

# HOUSE BILL REPORT

## HB 2715

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**As Reported by House Committee On:**  
Technology & Economic Development

**Title:** An act relating to providing sales and use tax exemptions, in the form of a remittance of tax paid, to encourage coal-fired electric generation plants to convert to natural gas-fired plants or biomass energy facilities.

**Brief Description:** Providing sales and use tax exemptions, in the form of a remittance of tax paid, to encourage coal-fired electric generation plants to convert to natural gas-fired plants or biomass energy facilities.

**Sponsors:** Representatives Blake, Orcutt and Muri.

**Brief History:**

**Committee Activity:**

Technology & Economic Development: 2/2/16, 2/3/16 [DPS].

**Brief Summary of Substitute Bill**

- Exempts from state sales and use taxes all charges for construction related to the conversion of a coal-fired electric generation facility into a natural gas-fired electric generation facility or biomass energy facility.

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### HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Morris, Chair; Tarleton, Vice Chair; Smith, Ranking Minority Member; DeBolt, Assistant Ranking Minority Member; Fey, Harmsworth, Hudgins, Magendanz, Nealey, Rossetti, Santos, Wylie and Young.

**Staff:** Sarah Emmans (786-7288).

**Background:**

Greenhouse Gas Emissions Performance Standard.

In 2008 the Legislature enacted the Greenhouse Gas Emissions Performance Standard (EPS). Unless an exception applies, electric utilities are prohibited by state law from entering into a

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long-term financial commitment with a baseload generating facility, such as a coal-fired power plant, if the generating facility's carbon dioxide emissions exceed the EPS.

#### Coal Transition Power.

In 2011 the Legislature established a schedule for applying the EPS to TransAlta, the only coal-fired power plant in the state. The same legislation provided an exemption from the EPS authorizing electric utilities to enter into a long-term financial commitment for TransAlta's power, called "coal transition power." It also established a process by which an electric utility may petition the Utilities and Transportation Commission for approval of a power purchase agreement for coal transition power. If approved, the utility may treat the purchase as an investment entitled to a portion of the premium it would receive if it constructed a facility with an equivalent generation capacity.

#### Memorandum of Agreement.

The 2011 legislation required the state to negotiate a binding agreement with TransAlta to achieve emissions reductions at the company's 1,340 megawatt coal-fired Centralia power plant by the end of 2025. At the time, TransAlta had projected that its boilers would reach the end of their expected useful lives in 2035. Terms included a \$55 million payout from the company for local economic mitigation, including \$30 million for economic development and energy efficiency and weatherization and \$25 million for energy technologies with the potential to create considerable energy, economic development, and air quality, haze, or other environmental benefits. In exchange, the company was allowed to sign long-term power sales contracts with in-state utilities under the exemption from the EPS. The memorandum of agreement was required to specify the accounts where the funds are to be deposited, individuals who may approve expenditures from the accounts, and the schedule for disbursing the funds.

#### Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services (including construction). A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes apply to the value of property, digital product, or service when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.1 percent, depending on the location.

Exemptions from sales and use taxes have been established to create jobs and encourage certain kinds of investments in Washington, including exemptions for purchases of certain machinery and equipment (and the labor and services to install them) by eligible data centers, and exemptions for manufacturers who construct new buildings or parts of buildings that will be used for the manufacture of commercial airplanes.

#### Taxation of Construction Activities.

Prime contractors must collect retail sales tax from the purchaser of the construction project on the gross contract price (without deduction of costs incurred). Billing invoices must separately state the sales tax. If the contract requires retainage, sales tax must be computed before deducting such amounts. Retail construction services are sourced to the location

where the construction takes place. A contractor is considered the consumer of items purchased for use in the construction process and not used as component parts of the finished structure, and therefore, retail sales tax must be paid to the vendors of such items. The purchase of materials by custom contractors that will become part of the completed project are purchases for resale (wholesale). Such purchases are not subject to retail sales tax. Reseller permits allow businesses to purchase items or services for resale without paying retail sales tax. Use tax is due if sales tax has not been paid on items the contractor uses as a consumer. Use tax is generally due (if sales tax has not been paid) on the following: equipment, tools, supplies, and rentals of equipment, even if the cost for these items is passed along to the purchaser of the construction project.

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**Summary of Substitute Bill:**

The construction of new structures or renovation of existing structures for the purpose of converting a coal-fired electric generation facility into a natural gas-fired electric generation facility or biomass energy facility is exempt from state sales and use tax. The exemption includes the labor and services to construct the facility and the machinery and equipment that is required for the conversion.

The tax exemption is in the form of a remittance. A purchaser claiming an exemption must apply to the Department of Revenue (DOR) after the conversion of the facility is operationally complete, but not earlier than April 1, 2019. The DOR must not accept any applications by the later of July 1, 2019, or one year after the conversion of the facility is operationally complete. No remittance may be paid earlier than July 1, 2019.

The tax preference is characterized as one intended to create jobs, but is exempt from review by the Joint Legislative Audit and Review Committee.

The exemption expires July 1, 2025.

**Substitute Bill Compared to Original Bill:**

The local sales and use tax exemption is removed from the bill.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 3, 2016.

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

**Staff Summary of Public Testimony:**

(In support) The coal-fired facility at Centralia consists of a 1,300 megawatt (MW) coal plant. In the memorandum of agreement (MOA), TransAlta committed to installing selective catalytic reduction technology, which was installed in 2012 and fully operational in 2013. TransAlta also committed to a \$55 million investment contingent on the facility securing long-term contracts for 500 MW of capacity. Although TransAlta has only been able to secure 380 MW of such contracts, last July the company announced it would still invest the \$55 million. Construction of a new gas plant was contemplated at the time of the MOA, with expedited permitting addressed in the MOA. This legislation supports the 2011 legislation and helps TransAlta move forward with the project. Conversion is economically feasible and is the best option for ratepayers.

As the plant moves to closure, the tax base in Lewis County shrinks. Conversion to gas would maintain jobs in the area. TransAlta means a lot to the area high schools, colleges, relief efforts, and other community charities. TransAlta donated about \$600,000 for services provided by United Way, bringing a Boys and Girls Club into the community. Lewis County still hasn't fully recovered from when the mine shut down in 2006. This tax bill gives TransAlta a chance to ensure these family wage jobs continue, hopefully at the industrial park as well. An economic development corporation is in the business of packaging incentives to recruit businesses into Washington and keep them here. TransAlta provides jobs that are way above the state average. This supports other tax bases for sales and property taxes in the area. This is not a stimulus because it is not leading to growth, rather it is simply aimed at retaining a portion of historic jobs.

The cost of a conversion is less than 10 percent of a new plant. This translates into the best dollar power for ratepayers. The heat rate of the converted unit will be more efficient than the current coal unit, though not as efficient as a new top-of-the-line gas plant.

The ecological soundness of the efforts at Centralia is beyond reproach.

Lewis County is now only finding its way since the 2007 flood. The unemployment rate is the highest on the I-5 corridor. Centralia needs jobs; the railroads will remain there. With certain commodities going away, this plant makes sense for ensuring energy diversity.

(Opposed) None.

**Persons Testifying:** Bob Guenther, International Brotherhood of Electrical Workers 77; Bob Nelson and Cody Duncan, TransAlta; Gregory McClure, International Union of Operating Engineers Local 612; Matt Matayoshi, Lewis County Economic Development Council; Arny Davis, Lewis County Treasurer; Debbie Campbell, United Way of Lewis County; Edna Fund, Lewis County Board of Commissioners; and Mike Elliot, Brotherhood of Locomotive Engineers and Trainmen.

**Persons Signed In To Testify But Not Testifying:** None.