesses may impose a brokered natural gas use tax similar to the state brokered natural gas use tax, if the supplier was not subject to the municipal utility tax. Any brokered natural gas use tax imposed, must be at the same rate as the city municipal utility tax on gas distribution businesses.

Summary of Bill:

The public utility tax, as it applies to light and power businesses and gas distribution businesses, is measured by the volume of electricity or natural gas distributed and not by the gross receipts of the business. For electricity, the tax is based on the number of kilowatt-hours of electricity that are generated, produced, transported, wheeled, or distributed. For gas, the tax is based on the number of thousand cubic feet of natural or manufactured gas. The bill leaves the applicable rates unspecified.

The bill restructures statutory provisions that allow deductions against taxable income under the PUT for light, power and gas distribution businesses. Deductions are modified to create either exemptions or tax credits. Electricity or gas that is acquired for resale is exempted from the PUT. The deduction allowed for light and power businesses whose customers are geographically dispersed is restructured as a tax credit. The deduction allowed for the costs of producing energy using cogeneration facilities or by using renewable energy resources is also restructured as a tax credit.

The state and local brokered natural gas use taxes are repealed. Since the volumetric tax applies to all gas that is distributed locally, whether or not the sale for the original delivery of the gas was made in-state, the brokered natural gas use taxes are redundant.

Municipalities are provided the option of imposing a volumetric tax on electric or gas utilities, similar to the change under the PUT for light and power and gas distribution businesses. The option to impose the volumetric tax is in lieu of a gross receipts tax. The applicable rates under the volumetric tax option are left unspecified.

Substitute Bill Compared to Original Bill:

All provisions relating to matters other than tax provisions are removed. The existing state public utility tax (PUT) is amended to provide that the measure of tax for electricity and natural gas is the volume of electricity or natural gas distributed, instead of gross receipts. The original bill created an entirely new wholesale volumetric tax on the transmission of electricity and effectively repealed the parts of the PUT and other tax statutes relating to electricity. The original bill did not address taxation of natural gas.

The tax in effect applies only to amounts of electricity or natural gas consumed in the state, as amounts sold for resale are exempted. The original bill applied the proposed wholesale volumetric tax to all electricity transmitted within the state. Existing deductions authorized for providers of electricity or natural gas under the PUT are restructured as tax credits or as outright exemptions. (This is because deductions - which are amounts of gross income that may be excluded for taxation purposes - do not apply under a volumetric tax). The original bill made no corresponding changes since the provisions of the PUT pertaining to electricity were effectively repealed, and since the original bill did not address natural gas.

The state and local brokered natural gas use taxes are repealed, since these taxes are redundant. The option is provided to municipalities to change the manner in which local electrical and natural gas utilities are taxed, in a manner analogous to that for the PUT. The original bill effectively removed the authority for municipalities to tax electricity utilities.

Appropriation: None.

Fiscal Note: Requested February 1, 2001.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect on July 1, 2001.

Testimony For (Original bill with concerns): A definition of new generating technology is needed to accommodate environmental and renewable energy source concerns. Washington should not become the generating capital of the west. Creation of the commission raises some concerns. The Energy Facility Site Evaluation Council (EFSEC) should not be done away with " it is not the problem. The commission includes members from investor owned-utilities that may lead to a conflict of interest. The commission should be a group of public officials that solicits advice from stakeholders rather than consisting of stakeholders. The bill allocates a portion of the assessed demand to be sited at a county level " this would be appropriate for distributed generation with emphasis on renewables, but the bill provides no direction. The tax provisions should be reviewed when the regional transmission organization comes on line.

If we want stable, low-cost energy, then we need abundant supply. No other bill recognizes the need for energy independence. The state can and should play a role in site-banking, which can play a part in facilitating the siting process. An energy commission is not a bad idea, with respect to siting. However, mixing siting with energy policy can be problematic, as evidenced by the problems in the 1970s. The state should eschew picking winners and losers. The details need further examination.

Elevating the role of energy within state policy is good. However, the commission looks a lot like an electricity outfit. There are concerns about how siting allocations among counties occur. The changes to the tax language are an improvement. However, it looks like the tax might not apply if power is produced within your own system for distribution without ever entering the transmission grid. There may be interstate commerce concerns.

We do need a broad stakeholder utility board. Had we been at the table when a significant amount of power was sold to Canada a few years ago, things might be different now. A gross revenue tax is the wrong answer, especially in rural areas, so this may be a better approach. This bill puts Washington in a better position for planning on energy matters.

All jurisdictions are required to complete local government siting planning, and it has to be done within a year, which is too quick. The requirements don’t mesh well with other growth management requirements.

Labor should be represented on the commission.

Testimony Against (Original bill): The industrial customers do not share this vision of a new commission. It's an equivalent to reinventing the wheel. What we need is additional generating capacity; this is the most critical concern now. This bill is not configured to get us there. It is not clear what happens to EFSEC in the next year. Of the 12 members on the commission, only two are customers, and it is not clear that industrial customers will be represented. This is a very major piece of policy legislation, but there are more pressing concerns at this time.

Testified: (In support with concerns) Aaron Jones, Washington Rural Electric Cooperatives Association; Danielle Dixon, Northwest Energy Coalition; Jim Harding, Seattle City and Light; Kristin Sawin, Association of Washington Businesses; and Richard King, Washington State Building and Construction Trade Council.

(Opposed) Tim Boyd, Industrial Customers of Northwest Utilities Association of Washington.

(Comments only) Ron Rosenbloom, Association of Washington Cities; and Collins Sprague, Avista Corporation.