
HOUSE BILL 2953

State of Washington 59th Legislature 2006 Regular Session

By Representatives Halper, Dunn, Crouse, McCune, Serben, Bailey, Kristiansen, Woods, Orcutt and Kretz

Read first time 01/17/2006. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to capping and annually adjusting state and local
2 public utility tax rates based upon increases or decreases in the cost
3 of electricity and natural gas to residential consumers; amending RCW
4 82.16.020 and 35.21.870; adding new sections to chapter 82.16 RCW; and
5 creating new sections.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds: (a) When retail
8 energy prices rise, the amount of taxes paid by consumers also
9 increase, because state and local public utility taxes are presently
10 levied as a fixed percentage of revenue derived by electric and natural
11 gas utilities from retail energy sales; (b) increased energy costs can
12 have an adverse impact on the economy of the state of Washington and
13 this impact is compounded by attendant increases in the amount of taxes
14 that must be paid on energy purchases; (c) volatility in wholesale
15 energy prices has become more common, compared to historical wholesale
16 market behavior, and changes in wholesale prices ultimately translate
17 into higher retail energy prices; and (d) further increases in
18 wholesale and retail energy prices appear imminent.

1 (2) The legislature declares that the rate of state and local
2 public utility taxes and the corresponding rate of use taxes on natural
3 gas purchases should be indexed to the cost of energy for residential
4 consumers, providing that tax rates should be adjusted downward when
5 energy prices rise and upward when energy prices fall, except that tax
6 rates should be capped at the rate currently provided under law so that
7 consumers would never pay a higher tax rate than they do at present.

8 **Sec. 2.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to read
9 as follows:

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

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

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

18 ~~((b) Light and power business: Three and sixty two one hundredths~~
19 ~~percent;~~

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

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

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

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

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

31 (b)(i) For a light and power business, the tax is equal to the
32 gross income of the business, multiplied by the rate determined under
33 section 3 of this act.

34 (ii) For a gas distribution business, the tax is equal to the gross
35 income of the business, multiplied by the rate determined under section
36 4 of this act.

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

4 (3) Twenty percent of the moneys collected under subsection (1) of
5 this section on water distribution businesses and sixty percent of the
6 moneys collected under subsection (1) of this section on sewerage
7 collection businesses shall be deposited in the public works assistance
8 account created in RCW 43.155.050.

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

11 (1) The maximum tax rate that can be applied to the gross receipts
12 of a light and power business under RCW 82.16.020(1) is three and
13 sixty-two one-hundredths percent. The department shall annually adjust
14 the tax rate applied to a light and power business pursuant to this
15 section.

16 (2) Beginning October 1, 2006, and each October 1st thereafter, the
17 department shall calculate the tax rate for light and power businesses
18 to apply the following calendar year. To determine the annual tax
19 rate, the department shall perform the calculations required under this
20 section.

21 (3) By October 1, 2006, the department shall establish a base year
22 electric power rate by determining a state average electric power rate
23 for residential retail customers of all light and power businesses in
24 the state. The base year rate shall be the average of all residential
25 classification tariffs or schedules filed, published, or maintained by
26 light and power businesses effective on December 31, 2004. To perform
27 the calculation under this subsection (3), the department shall rely
28 solely upon customer classifications established by light and power
29 businesses; the department shall not define or otherwise determine the
30 class of residential customers. The base year rate shall be stated in
31 units of dollars per kilowatt-hour.

32 (4) Beginning October 1, 2006, and every October 1st thereafter,
33 the department shall annually calculate the state average electric
34 power rate for residential retail customers of all light and power
35 businesses in the state. The state average electric power rate shall
36 be the average of all residential classification tariffs or schedules
37 filed, published, or maintained by light and power businesses effective

1 on December 31st of the immediate prior year. To perform the
2 calculation under this subsection (4), the department shall rely upon
3 the customer classifications established by light and power businesses;
4 the department shall not define or otherwise determine the class of
5 residential customers. The annual state average electric power rate
6 shall be stated in units of dollars per kilowatt-hour.

7 (5) The department shall divide the base year state average
8 electric power rate, as calculated under subsection (3) of this
9 section, by the annual state average electric power rate, as calculated
10 annually under subsection (4) of this section, to determine a ratio of
11 state average electric power rates.

12 (6) The department shall multiply the ratio of state average
13 electric power rates, as calculated under subsection (5) of this
14 section, by the maximum tax rate specified in subsection (1) of this
15 section. The product of this calculation shall be the adjusted tax
16 rate for the following calendar year for light and power businesses.
17 At no time shall the adjusted tax rate exceed the maximum rate under
18 subsection (1) of this section.

19 (7) By November 1, 2006, and each November 1st thereafter, the
20 department shall inform taxpayers of its determinations under this
21 section.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.16 RCW
23 to read as follows:

24 (1) The maximum tax rate that can be applied to the gross receipts
25 of a gas distribution business under RCW 82.16.020(1) is three and six-
26 tenths percent. The department shall annually adjust the tax rate
27 applied to the gross revenue of a gas distribution business pursuant to
28 this section.

29 (2) Beginning October 1, 2006, and each October 1st thereafter, the
30 department shall calculate the tax rate for gas distribution businesses
31 to apply the following calendar year. To determine the annual tax
32 rate, the department shall perform the calculations required under this
33 section.

34 (3) By October 1, 2006, the department shall establish a base year
35 gas rate by determining a state average gas rate for residential retail
36 customers of all gas distribution businesses in the state. The base
37 year rate shall be the average of all residential classification

1 tariffs or schedules filed, published, or maintained by gas
2 distribution businesses effective on December 31, 2004. To perform the
3 calculation under this subsection (3), the department shall rely solely
4 upon customer classifications established by gas distribution
5 businesses; the department shall not define or otherwise determine the
6 class of residential customers. The base year rate shall be stated in
7 units of dollars per cubic feet.

8 (4) Beginning October 1, 2006, and every October 1st thereafter,
9 the department shall annually calculate the state average gas rate for
10 residential retail customers of all gas distribution businesses in the
11 state. The gas rate shall be the average of all residential
12 classification tariffs or schedules filed, published, or maintained by
13 gas distribution businesses effective on December 31st of the immediate
14 prior year. To perform the calculation performed under this subsection
15 (4), the department shall rely upon customer classifications
16 established by gas distribution businesses; the department shall not
17 define or otherwise determine the class of residential customers. The
18 annual state average gas rate shall be stated in units of dollars per
19 cubic feet.

20 (5) The department shall divide the base year state average gas
21 rate, as calculated under subsection (3) of this section, by the state
22 annual average gas rate, as calculated annually under subsection (4) of
23 this section, to determine a ratio of state average gas rates.

24 (6) The department shall multiply the ratio of state average gas
25 rates, as calculated under subsection (5) of this section, by the
26 maximum tax rate specified in subsection (1) of this section. The
27 product of this calculation shall be the adjusted tax rate for the
28 following calendar year for gas distribution businesses. At no time
29 shall the adjusted tax rate exceed the maximum rate under subsection
30 (1) of this section.

31 (7) By November 1, 2006, and each November 1st thereafter, the
32 department shall inform taxpayers of its determinations under this
33 section.

34 **Sec. 5.** RCW 35.21.870 and 1984 c 225 s 6 are each amended to read
35 as follows:

36 (1) No city or town may impose a tax on the privilege of conducting
37 an electrical energy, natural gas, steam energy, or telephone business

1 at a rate which exceeds six percent of gross receipts unless the rate
2 is first approved by a majority of the voters of the city or town
3 voting on such a proposition.

4 (2)(a) The maximum tax rate that can be applied to the gross
5 receipts of an electrical energy business is the rate provided in
6 subsection (1) of this section. The city or town shall annually adjust
7 the tax rate applied to electrical energy businesses pursuant to this
8 subsection (2).

9 (b) Beginning October 1, 2006, and each October 1st thereafter, the
10 city or town shall calculate the adjusted tax rate for electrical
11 energy businesses to apply the following calendar year, beginning
12 January 1, 2007, and each January 1st thereafter. To determine the
13 annual tax rate, the city or town shall perform the calculations
14 required under this subsection (2).

15 (c) By October 1, 2006, the city or town shall establish a base
16 year for the purpose of (e) of this subsection, by determining a local
17 average electric power rate for residential retail customers of all
18 electrical energy businesses providing retail electric service within
19 the city or town. The base year rate shall be the average of all
20 residential classification tariffs or schedules filed, published, or
21 maintained by light and power businesses effective on December 31,
22 2004. To perform the calculation under this subsection (2)(c), the
23 city or town shall rely solely upon customer classifications
24 established by electrical energy businesses; the city or town shall not
25 define or otherwise determine the class of residential customers. The
26 base year local average electric power rate shall be stated in units of
27 dollars per kilowatt-hour.

28 (d) Beginning October 1, 2006, and every October 1st thereafter,
29 the city or town shall annually calculate the local average electric
30 power rate for residential retail customers of all electrical energy
31 businesses providing retail electric service within the city or town.
32 The local annual average electric power rate shall be the average of
33 all residential classification tariffs or schedules filed, published,
34 or maintained by electrical energy businesses effective on December
35 31st of the immediate prior year. To perform the calculation under
36 this subsection (2)(d), the city or town shall rely upon the customer
37 classifications established by electrical energy businesses; the city

1 or town shall not define or otherwise determine the class of
2 residential customers. The local annual average electric power rate
3 shall be stated in units of dollars per kilowatt-hour.

4 (e) The city or town shall divide the base year local average
5 electric power rate, as calculated under (c) of this subsection, by the
6 local annual average electric power rate, as calculated annually under
7 (d) of this subsection, to determine a ratio of local average electric
8 power rates.

9 (f) The city or town shall multiply the ratio of local average
10 electric power rates, as calculated under (e) of this subsection, by
11 the rate imposed by the city or town under subsection (1) of this
12 section on January 1, 2006. The product of this calculation shall be
13 the adjusted tax rate for the following year for electrical energy
14 businesses. At no time shall the adjusted tax rate exceed the maximum
15 rate under subsection (1) of this section.

16 (g) Beginning November 1, 2006, and for each November 1st
17 thereafter, the city or town shall inform taxpayers of its
18 determinations under this subsection (2).

19 (3)(a) The maximum tax rate that can be applied to the gross
20 receipts of a natural gas business is the rate provided in subsection
21 (1) of this section. The city or town shall annually adjust the tax
22 rate applied to the gross revenue of a natural gas business pursuant to
23 this subsection (3).

24 (b) Beginning October 1, 2006, and each October 1st thereafter, the
25 city or town shall calculate the tax rate for natural gas businesses
26 for the following year, beginning January 1, 2007, and each January 1st
27 thereafter. To determine the annual tax rate, the city or town shall
28 perform the calculations required under this subsection (3).

29 (c) By October 1, 2006, the city or town shall establish a base
30 year for the purpose of (e) of this subsection, by determining a local
31 average gas rate for residential retail customers of all natural gas
32 businesses providing retail gas service within the city or town. The
33 base year local average gas rate shall be the average of all
34 residential classification tariffs or schedules filed, published, or
35 maintained by natural gas businesses effective on December 31, 2004.
36 To perform the calculation under this subsection (3)(c), the city or
37 town shall rely solely upon customer classifications established by

1 natural gas businesses; the city or town shall not define or otherwise
2 determine the class of residential customers. The base year local
3 average gas rate shall be stated in units of dollars per cubic feet.

4 (d) Beginning October 31, 2006, and every October 31st thereafter,
5 the city or town shall annually calculate the local average gas rate
6 for residential retail customers of all natural gas businesses
7 providing retail gas service within the city or town. The local annual
8 average gas rate through tariffs or schedules filed, published, or
9 maintained by natural gas businesses effective on December 31st of the
10 immediate prior year. To perform the calculation performed under this
11 subsection (3)(d), the city or town shall rely upon customer
12 classifications established by natural gas businesses; the city or town
13 shall not define or otherwise determine the class of residential
14 customers. The annual local average gas rate shall be stated in units
15 of dollars per cubic feet.

16 (e) The city or town shall divide the base year local average gas
17 rate, as calculated under (c) of this subsection, by the local annual
18 average gas rate, as calculated annually under (d) of this subsection,
19 to determine a ratio of local average gas rates.

20 (f) The city or town shall multiply the ratio of town average gas
21 rates, as calculated under (e) of this subsection, by the rate imposed
22 by the city or town under subsection (1) of this section on January 1,
23 2006. The product of this calculation shall be the adjusted tax rate
24 for the following year for natural gas businesses. At no time shall
25 the adjusted tax rate exceed the maximum rate under subsection (1) of
26 this section.

27 (g) By November 1, 2006, and for each November 1st thereafter, the
28 city or town shall inform taxpayers of its determinations under this
29 subsection (3).

30 (4) If a city or town is imposing a rate of tax under subsection
31 (1) of this section in excess of six percent on April 20, 1982, the
32 city or town shall decrease the rate to a rate of six percent or less
33 by reducing the rate each year on or before November 1st by ordinances
34 to be effective on January 1st of the succeeding year, by an amount
35 equal to one-tenth the difference between the tax rate on April 20,
36 1982, and six percent.

37 Nothing in this subsection prohibits a city or town from reducing

1 its rates by amounts greater than the amounts required in this
2 subsection.

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

5 NEW SECTION. **Sec. 6.** This act shall be known and cited as the
6 "energy tax control act."

7 NEW SECTION. **Sec. 7.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.

--- END ---