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**SUBSTITUTE HOUSE BILL 1207**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** House Committee on Technology, Telecommunications & Energy  
(originally sponsored by Representatives Morris, Poulsen, Carrell,  
Reardon, Conway, Edwards and Linville)

Read first time . Referred to Committee on .

1 AN ACT Relating to energy; amending RCW 82.16.020, 82.16.050,  
2 82.16.053, 82.16.055, and 35.21.870; adding a new section to chapter  
3 82.16 RCW; repealing RCW 82.12.022 and 82.14.230; providing an  
4 effective date; and declaring an emergency.

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

6 **Sec. 1.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to read  
7 as follows:

8 (1) There is levied and there shall be collected from every person  
9 a tax for the act or privilege of engaging within this state in any one  
10 or more of the businesses herein mentioned.

11 (a) For the following businesses, the tax shall be equal to the  
12 gross income of the business, multiplied by the rate set out after the  
13 business, as follows:

14 ~~((a))~~ (i) Express, sewerage collection, and telegraph businesses:  
15 Three and six-tenths percent;

16 ~~((b) Light and power business: Three and sixty-two one-hundredths~~  
17 ~~percent;~~

18 ~~(c) Gas distribution business: Three and six-tenths percent;~~

1       ~~(d)~~) (ii) Urban transportation business: Six-tenths of one  
2 percent;

3       ~~((e))~~) (iii) Vessels under sixty-five feet in length, except  
4 tugboats, operating upon the waters within the state: Six-tenths of  
5 one percent;

6       ~~((f))~~) (iv) Motor transportation, railroad, railroad car, and  
7 tugboat businesses, and all public service businesses other than ones  
8 mentioned above: One and eight-tenths of one percent;

9       ~~((g))~~) (v) Water distribution business: Four and seven-tenths  
10 percent.

11       (b)(i) For a light and power business, the tax is equal to the rate  
12 of . . . cents per kilowatt hour multiplied by the number of kilowatt  
13 hours of electricity that are generated, produced, transported, or  
14 distributed for hire or sale and/or wheeled for others.

15       (ii) For a gas distribution business, the tax is equal to the rate  
16 of . . . cents multiplied by the number of thousand cubic feet of  
17 natural or manufactured gas that are produced, transported, or  
18 distributed for hire or sale.

19       (2) An additional tax is imposed equal to the rate specified in RCW  
20 82.02.030 multiplied by the tax payable under subsection (1) of this  
21 section.

22       (3) Twenty percent of the moneys collected under subsection (1) of  
23 this section on water distribution businesses and sixty percent of the  
24 moneys collected under subsection (1) of this section on sewerage  
25 collection businesses shall be deposited in the public works assistance  
26 account created in RCW 43.155.050.

27       **Sec. 2.** RCW 82.16.050 and 2000 c 245 s 1 are each amended to read  
28 as follows:

29       Except for a light and power business or a gas distribution  
30 business, in computing tax there may be deducted from the gross income  
31 the following items:

32       (1) Amounts derived by municipally owned or operated public service  
33 businesses, directly from taxes levied for the support or maintenance  
34 thereof: PROVIDED, That this section shall not be construed to exempt  
35 service charges which are spread on the property tax rolls and  
36 collected as taxes;

37       (2) Amounts derived from the sale of commodities to persons in the  
38 same public service business as the seller, for resale as such within

1 this state. This deduction is allowed only with respect to water  
2 distribution(~~(, gas distribution)~~) or other public service businesses  
3 which furnish water, gas or any other commodity in the performance of  
4 public service businesses;

5 (3) Amounts actually paid by a taxpayer to another person taxable  
6 under this chapter as the latter's portion of the consideration due for  
7 services furnished jointly by both, if the total amount has been  
8 credited to and appears in the gross income reported for tax by the  
9 former;

10 (4) The amount of cash discount actually taken by the purchaser or  
11 customer;

12 (5) The amount of credit losses actually sustained by taxpayers  
13 whose regular books of accounts are kept upon an accrual basis;

14 (6) Amounts derived from business which the state is prohibited  
15 from taxing under the Constitution of this state or the Constitution or  
16 laws of the United States;

17 (7) Amounts derived from the distribution of water through an  
18 irrigation system, for irrigation purposes;

19 (8) Amounts derived from the transportation of commodities from  
20 points of origin in this state to final destination outside this state,  
21 or from points of origin outside this state to final destination in  
22 this state, with respect to which the carrier grants to the shipper the  
23 privilege of stopping the shipment in transit at some point in this  
24 state for the purpose of storing, manufacturing, milling, or other  
25 processing, and thereafter forwards the same commodity, or its  
26 equivalent, in the same or converted form, under a through freight rate  
27 from point of origin to final destination; and amounts derived from the  
28 transportation of commodities from points of origin in the state to an  
29 export elevator, wharf, dock or ship side on tidewater or navigable  
30 tributaries thereto from which such commodities are forwarded, without  
31 intervening transportation, by vessel, in their original form, to  
32 interstate or foreign destinations: PROVIDED, That no deduction will  
33 be allowed when the point of origin and the point of delivery to such  
34 an export elevator, wharf, dock, or ship side are located within the  
35 corporate limits of the same city or town;

36 ~~(9) ((Amounts derived from the production, sale, or transfer of  
37 electrical energy for resale within or outside the state or for  
38 consumption outside the state;~~

1       ~~(10))~~) Amounts derived from the distribution of water by a  
2 nonprofit water association and used for capital improvements by that  
3 nonprofit water association;

4       ~~((11))~~) (10) Amounts paid by a sewerage collection business  
5 taxable under RCW 82.16.020(1)(a)(i) to a person taxable under chapter  
6 82.04 RCW for the treatment or disposal of sewage.

7       NEW SECTION. **Sec. 3.** A new section is added to chapter 82.16 RCW  
8 to read as follows:

9       The taxes imposed in RCW 82.16.020(1)(b) do not apply to  
10 electricity, natural gas, or manufactured gas delivered to a person who  
11 acquires the electricity, natural gas, or manufactured gas for the  
12 purpose of resale in the regular course of business.

13       **Sec. 4.** RCW 82.16.053 and 1996 c 145 s 1 are each amended to read  
14 as follows:

15       (1) ~~((In computing tax under this chapter,))~~ A light and power  
16 business ((may deduct from gross income)) is allowed a credit against  
17 taxes due under this chapter in an amount equal to the lesser of the  
18 amounts determined under subsections (2) through (4) of this section.

19       (2)(a) An amount equal to fifty percent of ((wholesale power cost  
20 paid)) the amount of kilowatt hours of wholesale electricity purchased  
21 during the reporting period, multiplied by the rate in RCW  
22 82.16.020(1)(b)(i), if the light and power business has fewer than five  
23 and one-half customers per mile of line.

24       (b) An amount equal to forty percent of ((wholesale power cost  
25 paid)) the amount of kilowatt hours of wholesale electricity purchased  
26 during the reporting period, multiplied by the rate in RCW  
27 82.16.020(1)(b)(i), if the light and power business has more than five  
28 and one-half but less than eleven customers per mile.

29       (c) An amount equal to thirty percent of the ((wholesale power cost  
30 paid)) amount of kilowatt hours of wholesale electricity purchased  
31 during the reporting period, multiplied by the rate in RCW  
32 82.16.020(1)(b)(i), if the light and power business has more than  
33 eleven but less than seventeen customers per mile of line.

34       (d) Zero if the light and power business has more than seventeen  
35 customers per mile of line.

36       (3) ~~((Wholesale power cost))~~ An amount equal to the amount of  
37 kilowatt hours of wholesale electricity purchased, multiplied by the

1 rate in RCW 82.16.020(1)(b)(i), and multiplied by the percentage by  
2 which the average retail electric power rates for the light and power  
3 business exceed the state average electric power rate. If more than  
4 fifty percent of the kilowatt hours sold by a light and power business  
5 are sold to irrigators, then only sales to nonirrigators shall be used  
6 to calculate the average electric power rate for that light and power  
7 business. For purposes of this subsection, the department shall  
8 determine state average electric power rate each year based on the most  
9 recent available data and shall inform taxpayers of its determination.

10 (4) (~~Four hundred thousand~~) Fifteen thousand five hundred dollars  
11 per month.

12 **Sec. 5.** RCW 82.16.055 and 1980 c 149 s 3 are each amended to read  
13 as follows:

14 (1) (~~In computing tax under this chapter there shall be deducted~~  
15 ~~from the gross income~~) A business is allowed a credit against taxes  
16 due under this chapter in an amount equal to:

17 (a) (~~An amount equal to the cost of production at the plant for~~  
18 ~~consumption within the state of Washington of:~~

19 ~~(i))~~ The amount of kilowatt hours of electrical energy produced or  
20 generated from cogeneration as defined in RCW 82.35.020, multiplied by  
21 the rate in RCW 82.16.020(1)(b)(i); and

22 (~~(ii))~~ (b) The amount of kilowatt hours of electrical energy or  
23 the amount of thousand cubic feet of gas produced or generated from  
24 renewable energy resources (~~such as~~), multiplied by the applicable  
25 rate in RCW 82.16.020(1)(b). Renewable energy resources include, but  
26 are not limited to, solar energy, wind energy, hydroelectric energy,  
27 geothermal energy, wood, wood wastes, municipal wastes, agricultural  
28 products and wastes, and end-use waste heat; and

29 (~~(b))~~ (c) Those amounts expended to improve consumers' efficiency  
30 of energy end use or to otherwise reduce the use of electrical energy  
31 or gas by the consumer, multiplied by 0.03873 percent.

32 (2) This section applies only to new facilities for the production  
33 or generation of energy from cogeneration or renewable energy resources  
34 or measures to improve the efficiency of energy end use on which  
35 construction or installation is begun after June 12, 1980, and before  
36 January 1, 1990.

1 (3) (~~Deductions~~) Credits under subsection (1)(a) of this section  
2 shall be allowed for a period not to exceed thirty years after the  
3 project is placed in operation.

4 (4) Measures or projects encouraged under this section shall at the  
5 time they are placed in service be reasonably expected to save,  
6 produce, or generate energy at a total incremental system cost per unit  
7 of energy delivered to end use which is less than or equal to the  
8 incremental system cost per unit of energy delivered to end use from  
9 similarly available conventional energy resources which utilize nuclear  
10 energy or fossil fuels and which the gas or electric utility could  
11 acquire to meet energy demand in the same time period.

12 (5) The department of revenue, after consultation with the  
13 utilities and transportation commission in the case of investor-owned  
14 utilities and the governing bodies of locally regulated utilities,  
15 shall determine the eligibility of individual projects and measures for  
16 (~~deductions~~) credits under this section.

17 **Sec. 6.** RCW 35.21.870 and 1984 c 225 s 6 are each amended to read  
18 as follows:

19 (1)(a) Except as provided in (b) of this subsection, no city or  
20 town may impose a tax on the privilege of conducting an electrical  
21 energy, natural gas, steam energy, or telephone business at a rate  
22 which exceeds six percent of gross receipts unless the rate is first  
23 approved by a majority of the voters of the city or town voting on such  
24 a proposition.

25 (b)(i) For the privilege of conducting an electrical energy  
26 business, a city or town may impose a volumetric tax in lieu of a gross  
27 receipts tax under (a) of this subsection. A city or town that chooses  
28 to impose a tax under this subsection may not impose the tax at a rate  
29 which exceeds . . . cents per kilowatt hour unless the rate is first  
30 approved by a majority of the voters of the city or town voting on the  
31 proposition.

32 (ii) For the privilege of conducting a natural gas business, a city  
33 or town may impose a volumetric tax in lieu of a gross receipts tax  
34 under (a) of this subsection. A city or town that chooses to impose a  
35 tax under this subsection may not impose the tax at a rate which  
36 exceeds . . . cents per thousand cubic feet unless the rate is first  
37 approved by a majority of the voters of the city or town voting on the  
38 proposition.

1 (2) If a city or town is imposing a rate of tax under subsection  
2 (1)(a) of this section in excess of six percent on April 20, 1982, the  
3 city or town shall decrease the rate to a rate of six percent or less  
4 by reducing the rate each year on or before November 1st by ordinances  
5 to be effective on January 1st of the succeeding year, by an amount  
6 equal to one-tenth the difference between the tax rate on April 20,  
7 1982, and six percent.

8 Nothing in this subsection prohibits a city or town from reducing  
9 its rates by amounts greater than the amounts required in this  
10 subsection.

11 Voter approved rate increases under subsection (1) of this section  
12 shall not be included in the computations under this subsection.

13 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each  
14 repealed:

15 (1) RCW 82.12.022 (Natural or manufactured gas--Use tax imposed--  
16 Exemption) and 1994 c 124 s 9 & 1989 c 384 s 3; and

17 (2) RCW 82.14.230 (Natural or manufactured gas--Cities may impose  
18 use tax) and 1989 c 384 s 2.

19 NEW SECTION. **Sec. 8.** This act is necessary for the immediate  
20 preservation of the public peace, health, or safety, or support of the  
21 state government and its existing public institutions, and takes effect  
22 July 1, 2001.

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