

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 702

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TAXATION; REPEALING SECTION 63-205B, IDAHO CODE, RELATING TO THE
2 ASSESSMENT OF OPERATING PROPERTY OF RATE-REGULATED ELECTRIC UTILITY
3 COMPANIES; AMENDING SECTION 63-402, IDAHO CODE, TO REVISE PROVISIONS
4 REGARDING PROPERTY ASSESSED BY A COUNTY ASSESSOR; AMENDING SECTION
5 63-405, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE ASSESSMENT OF
6 OPERATING PROPERTY; AMENDING SECTION 63-602JJ, IDAHO CODE, TO REVISE
7 PROVISIONS REGARDING PROPERTY EXEMPT FROM TAXATION AND TO PROVIDE FOR
8 CERTAIN RATE-REGULATED ELECTRIC UTILITY COMPANIES; AMENDING SECTION
9 63-3502B, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE LEVY OF TAX
10 ON CERTAIN ELECTRICAL PRODUCTION AND RATE-REGULATED ELECTRIC UTILITY
11 COMPANIES; AMENDING CHAPTER 35, TITLE 63, IDAHO CODE, BY THE ADDITION
12 OF A NEW SECTION 63-3503C, IDAHO CODE, TO ESTABLISH PROVISIONS REGARD-
13 ING FILING OF AN OPERATOR'S STATEMENT AND THE CALCULATION, COLLECTION,
14 ALLOTMENT, AND APPORTIONMENT OF TAX DUE FROM RATE-REGULATED ELEC-
15 TRIC UTILITY COMPANIES BY THE STATE TAX COMMISSION; AMENDING SECTION
16 63-3506, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE ASSESSMENT OF
17 PROPERTY BY ASSESSOR; AND DECLARING AN EMERGENCY AND PROVIDING RETROAC-
18 TIVE APPLICATION.
19

20 Be It Enacted by the Legislature of the State of Idaho:

21 SECTION 1. That Section [63-205B](#), Idaho Code, be, and the same is hereby
22 repealed.

23 SECTION 2. That Section 63-402, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 63-402. ~~NONOPERATING~~ PROPERTY ASSESSED BY COUNTY ASSES-
26 SOR. (1) "Nonoperating property" means All all property belonging to any
27 person owning, operating or constructing any public utility or railroad,
28 wholly or partly within this state, not included within the meaning of
29 the term "operating property" as defined in this title, namely, property
30 not reasonably necessary for the maintenance and operation of such public
31 utility or railroad, including land or buildings rented by a company or
32 corporation as lessee which is used as or in connection with its business,
33 such as business offices, warehouses, service centers, moorage grounds or
34 docks, vacant lots and tracts of land, and lots and tracts of land with the
35 buildings thereon not used or intended to be used in the operation of such
36 public utility or railroad, also tenement and resident property, except
37 section houses, also hotels and eating houses, not situated adjacent to the
38 main track of any such railroad. Such property shall be assessed by the
39 assessor of the county wherein the same is situated.

40 (2) (a) "Situs property" means property belonging to a rate-regulated
41 electric utility company, provided such property:

1 (i) Cannot be apportioned on the basis of transmission or distri-
 2 bution line miles; or

3 (ii) On and after January 1, 2004, consists of any newly installed
 4 and constructed equipment located within a city's corporate lim-
 5 its or within five (5) miles of a city's corporate limits and used
 6 for and in conjunction with the thermal generation of electricity.

7 (b) Situs property shall be assessed by the county assessor.

8 SECTION 3. That Section 63-405, Idaho Code, be, and the same is hereby
 9 amended to read as follows:

10 63-405. ASSESSMENT OF OPERATING PROPERTY. (1) The state tax commis-
 11 sion must assess ~~all~~ taxable operating property at a meeting of the commis-
 12 sion convening on the second Monday of August in each year, and must complete
 13 the assessment of such property on the fourth Monday in August.

14 (2) The state tax commission shall determine the system value and cal-
 15 culate the allocation and apportionment of the system value for ~~all~~ taxable
 16 operating property and specifically determine:

17 (a) The number of miles and the value per mile of each railroad in the
 18 state and for each taxing district in which such railroad may exist.

19 (b) The number of miles and the value per mile of each telephone corpo-
 20 ration in the state and for each taxing district in which such telephone
 21 corporation may exist.

22 (c) The number of miles and the value per mile of each pipeline in the
 23 state and for each taxing district in which such pipeline may exist.

24 (d) The number of miles and the value per mile of each water company
 25 under the jurisdiction of the public utilities commission in the state,
 26 and for each taxing district in which such water company may exist. The
 27 value per mile of any line included in this subsection, except rail-
 28 roads, shall be determined by dividing the total value of such line
 29 within the state by the number of miles of such line within the state.
 30 The value per mile of railroad line shall be determined by apportionment
 31 of the total value of line within the state. The apportionment shall
 32 be based twenty percent (20%) on the ratio of line miles in the state to
 33 line miles in the county; forty percent (40%) on the ratio of net ton
 34 miles in the state to net ton miles in the county; and forty percent
 35 (40%) on the ratio of station revenues in the state to station revenues
 36 in the county. All operating property of railroads shall be apportioned
 37 to the counties as part of the railroad line in the county. The appor-
 38 tionment for taxing districts shall be the same as the apportionment
 39 among counties.

40 ~~(e) The system value, the number of miles and the value per mile of each~~
 41 ~~electric current transmission line and each electric current distribu-~~
 42 ~~tion line in each county separately, and for each taxing district within~~
 43 ~~said county in which such transmission and distribution lines may ex-~~
 44 ~~ist. The value per mile of any line included in this subsection shall~~
 45 ~~be determined by dividing the apportioned value of such line within each~~
 46 ~~county by the number of miles of such line within said county.~~

47 ~~(f)~~ (e) The system value of private railcar fleets entering or standing
 48 in Idaho in the year preceding the constituted lien as provided in sec-
 49 tion 63-411 (3), Idaho Code.

1 ~~(g)~~ (f) The system value and calculate the allocation and apportionment
2 of the system value for all other taxable operating property.

3 (3) ~~On and after January 1, 2004, any newly installed or constructed~~
4 ~~equipment located within a city corporate limit or within five (5) miles~~
5 ~~of a city corporate limit and used for and in conjunction with the thermal~~
6 ~~generation of electricity shall be apportioned based on physical location.~~
7 ~~For purposes of this subsection newly installed or constructed equipment~~
8 ~~used for and in conjunction with the thermal generation of electricity shall~~
9 ~~not include the remodeling, retrofitting, rehabilitation, refurbishing or~~
10 ~~modification of an existing electrical generation facility, or integration~~
11 ~~or transformation facilities such as substations or transmission lines.~~
12 ~~Notwithstanding the provisions of section 63-301A, Idaho Code, property~~
13 ~~apportioned based on physical location pursuant to this subsection shall be~~
14 ~~placed on the new construction roll. For rate-regulated electric utility~~
15 ~~companies subject to taxation as provided in section 63-3502B(3), Idaho~~
16 ~~Code, the state tax commission shall apportion such tax revenue to each~~
17 ~~county separately in proportion to the number of miles of each electric cur-~~
18 ~~rent transmission line and each electric current distribution line in each~~
19 ~~county divided by the number of miles of such lines in Idaho as reported by~~
20 ~~the company on its operator's statement prepared pursuant to section 63-404,~~
21 ~~Idaho Code. The state tax commission shall further apportion such tax rev-~~
22 ~~enue to each tax code area within each county in which such transmission and~~
23 ~~distribution lines may exist in proportion to the number of miles of such~~
24 ~~lines in each tax code area in the county divided by the number of miles of~~
25 ~~such lines in the county. The county auditor will be notified of the propor-~~
26 ~~tion of the tax revenue to be apportioned to each tax code area within the~~
27 ~~county by the second Monday of July.~~

28 (4) If the value of property of any company assessable under this sec-
29 tion is of such a nature that it cannot reasonably be apportioned on the basis
30 of rail, wire, pipeline mileage, such as microwave and radio relay stations,
31 the tax commission may adopt such other method or basis of apportionment to
32 the county and taxing districts in which the property is situate as may be
33 feasible and proper.

34 SECTION 4. That Section 63-602JJ, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 63-602JJ. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PROPERTY OF
37 PRODUCER OF ELECTRICITY BY MEANS OF WIND, SOLAR OR GEOTHERMAL ENERGY --
38 RATE-REGULATED ELECTRIC UTILITY COMPANIES. Real estate, fixtures or per-
39 sonal property is exempt from taxation if it is:

40 (1) Owned, controlled, operated or managed by an electrical or natural
41 gas association, a rate-regulated electric utility company, or a producer of
42 electricity by means of wind energy, solar energy or geothermal energy,~~ex-~~
43 ~~cluding entities that are regulated by the Idaho public utilities commission~~
44 ~~as to price;~~

45 (2) Held or used in connection with or to facilitate the generation,
46 transmission, distribution, delivery or measuring of electric power, nat-
47 ural gas or electrical energy generated,~~manufactured or produced by means~~
48 ~~of wind energy, solar energy or geothermal energy,~~ and all conduits, ducts
49 or other devices, materials, apparatus or property for containing, holding

1 or carrying conductors used for the transmission, distribution and delivery
 2 of electric power, natural gas or electric energy ~~generated, manufactured or~~
 3 ~~produced by means of wind energy, solar energy or geothermal energy,~~ includ-
 4 ing construction tools, materials and supplies; and

5 (3) Subject to the taxes on gross earnings of wind, solar, or geother-
 6 mal energy earnings or rate-regulated electric utility companies pursuant
 7 to chapter 35, title 63, Idaho Code, and not subject to assessment by a county
 8 assessor pursuant to section 63-402, Idaho Code.

9 SECTION 5. That Section 63-3502B, Idaho Code, be, and the same is hereby
 10 amended to read as follows:

11 63-3502B. LEVY OF TAX ON WIND ENERGY PRODUCTION, SOLAR ENERGY OR
 12 PRODUCTION, GEOTHERMAL ENERGY ELECTRICAL PRODUCTION, AND RATE-REGULATED
 13 ELECTRIC UTILITY COMPANIES. (1) A wind energy tax or a geothermal energy tax
 14 shall be levied against every producer of electricity by means of wind energy
 15 or geothermal energy in the amount of three percent (3%) of such producer's
 16 gross wind energy earnings or geothermal energy earnings.

17 (2) A solar energy tax shall be levied against every producer of elec-
 18 tricity by means of solar energy in the amount of three and one-half percent
 19 (3.5%) of the producer's gross solar energy earnings.

20 (3) A kilowatt hour tax shall be levied against every rate-regulated
 21 electric utility company operating in Idaho on all such electricity and
 22 electrical energy sold to an individual, household, farm, firm, corpora-
 23 tion, or organization in Idaho. The rate shall be calculated as follows:

24 (a) If the number of kilowatt hours sold is less than five billion
 25 (5,000,000,000), the kilowatt hour tax shall be one hundred thirty-one
 26 hundred-thousandths of a dollar (\$0.00131) per kilowatt hour;

27 (b) If the number of kilowatt hours sold is at least five billion
 28 (5,000,000,000) but less than ten billion (10,000,000,000), the kilo-
 29 watt hour tax shall be one hundred sixteen hundred-thousandths of a
 30 dollar (\$0.00116) per kilowatt hour; and

31 (c) If the number of kilowatt hours sold is ten billion
 32 (10,000,000,000) or greater, the kilowatt hour tax shall be one hundred
 33 one hundred-thousandths of a dollar (\$0.00101) per kilowatt hour.

34 ~~(3) (4) This~~ The wind energy tax, solar energy tax, ~~or~~ geothermal en-
 35 ergy tax, and kilowatt hour tax provided in this section shall be in lieu of
 36 all other taxes on the property of such wind energy producer, ~~of such solar~~
 37 energy producer, ~~or of such geothermal energy producer, or rate-regulated~~
 38 electric utility company exempted pursuant to section 63-602JJ, Idaho Code.

39 ~~(4) (5)~~ For purposes of the certification required by section 63-803,
 40 Idaho Code, and the limitations provided by section 63-802, Idaho Code, the
 41 taxes levied pursuant to subsections (2) and (3) of this section shall reduce
 42 the property tax to be levied to finance an annual budget, and shall not be
 43 included in the amount of property tax revenues to finance an annual budget
 44 for purposes of limitations on increases in the annual budget as provided in
 45 section 63-802, Idaho Code. If, after the reduction required in this subsec-
 46 tion, the taxing district has other property taxes to be levied that are not
 47 subject to the limitations provided in section 63-802, Idaho Code, the dis-
 48 trict shall reduce the amount of property tax revenue to be levied for those

1 other funds so that the full amount of revenue received from the kilowatt
 2 hour tax will be used to reduce property taxes.

3 SECTION 6. That Chapter 35, Title 63, Idaho Code, be, and the same is
 4 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 5 ignated as Section 63-3503C, Idaho Code, and to read as follows:

6 63-3503C. FILING OPERATOR'S STATEMENT -- CALCULATION, COLLECTION,
 7 ALLOTMENT, AND APPORTIONMENT OF TAX FROM RATE-REGULATED ELECTRIC UTILITY
 8 COMPANIES BY STATE TAX COMMISSION. (1) Every rate-regulated electrical
 9 utility company in the state of Idaho shall file with the state tax commis-
 10 sion an operator's statement pursuant to section 63-404, Idaho Code, and
 11 shall include on such statement the number of kilowatt hours sold in Idaho
 12 for the preceding calendar year. The state tax commission shall examine and
 13 verify such statement and compute the amount of taxes due by multiplying the
 14 number of kilowatt hours sold by the rate pursuant to section 63-3502B(3),
 15 Idaho Code.

16 (2) Upon the calculation of taxes determined in this section, and no
 17 later than the third Monday of May, the state tax commission shall notify
 18 each county treasurer of the amount of taxes due to the county. Each county
 19 treasurer shall notify each rate-regulated utility company of the amount of
 20 taxes owed by June 15, and such tax shall be due and payable to each county
 21 treasurer no later than June 30. The county treasurer shall notify the
 22 county auditor of the amount so received no later than the second Monday of
 23 July.

24 (3) (a) By no later than the fourth Monday in July each year, the county
 25 auditor shall calculate the amount of tax revenue to be apportioned to
 26 each eligible taxing district as follows:

27 (i) The eligible property tax levy rate for the immediate prior
 28 tax year for each eligible taxing district and unit in each tax
 29 code area is divided by the total eligible property tax levy rate
 30 of all eligible taxing districts and units in the tax code area;

31 (ii) The proportion resulting from the calculation in subpara-
 32 graph (i) of this paragraph is multiplied by the tax revenue ap-
 33 portioned to the tax code area to determine the amount of tax rev-
 34 enue attributed to each eligible taxing district and unit in the
 35 tax code area; and

36 (iii) Amounts of tax attributed to each taxing district and unit
 37 for each tax code area in which the eligible district or unit ex-
 38 ists will be summed to determine the distribution to the taxing
 39 district or unit.

40 (b) Taxing districts and units will be notified of amounts of tax rev-
 41 enue to be distributed under this section no later than the first Monday
 42 of August.

43 (c) "Eligible property tax levy rate" means every levy rate for an el-
 44 ible taxing district except any levy rate for a voter approved levy
 45 identified in section 33-911(2), Idaho Code, that is authorized by the
 46 voters after January 1, 2024.

47 (d) "Eligible taxing district" means a taxing district that would have
 48 levied property tax against the operating property of rate-regulated

1 electric utility companies had such property been subject to property
2 tax.

3 (4) Any taxes levied pursuant to this section and not paid by June 30
4 shall become delinquent and a penalty of five percent (5%) thereof shall be
5 imposed, together with interest at the rate of one percent (1%) per month
6 from June 30 until paid.

7 (5) All taxes due and payable pursuant to this section shall be a lien
8 on all property, real and personal, of the rate-regulated electric utility
9 company as of June 30 of each year and shall be discharged only by the payment
10 thereof. In any action to enforce payment of any delinquent taxes due pur-
11 suant to this section, the county pursuing such action shall be entitled to a
12 judgment for the reasonable costs of prosecuting such action, as well as for
13 the delinquent taxes, penalty, and interest.

14 (6) If a rate-regulated electric utility company fails to file the
15 statement of kilowatt hours sold in Idaho required pursuant to subsection
16 (1) of this section, the state tax commission shall use the best available
17 information to determine the kilowatt hours sold in Idaho.

18 SECTION 7. That Section 63-3506, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 63-3506. ASSESSMENT OF PROPERTY BY ASSESSOR. Any property not subject
21 to the gross receipts tax levied in this chapter of any cooperative elec-
22 trical or natural gas association, or producer of electricity by means of
23 wind energy, by means of solar energy, or by means of geothermal energy, and
24 any property not subject to the kilowatt hour tax levied in this chapter on
25 any rate-regulated electric utility company shall be assessed by the county
26 assessor of the county wherein such property is situate, and taxes levied
27 against the same shall be a lien, and shall be due and payable, in the same
28 manner as are any other taxes on property.

29 SECTION 8. An emergency existing therefor, which emergency is hereby
30 declared to exist, this act shall be in full force and effect on and after its
31 passage and approval, and retroactively to January 1, 2024.