

# SENATE BILL REPORT

## SB 5542

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As Passed Senate, March 3, 2015

**Title:** An act relating to providing reasonable tools for the effective administration of the public utility district privilege tax.

**Brief Description:** Providing reasonable tools for the effective administration of the public utility district privilege tax.

**Sponsors:** Senator Hill; by request of Department of Revenue.

**Brief History:**

**Committee Activity:** Ways & Means: 2/03/15, 2/09/15 [DP].

Passed Senate: 3/03/15, 49-0.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Hill, Chair; Braun, Vice Chair; Dammeier, Vice Chair; Honeyford, Vice Chair, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Bailey, Becker, Billig, Brown, Conway, Fraser, Hasegawa, Hatfield, Hewitt, Kohl-Welles, O'Ban, Padden, Parlette, Rolfes, Schoesler and Warnick.

**Staff:** Dean Carlson (786-7305)

**Background:** Public utility district (PUD) privilege tax is an in-lieu-of property tax. It applies to electricity generating facilities for the privilege of operating in this state. The tax rate has several components including gross income derived from the sale of electricity, the number of kilowatt hours of self-generated energy which is either distributed to consumers or resold to other utilities, and the wholesale value of energy produced in thermal generating facilities.

The PUDs report the facts pertinent to the calculation of the privilege tax to the Department of Revenue (Department) once per year. The Department calculates the tax owed and collects the taxes paid by the PUDs.

The following distribution requirements apply to the PUD privilege tax collected on electricity generating or distribution facilities – other than the nuclear power plant on the Hanford reservation. The State Treasurer deposits 4 percent of the proceeds from the basic

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tax rate to the state general fund. The remaining 96 percent is distributed as follows: 37.6 percent to the state general fund for public schools; and 62.4 percent to the counties to be redistributed.

A county must distribute funds to each taxing district in the county, except school districts, in a manner the county deems most equitable. However, a city within the county must receive an amount at least equal to 0.75 percent of the gross revenues obtained from the sale of electricity within the city.

**Summary of Bill:** Beginning January 1, 2016, PUDs must file all reports and remit all PUD privilege tax payments electronically. These requirements may be waived for good cause. Good cause is defined as circumstances or conditions that prevent the district from electronically submitting reports or remitting payments, or if the Department determines relief from electronic filing supports the efficient or effective administration of the tax. If a district fails to remit payments electronically, the Department must assess a 5 percent penalty.

An administrative mechanism is provided for obtaining refunds of overpaid taxes and applying interest to refund amounts. The PUD privilege tax distributions by the state to counties, cities, fire protection districts, and library districts must be reduced to account for taxes previously distributed to these jurisdictions and subsequently refunded to a PUD. Refunds or credits of taxes, penalties, or interest paid are limited to the Department to three years after June 1 of the year the PUD privilege tax report is due. The Department must provide an informal review of assessments and refund claims.

Assessments of additional taxes, penalties, and interest due are limited to three years after June 1 of the year the PUD privilege tax report is due.

Any taxpayer liable for the PUD privilege tax must maintain suitable records that are necessary to calculate tax liability for a period of five years. The records must be available for audit by the Department.

The Department may waive or cancel delinquent penalties and interest under certain circumstances.

Tax refund lawsuits may be brought to the Thurston County Superior Court. The Department may enter into settlement agreements without the need to resort to litigation.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This adds needed administrative provisions and aligns this tax with other taxes.

**Persons Testifying:** PRO: Drew Shirk, Dept. of Revenue.