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**SECOND SUBSTITUTE HOUSE BILL 1405**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** House Committee on Finance (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 03/08/2001. 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 adding a new section to chapter 82.16 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.16 RCW  
6 to read as follows:

7 (1)(a) In computing tax under this chapter there shall be deducted  
8 from the gross income an amount equal to the cost of production at the  
9 plant for consumption within the state of Washington of electrical  
10 energy produced or generated from cogeneration at new or expanded  
11 cogeneration facilities.

12 (b) For the purposes of this section, the following definitions  
13 apply:

14 (i) "Cogeneration" means the sequential generation, in either  
15 order, of electrical energy and useful thermal energy, such as heat or  
16 steam, from the same primary energy source or fuel in which the useful  
17 thermal energy is used:

18 (A) In a manufacturing process;

1 (B) To improve the operating efficiency of a facility that produces  
2 electrical energy through biomass generation as defined in RCW  
3 19.29A.010; or

4 (C) In space heating or cooling.

5 (ii) "Cogeneration facility" means any machinery, equipment,  
6 structure, process, or property, or any part thereof, installed or  
7 acquired by a person or corporation for the purpose of cogeneration.

8 (2)(a) This section applies only to the amount of electrical energy  
9 produced at a new or expanded cogeneration facility on which  
10 construction or installation begins after June 30, 2001, and before  
11 January 1, 2011. In the case of a cogeneration facility producing  
12 electrical energy on or before the effective date of this act, this  
13 section applies to the amount of electrical energy produced for sale  
14 from that facility that exceeds the amount of electrical energy sold  
15 from that location on an average annual basis in the three years prior  
16 to June 30, 2001.

17 (b) This section does not apply to:

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

19 (ii) A cogeneration facility that has a combined fuel conversion  
20 efficiency of less than sixty percent, unless the cogeneration facility  
21 is used to improve the operating efficiency of a facility that produces  
22 electrical energy through biomass generation as defined in RCW  
23 19.29A.010, in which case this section applies unless the cogeneration  
24 facility has a combined fuel conversion efficiency of less than forty  
25 percent.

26 (3) By August 25th of each fiscal year in which a taxpayer intends  
27 to claim the deduction under this section, the taxpayer shall file with  
28 the department, on a form and in a manner prescribed by the department,  
29 information concerning production at the cogeneration facility during  
30 the previous fiscal year, including but not limited to the following:

31 (a) The amount of fuel consumed;

32 (b) The energy content of the fuel measured in British thermal  
33 units per unit of fuel;

34 (c) The amount of electricity produced measured in kilowatt hours;

35 (d) The gallons of hot water or pounds of steam produced;

36 (e) The temperature of the hot water, or temperature and pressure  
37 of the steam, produced; and

38 (f) The temperature of the hot water or condensate returned to the  
39 boiler.

1       (4) The department may disclose information received under  
2 subsection (3)(a) through (f) of this section to energy policy staff of  
3 the department of community, trade, and economic development or the  
4 Washington State University cooperative extension solely for the  
5 purpose of determining a taxpayer's eligibility for a deduction under  
6 this section. In addition, prior to the time a cogeneration facility  
7 has operated for a full fiscal year, the department may require any  
8 information that it finds necessary to determining a taxpayer's  
9 eligibility under this section, and may disclose the information  
10 received to energy policy staff of the department of community, trade,  
11 and economic development or the Washington State University cooperative  
12 extension solely for the purpose of determining the taxpayer's  
13 eligibility for a deduction under this section.

14       (5) Deductions under this section shall be allowed for a period not  
15 to exceed thirty years after the project is placed in operation.

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

24       (7) The department of revenue, after consultation with the  
25 utilities and transportation commission in the case of investor-owned  
26 utilities and the governing bodies of locally regulated utilities,  
27 shall determine the eligibility of individual projects and measures for  
28 deductions under this section.

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