

Technology, Telecommunications & Energy

HB 1207

Brief Description: *Modifying energy provisions.*

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

Brief Summary of Bill

- *Creates a Washington State Strategic Energy Planning Commission consisting of 12 members, staffed by the Office of Strategic Energy Planning in the Department of Community, Trade and Economic Development.*
- *Directs the Commission to assess the state's demand for the production and distribution of energy and allocate the assessed demand to counties.*
- *Allows counties and cities to designate sites and types of energy production and allows reimbursement for the costs of these activities from a newly created Energy Fund.*
- *Eliminates the Energy Facilities Site Evaluation Council, and to the extent necessary, directs the Commission to perform state siting functions.*
- *Creates the Wholesale Energy Transaction Tax*

Hearing Date: *2/5/01*

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

Background:

Statement of state energy policy

The current statement of the state's energy policy was adopted in 1976. The policy encourages the development and use of a diverse array of energy resources emphasizing renewable resources. It seeks to ensure a sufficient supply of energy and to encourage energy conservation and elimination of wasteful and uneconomic uses of energy. Conservation includes resource recovery and recycling. In emergency energy shortages, priority is given to activities that maintain the health, safety and welfare of the public. Energy use and development must be consistent with environmental policies.

Energy Division, Office of Trade and Economic Development

The Energy Policy Division of the Office of Trade and Economic development advises the Governor and the Legislature on energy matters. Among its duties are the periodic review of the state's energy strategy developed in 1993, preparation of contingency plans for energy shortages or emergencies, and the collection and maintenance of information on energy resources. The agency carries out state and federal energy programs, receives funds from all appropriate sources, appoints staff, and provides assistance and support to the two Washington representatives on the Northwest Power Planning Council.

In 1991, the state energy office, predecessor to the Energy Policy Division, was directed to develop a state energy strategy along with an advisory committee of 20 members representing industry, government, and environmental interests. The committee issued its report in 1993, including recommendations on energy that is used in transportation, buildings, agriculture and industry. Recommendations also addressed energy use and protecting the environment. The former Energy Office reported biennially on the status of implementing the strategy. In the 2001 biennial report, the Energy Division indicated that given the dramatic changes in the energy landscape since 1993", a full examination and update of the state energy strategy was warranted.

Energy facility siting

In 1970, the Legislature established the Energy Facility Site Evaluation Council (EFSEC) to improve coordination of permitting and to address the problem of overlapping jurisdictions in the siting of energy facilities. The council membership includes a number of state agencies and may include local jurisdictions that are impacted by a specific site proposal. EFSEC evaluates and monitors large thermal generating facilities (250 megawatts or more). For project under the 250 megawatt threshold, permitting is done by individual local, state and federal agencies. The last review of the EFSEC process occurred in 1993.

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 wholesale sales 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:

State energy policy

The statement of the state energy policy, developed in the late 1970's, is modified as follows:

- (1) In developing a diverse array of energy resources, conservation and new technologies are added to renewable energy resources that must be emphasized.*
- (2) In ensuring a sufficient supply of energy, it is recognized that consideration must be given to energy needs outside the State of Washington because of the impact that need may have on Washington's energy supply.*
- (3) While encouraging energy conservation and eliminating wasteful uses of energy and materials, energy conservation must include resource recovery that achieves at least a doubling of previous resource utilization or 80% efficiency.*
- (4) In energy shortage emergencies, critical public health, safety and welfare activities are given priority and noncritical government functions are curtailed.*

Washington State Strategic Energy Planning Commission

The Washington State Strategic Energy Planning Commission is created and consists of 12 members. Members include the two Washington representatives to the Northwest Power Planning Council and the director of the Department of Community, Trade and Economic Development. Nine members are appointed by the Governor including three members representing investor-owned utilities, one member representing rural electric cooperatives, one member representing public utility districts, one member representing municipal

utilities, one member representing environmental organizations, and two members representing energy users from the general public.

The commission is co-chaired by the Washington members of the Northwest Power Planning Council. Members are appointed to serve four year terms and may receive per diem and travel reimbursement. Staff is provided to the commission by the Office of Strategic Energy Planning in the Department of Community, Trade and Economic Development (Office of Trade and Economic Development).

Assessment of demand for energy

The commission must assess the state's demand for production and distribution of energy (in-state and for export) over the next 10 years. Based on this assessment, a proportionate share of the demand is allocated to counties to be sited in the county. The commission must develop a process for cities and counties to designate sites and types of energy production to meet assessed demand. Any demand not sited by cities and counties through zoning or other ordinances within one year is sited by the commission acting as the state siting authority. Funds from the newly created energy fund may be used to reimburse local governments for expenses in designating sites and types of energy production.

The commission must develop, implement, and periodically review the state energy strategy. In developing the state energy strategy, the commission must seek to establish affordable energy prices, use conservation and other resources that have the least environmental impact to the state, use and deploy new technologies, and increase energy reliability.

The commission must also advocate for the state's energy strategy in a number of regional forums including the Northwest Power Planning Council, and the Pacific Northwest Economic Region. The commission carries out state and federal energy programs and prepares and updates contingency plans in the event of energy shortages.

Office of Strategic Energy Planning

The Office of Strategic Energy Planning in the Department of Community, Trade and Economic Development collects and maintains information on energy resources, receives funds from all appropriate sources, appoints staff, and provides assistance and support to the two Washington representatives on the Northwest Power Planning Council.

Funding

A new Energy Fund is created into which funds are deposited from an additional tax rate added to the newly created Wholesale Energy Transaction Tax. Moneys from the fund may be spent for support and operation of the commission and for reimbursement of local governments for

expenses in designating sites and types of energy generation. The fund is an appropriated fund and interest on the fund is deposited into the fund.

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 operates 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.

The tax revenue is deposited in the newly created wholesale energy transaction account. The Office of Financial Management must devise a method to distribute the tax revenue in a manner that replaces the fiscal year 2001 revenue generated under the prior taxing system for light and power businesses. Expenditures from the account are subject to

legislative appropriation.

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.

Effective Date: *The bill takes effect on January 1, 2002, except for Sec. 13, which takes effect March 1, 2002.*

Appropriation: *None.*

Fiscal Note: *Requested on February 1, 2001.*