
HOUSE BILL 2081

State of Washington 60th Legislature 2007 Regular Session

By Representatives VanDeWege, Blake, Moeller, McCoy, Takko and Hudgins

Read first time 02/07/2007. Referred to Committee on Technology,
Energy & Communications.

1 AN ACT Relating to tax credits for cogeneration facilities; and
2 adding a new chapter to Title 82 RCW.

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

4 NEW SECTION. **Sec. 101.** INTENT. The state of Washington has a
5 large and growing need for electrical energy. The state of Washington
6 possesses a great potential for the generation of electrical or
7 mechanical power and useful heat energy through the process of
8 cogeneration. It is the purpose and intent of the legislature to
9 promote the growth of cogeneration in the state of Washington.

10 NEW SECTION. **Sec. 102.** DEFINITIONS. As used in this chapter, the
11 following terms have the meanings indicated unless the context clearly
12 requires otherwise.

13 (1) "Cogeneration" means the sequential generation of electrical or
14 mechanical power and useful heat from the same primary energy source or
15 fuel.

16 (2) "Cogeneration facility" means any machinery, equipment,
17 structure, process, or property, or any part thereof, installed or

1 acquired for the primary purpose of cogeneration by a person or
2 corporation other than an electric utility.

3 (3) "Certificate" means a cogeneration tax credit certificate
4 granted by the department.

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

11 (5) "Electric utility" means any person, corporation, or
12 governmental subdivision authorized and operating under the
13 Constitution and laws of the state of Washington which is primarily
14 engaged in the generation or sale of electric energy.

15 NEW SECTION. **Sec. 103.** ADMINISTRATION. (1) No certificate
16 including a supplement thereto may be issued for cogeneration facility
17 costs in excess of ten million dollars for any application submitted
18 under this chapter.

19 (2) The department shall keep a running tabulation of the total
20 cogeneration facility costs incurred or planned to be incurred pursuant
21 to certificates or supplements issued under this chapter. The
22 department may not issue any new certificate or any supplement if the
23 certificate or supplement would result in the tabulation exceeding one
24 hundred million dollars. Nothing in this section shall be deemed to bar
25 any certificate holder from amending the certificate or obtaining a
26 supplement thereto so long as the amendment or supplement does not
27 increase the total amount of cogeneration facility costs incurred or
28 planned to be incurred under the original certificate.

29 (3) The department may adopt any rules under chapter 34.05 RCW
30 necessary for the administration of this chapter.

31 NEW SECTION. **Sec. 104.** TAX CREDIT. When a cogeneration facility
32 is operational and a certificate pertaining thereto has been issued, a
33 credit may be claimed against taxes imposed under chapter 82.04 RCW, if
34 the due date for payment of the taxes is after the effective date of
35 the certificate. However, the date on which the facility is
36 operational may not be more than four years after the date of issuance

1 of the certificate. The amount of the credit shall be three percent of
2 the cost of a facility covered by the certificate for each year the
3 certificate remains in force. The credits shall be cumulative and shall
4 be subject only to the following limitations:

5 (1) The tax credit shall apply to capital costs only and shall not
6 apply to operating costs.

7 (2) A person, firm, corporation, or organization which acquires a
8 cogeneration facility shall be entitled to the credit only to the
9 extent that it has previously not been taken. Under no circumstances
10 may a credit be taken more than once against any cost or portion
11 thereof of a cogeneration facility.

12 (3) No credit exceeding fifty percent of the taxes payable under
13 chapter 82.04 RCW shall be allowed in any reporting period.

14 (4) The total cumulative amount of the credits allowed for any
15 cogeneration facility covered by a certificate may not exceed fifty
16 percent of the cost of the cogeneration facility less the total amount
17 of federal investment credit or other federal tax credits applicable to
18 the cogeneration facility.

19 (5) State credits may not become available until one year after
20 final cost verification by the department.

21 NEW SECTION. **Sec. 105.** CERTIFICATE ISSUANCE. The department
22 shall send a certificate or supplement, when issued, by certified mail
23 to the applicant. Notice of the department's refusal to issue a
24 certificate or supplement shall likewise be sent to the applicant by
25 certified mail.

26 NEW SECTION. **Sec. 106.** CERTIFICATE REVOCATION. (1) Except as
27 provided in subsection (2) of this section, the department shall revoke
28 any certificate issued under this chapter if it finds that any of the
29 following have occurred with respect to the certificate:

30 (a) The certificate was obtained by fraud or deliberate
31 misrepresentation;

32 (b) The certificate was obtained through the use of inaccurate data
33 but without any intention to commit fraud or misrepresentation;

34 (c) The facility was constructed or operated in violation of any
35 provision of this chapter or provision imposed by the department as a
36 condition of certification; or

1 (d) The cogeneration facility is no longer capable of being
2 operated for the primary purpose of cogeneration.

3 (2) If the department finds that there are few inaccuracies under
4 subsection (1)(b) of this section and that cumulatively they are
5 insignificant in terms of the cost or operation of the facility or that
6 the inaccurate data is not attributable to carelessness or negligence
7 and its inclusion was reasonable under the circumstances, then the
8 department may provide for the continuance of the certificate and
9 whatever modification it considers in the public interest.

10 (3) Any person, firm, corporation, or organization that obtains a
11 certificate revoked under this section shall be liable for the total
12 amount of money saved by claiming the credits and exemptions provided
13 under this chapter. The total amount of the credits shall be collected
14 as delinquent business and occupation taxes, and the total of the
15 exemptions shall be collected and distributed as delinquent property
16 taxes. Interest shall accrue on the amounts of the credits and
17 exemptions from the date the taxes were otherwise due.

18 (4) The department of community, trade, and economic development
19 shall provide technical assistance to the department in carrying out
20 its responsibilities under this section.

21 NEW SECTION. **Sec. 107.** SEVERABILITY. If any provision of this
22 act or its application to any person or circumstance is held invalid,
23 the remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 108.** Captions used in this act are not any part
26 of the law.

27 NEW SECTION. **Sec. 109.** Sections 101 through 108 of this act
28 constitute a new chapter in Title 82 RCW.

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