

***Technology, Telecommunications
& Energy Committee***

HB 1007

Brief Description: *Modifying the taxation of electricity providers.*

Sponsors: *Representative Morris.*

Brief Summary of Bill

- *Changes the method of taxing electricity businesses from taxing gross receipts and property owned by the electricity business to taxing the amount (kilowatt hour) of electricity transmitted.*
- *Distributes tax revenue in a manner that replicates current distribution to recipients (tax rate to be determined.)*
- *Repeals the public utility district privilege tax and exempts electricity businesses from the public utility tax, municipal business taxes and property taxes.*

Hearing Date: *1/22/01*

Staff: *Pam Madson (786-7166).*

Background:

How electricity is taxed

Gross receipts taxes

Washington's major business tax is the business and occupation (B&O) tax. The state B&O tax is imposed on gross receipts of business activities conducted within the state. Only those deductions and exemptions allowed by law may reduce the tax due. Businesses that are subject to the state public utility tax (PUT) are exempt from the B&O tax.

Public and privately-owned utilities, and certain other businesses, are subject to the public utility tax (PUT). Like the B&O tax, the public utility tax is applied to the gross receipts of

the business. The public utility tax is applied at a higher tax rate schedule than the B&O tax. All wholesales of electricity are exempt from the PUT and the B&O tax.

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 a higher gross receipts tax rate on utilities, sometimes called a utility tax.

State and city gross receipt taxes are imposed on light and power businesses. Exceptions include the Bonneville Power Administration (BPA) which is a light and power business but is also a federal agency and is exempt from state and local taxes. Electricity sold by BPA is not taxed. If however a utility purchases electricity from BPA and resells that power to Washington customers, the utility would pay the PUT on that electricity.

The revenue from the PUT and the B&O tax is deposited into the state general fund.

Property taxes and in lieu of property taxes–

The state Constitution requires that all property be uniformly taxed. Both property owned by public utilities and federally-owned property are exempt from property taxes. Public utility districts pay the PUD privilege tax often referred to as in lieu of property tax–. The tax is based on a complex computation of gross revenues and the value of kilowatt-hours generated.

Revenue from the PUD privilege tax is allocated in varying proportions to the state general fund, counties and other local taxing districts.

Interstate transactions

State and city taxes apply to in-state light and power businesses. However, a Washington light and power business providing electricity for resale or consumption outside the state is allowed a deduction for the gross receipts of the sale, and the value of the electricity is not taxed.

An out-of-state light and power business that sells electricity to Washington consumers is not subject to the PUT unless there is sufficient legal nexus for doing business in Washington. For example, an out-of-state light and power business that has employees located in Washington would be subject to the tax.

Transmission and distribution

The Bonneville Power Administration (federal agency) and other utilities own and operate high voltage transmission lines that carry power from dams and other electricity generation facilities to utility customers. BPA owns a large portion of these lines. Electricity travels over these high-voltage lines to substations and then over lower-voltage distribution lines to residential, commercial, and industrial customers.

Transmission lines and distribution lines are defined for different purposes such as allocating costs or determining state and federal jurisdiction. The distinction between transmission and distribution may be redefined for tax purposes as the structure of the

electricity industry changes.

Summary of Bill:

How electricity is taxed

The current tax structure for electricity is replaced by a wholesale energy transaction tax that is imposed on electricity transmitted within the state. The tax rate (to be determined) is imposed on each kilowatt hour of electricity transmitted on the transmission system and is collected by the transmission services provider. The transmission services provider is the entity that controls or operated transmission facilities. (Transmission facilities are determined by the Utilities and Transportation Commission.)

In most cases, the tax is paid by the distribution services provider (usually the retail electric utility). A distribution services provider is the person who controls the distribution facilities that provide electricity to the public. It also includes generators that produce electricity for their own use, such as a cogeneration plant, and users who take electricity directly from a transmission line, such as an aluminum company. Transmission facilities are determined by the Utilities and Transportation Commission.

Electricity businesses are exempted from the following taxes: (1) The state public utility tax (PUT), municipal business taxes (for the purposes of electricity production or distribution), business and occupation (B&O) taxes (for the purposes of electricity production or distribution), and property taxes. The public utility district privilege tax is repealed.

Interstate transactions

For electricity generated within the state for delivery outside the state, the tax is collected from the person who sells the electricity. Electricity received from a federal transmission services provider such as Bonneville Power Administration (BPA) is taxed and collected from the entity (usually the electric utility) that receives the power.

The following electricity transmission is exempt from this tax: (1) Electricity that is transmitted through the state but not produced or delivered in the state; (2) Electricity produced by a federal agency for sale outside the state; (3) Electricity received directly from a transmission or distribution facility owned by the federal government or electricity that is transmitted exclusively on transmission or distribution facilities owned by the federal government.

Electricity businesses are exempted from the following taxes: (1) The state public utility tax (PUT), municipal business taxes (for the purposes fo electricity production or distribution), business and occupation (B&O) taxes (for the purposes of electricity production or distribution), and property taxes. The public utility district privilege tax is repealed.

Appropriation: *None.*

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on January 1, 2002.