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**SUBSTITUTE HOUSE BILL 1405**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Anderson, Poulsen, Crouse, Linville, Kagi, Hatfield, Van Luven, Cooper, O'Brien, Campbell, Roach, Bush, Lisk, Berkey, Miloscia and Kessler; by request of Governor Locke)

Read first time 02/26/2001. Referred to Committee on .

1 AN ACT Relating to extending eligibility for the public utility tax  
2 deduction for facilities generating energy from cogeneration; and  
3 amending RCW 82.16.055.

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

5 **Sec. 1.** RCW 82.16.055 and 1980 c 149 s 3 are each amended to read  
6 as follows:

7 (1) In computing tax under this chapter there shall be deducted  
8 from the gross income:

9 (a) An amount equal to the cost of production at the plant for  
10 consumption within the state of Washington of:

11 (i) Electrical energy produced or generated from cogeneration as  
12 defined in RCW 82.35.020; and

13 (ii) Electrical energy or gas produced or generated from renewable  
14 energy resources such as solar energy, wind energy, hydroelectric  
15 energy, geothermal energy, wood, wood wastes, municipal wastes,  
16 agricultural products and wastes, and end-use waste heat; and

17 (b) Those amounts expended to improve consumers' efficiency of  
18 energy end use or to otherwise reduce the use of electrical energy or  
19 gas by the consumer.

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

6 (3)(a) In addition, this section applies to new or expanded  
7 cogeneration from a facility on which construction or installation is  
8 begun after June 30, 2001, and before January 1, 2011.

9 (b) For purposes of this subsection, the following definitions  
10 apply:

11 (i) "Cogeneration facility" means any machinery, equipment,  
12 structure, process, or property, or any part thereof, installed or  
13 acquired by a person or corporation for the purpose of the sequential  
14 generation, in either order, of electrical energy and useful thermal  
15 energy, such as heat or steam, from the same primary energy source or  
16 fuel in which the useful thermal energy is used:

17 (A) For a manufacturing process;

18 (B) To improve the operating efficiency of a facility that produces  
19 electrical energy through biomass generation as defined in RCW  
20 19.29A.010; or

21 (C) In space heating or cooling.

22 (ii) "Expanded cogeneration" means the amount of electrical energy  
23 produced for sale at a facility that exceeds the amount of electrical  
24 energy sold on an average annual basis in the three years prior to June  
25 30, 2001.

26 (c) This subsection does not apply to:

27 (i) A cogeneration facility fueled by diesel; or

28 (ii) A cogeneration facility that has a combined fuel conversion  
29 efficiency of less than sixty percent, unless the cogeneration facility  
30 is used to improve the operating efficiency of a facility that produces  
31 electrical energy through biomass generation as defined in RCW  
32 19.29A.010, in which case this subsection shall apply unless the  
33 cogeneration facility has a combined fuel conversion efficiency of less  
34 than forty percent.

35 (d) By August 25th of each fiscal year in which a taxpayer intends  
36 to claim the deduction under this subsection, the taxpayer shall file  
37 with the department, on a form and in a manner prescribed by the  
38 department, the following information concerning production at the  
39 cogeneration facility during the previous twelve months:

- 1        (i) The amount of fuel consumed;  
2        (ii) The energy content of the fuel measured in British thermal  
3 units per unit of fuel;  
4        (iii) The amount of electricity produced measured in kilowatt  
5 hours;  
6        (iv) The gallons of hot water or pounds of steam produced;  
7        (v) The temperature of the hot water, or temperature and pressure  
8 of the steam, produced; and  
9        (vi) The temperature of the hot water or condensate returned to the  
10 boiler.

11        (e) The department may disclose information received under (d)(i)  
12 through (vi) of this subsection to energy policy staff of the  
13 department of community, trade, and economic development or the  
14 Washington State University cooperative extension solely for the  
15 purpose of determining a taxpayer's eligibility for a deduction under  
16 this subsection. In addition, prior to the time a cogeneration  
17 facility has operated for a full fiscal year, the department may  
18 require such information that it finds necessary to determining a  
19 taxpayer's eligibility under this subsection, and may disclose the  
20 information received to energy policy staff of the department of  
21 community, trade, and economic development or the Washington State  
22 University cooperative extension solely for the purpose of determining  
23 the taxpayer's eligibility for a deduction under this subsection.

24        (4) Deductions under subsection (1)(a) of this section shall be  
25 allowed for a period not to exceed thirty years after the project is  
26 placed in operation.

27        ~~((4))~~ (5) Measures or projects encouraged under this section  
28 shall at the time they are placed in service be reasonably expected to  
29 save, produce, or generate energy at a total incremental system cost  
30 per unit of energy delivered to end use which is less than or equal to  
31 the incremental system cost per unit of energy delivered to end use  
32 from similarly available conventional energy resources which utilize  
33 nuclear energy or fossil fuels and which the gas or electric utility  
34 could acquire to meet energy demand in the same time period.

35        ~~((5))~~ (6) The department of revenue, after consultation with the  
36 utilities and transportation commission in the case of investor-owned  
37 utilities and the governing bodies of locally regulated utilities,

1 shall determine the eligibility of individual projects and measures for  
2 deductions under this section.

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