

HOUSE BILL REPORT

HB 2081

As Reported by House Committee On:
Technology, Energy & Communications

Title: An act relating to tax credits for cogeneration facilities.

Brief Description: Promoting the growth of cogeneration facilities in Washington.

Sponsors: Representatives VanDeWege, Blake, Moeller, McCoy, Takko and Hudgins.

Brief History:

Committee Activity:

Technology, Energy & Communications: 2/20/07, 2/27/07 [DPS].

Brief Summary of Substitute Bill

- Provides a Business and Occupation tax credit to promote the growth of cogeneration facilities in Washington.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Morris, Chair; McCoy, Vice Chair; Crouse, Ranking Minority Member; McCune, Assistant Ranking Minority Member; Eddy, Ericksen, Hankins, Hudgins, Hurst, Takko and VanDeWege.

Staff: Scott Richards (786-7156).

Background:

Cogeneration

Cogeneration involves the production of electrical energy and another form of useful energy (such as heat or steam) through the sequential use of energy, resulting in increased fuel efficiency.

Business and Occupation Tax

The Business and Occupation (B&O) tax is levied for the privilege of doing business in Washington. The tax is levied on the gross receipts of all business activities conducted within the state.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The B&O tax does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. However, there are many exemptions for specific types of business activities and certain deductions and credits permitted under the B&O tax statutes.

Business and Occupation Tax Credit of Cogeneration

In 1979, HB 1013 was enacted into law, allowing for an annual B&O tax credit of 2 percent of a cogeneration facility cost. The B&O tax credit was limited up to an accumulative amount of 50 percent of the cost of the cogeneration facility. House Bill 1013 provided a termination date of December 31, 1984, for the issuance of certificates. In 2006, the Legislature repealed from state statute the tax credit along with other tax incentives that were outdated.

Summary of Substitute Bill:

Business and Occupation Tax Credit

In order to promote the growth of cogeneration in Washington and save energy, a Business and Occupation (B&O) tax credit may be claimed by a person or corporation other than an electric utility amounting to 3 percent of the cost of a cogeneration facility per year.

The total cumulative amount of the credits allowed for any cogeneration facility constructed before June 30, 2007, may not exceed 50 percent of the cost of the cogeneration facility or \$5 million, whichever is less. The total cumulative amount of the credits allowed for any cogeneration facility constructed after June 30, 2007, may not exceed 50 percent of the cost of the cogeneration facility or \$7.5 million, whichever is less. The Department of Revenue (Department) shall keep a running tabulation of the total cogeneration facility credits claimed. The total amount of credits claimed shall not exceed \$100 million. State credits may not become available until one year after final cost verification by the Department.

The credits are subject to the following conditions:

- (1) the tax credit shall apply to capital costs only;
- (2) a person, firm, corporation, or organization which acquires a cogeneration facility shall be entitled to the credit only to the extent that it has previously not been taken;
- (3) a credit may be taken only once against any cost or portion of a cogeneration facility; and
- (4) an operator of a cogeneration facility shall be entitled to the credit if the operator is operating the cogeneration facility for an electric utility that is not eligible to receive the credit.

The Department may adopt any rules necessary for the administration of this B&O tax credit.

Enforcement

The Department shall revoke any credit certificate issued if it finds that: (1) the certificate was obtained by fraud or deliberate misrepresentation; (2) the certificate was obtained through the use of inaccurate data but without any intention to commit fraud or misrepresentation; (3) the facility was constructed or operated in violation of any provision imposed by the

Department as a condition of certification; or (4) the cogeneration facility is no longer capable of being operated for the primary purpose of cogeneration.

Technical Assistance

The Department of Community, Trade and Economic Development shall provide technical assistance to the Department of Revenue in carrying out its responsibilities related to this tax credit.

Definitions

"Certificate" means a cogeneration tax credit certificate granted by the Department.

"Cogeneration" means a system that uses the same energy source for the simultaneous or sequential generation of electricity and steam or other forms of useful thermal energy, including heating and cooling applications.

"Cogeneration facility" means any machinery, equipment, structure, process, or property, or any part thereof, installed or acquired for the primary purpose of high-efficiency cogeneration with an efficiency level above 70 percent by a person or corporation other than an electric utility.

"Cost" means only the cost of a cogeneration facility which is in addition to the cost that the applicant otherwise would incur to meet the applicant's demands for useful heat. "Cost" does not include expenditures which are offset by cost savings, including but not limited to savings resulting from early retirement of existing equipment.

"Department" means the Department of Revenue.

Substitute Bill Compared to Original Bill:

The substitute bill revises the definition for "cogeneration" to mean a system that uses the same energy source for the simultaneous or sequential generation of electricity and steam or other forms of useful thermal energy (including heating and cooling applications).

The definition of "Department" is provided to mean the Department of Revenue.

The definition for "cogeneration facility" is amended to specify that a cogeneration facility must be a high efficiency cogeneration facility with an efficiency level above 70 percent.

To receive the B&O tax credit the cogeneration facilities must have a generating capacity of no more than 100 megawatts.

The Department of Revenue is required to keep a running tabulation of the total cogeneration credits claimed and that the total amount of credits claimed shall not exceed \$100 million.

The total cumulative amount of credits allowed for a cogeneration facility constructed before June 30, 2007, shall not exceed 50 percent of the cost of the cogeneration facility or \$5 million, whichever is less. The total cumulative amount of credits allowed for a cogeneration facility constructed after June 30, 2007, shall not exceed 50 percent of the cost of the cogeneration facility or \$7.5 million, whichever is less.

The operator of a cogeneration facility is allowed to receive the credit if the operator is operating the cogeneration facility for an electric utility that is not eligible to receive the credit.

Federal investment credits or other federal tax credits related to a cogeneration facility are no longer subtracted from the total cumulative amount of credits allowed.

Appropriation: None.

Fiscal Note: Requested on February 27, 2007.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) This bill would help many pulp and paper mills throughout the state and promote the use of clean cogeneration power. This bill provides incentives for mills with existing cogeneration facilities and for development of new cogeneration facilities. This bill will help keep mills operating.

Energy costs are the single highest cost to pulp and paper mills. Anything we can do to lessen some of these costs in a proactive and environmentally responsible way is good for the health of these pulp and paper mills. This bill would be a good signal to the industry to invest in these technologies. This bill would benefit pulp and paper mills, create jobs in the industry, promote the use of greener fuels and assist with the electrical transmission bottleneck occurring on the Olympia Peninsula. This bill could take marginal projects and make them a reality.

(Concerns) This tax break seems broad in application and seems to include cogeneration facilities that are already permitted. Tax incentives should be targeted on new construction rather than support existing cogeneration facilities.

(Opposed) None.

Persons Testifying: (In support) Representative Van De Wege, prime sponsor; Kristen Sawin, Weyerhaeuser; Ted Friedrich, Port Townsend Paper Corporation; John Rhodes, Association of Western Pulp-Paper; Tim Boyd, Industrial Customers of Northwest Utilities; Dan Coyne, Simpson Investment Company; and Sean O'Sullivan, Association of Washington Pulp and Paper Workers.

(Concerns) Miguel Perez-Gibson, Northwest Energy Coalition.

Persons Signed In To Testify But Not Testifying: None.