

HOUSE BILL REPORT

HB 1330

As Reported by House Committee On: Technology & Economic Development

Title: An act relating to extending the business and occupation tax exemption for amounts received as credits against contracts with or funds provided by the Bonneville power administration and used for low-income ratepayer assistance.

Brief Description: Extending the business and occupation tax exemption for amounts received as credits against contracts with or funds provided by the Bonneville power administration and used for low-income ratepayer assistance.

Sponsors: Representatives Manweller, Tarleton, Fey and Young.

Brief History:

Committee Activity:

Technology & Economic Development: 1/26/17, 2/2/17, 2/7/17 [DPS].

Brief Summary of Substitute Bill

- Reinstates the business and occupation tax exemption for power conservation and demand management credits and funding from the Bonneville Power Administration, if the tax savings are used for low-income ratepayer assistance.
- Expires the new exemption on January 1, 2028.
- Adds a tax preference performance statement, provides an effective date, and declares an emergency.

HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Morris, Chair; Kloba, Vice Chair; Tarleton, Vice Chair; Smith, Ranking Minority Member; DeBolt, Assistant Ranking Minority Member; Doglio, Fey, Harmsworth, Hudgins, Manweller, McDonald, Nealey, Santos, Slatter, Steele and Young.

Staff: Lily Smith (786-7175).

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.

Background:

The Bonneville Power Administration (BPA) is a federal nonprofit agency that markets wholesale electrical power from 31 federal hydroelectric projects in the Columbia River Basin, one nonfederal nuclear plant, and several other small nonfederal power plants. The dams are operated by the United States Army Corps of Engineers and the Bureau of Reclamation. About one-third of the electric power used in the northwest comes from the BPA.

Under the federal Northwest Power Act, consumer-owned utilities have preference and priority in purchasing power from the BPA. Investor-owned utilities can purchase power from the BPA under certain conditions. The BPA provides credits and funding for the costs of some or all utility energy savings through various mechanisms under specific power contracts.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay B&O tax even though they may not have any profits or may be operating at a loss. The Department of Revenue has concluded that the credits and payments received by utilities under the BPA's energy savings programs are subject to the B&O tax.

Business and occupation tax exemptions provide a dollar-for-dollar offset against tax liability. Legislation was passed in 2010 creating an exemption for credits or funds received by utility customers of the BPA for the purpose of implementing energy conservation or demand-side management programs. This exemption expired on June 30, 2015.

Consumer-owned and investor-owned utilities may provide reduced utility rates for low-income customers. According to the Low-Income Home Energy Assistance Program within the United States Department of Health and Human Services, some consumer-owned utilities and all investor-owned utilities within the state offer some type of low-income rate assistance.

Summary of Substitute Bill:

Credits against power contracts with, or funds provided by, the BPA for energy conservation programs or demand-side management programs are exempt from the B&O tax, provided that the tax savings are used for low-income ratepayer assistance. This tax exemption expires on January 1, 2028.

Adds a tax preference performance statement.

Substitute Bill Compared to Original Bill:

The substitute bill: (1) includes low-income ratepayer assistance in the public policy objectives and adds tax preference performance metrics; (2) specifies that the funds allocated

for low-income ratepayer assistance are the tax savings, and that they must not supplant existing funds used for that purpose; and (3) applies an expiration date only to the new tax exemption subsection.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect on July 1, 2017.

Staff Summary of Public Testimony:

(In support) The bill would reenact a tax exemption that was in place between 2010 and 2015 in order to resolve the Department of Revenue audit finding that concluded BPA-credited amounts for conservation are income. The BPA has an obligation to help utilities with conservation, and allows utilities to spend money otherwise owed to them on energy conservation projects. When a utility uses its own ratepayer money for energy efficiency purposes, it has still spent the money, yet this creates phantom income. The bill would require the amount no longer spent on taxes to go to low-income ratepayer assistance, which would promote twin goals of getting energy conservation projects built at the lowest possible cost and passing on savings to low-income ratepayers.

(Opposed) None.

Persons Testifying: Representative Manweller, prime sponsor; and Bill Clarke, Washington Public Utility District Association.

Persons Signed In To Testify But Not Testifying: None.