
SENATE BILL 5008

State of Washington

67th Legislature

2021 Regular Session

By Senators Robinson and Short

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1 AN ACT Relating to extending the business and occupation tax
2 exemption for amounts received as credits against contracts with or
3 funds provided by the Bonneville power administration and used for
4 low-income ratepayer assistance and weatherization; amending RCW
5 82.04.310; creating a new section; providing an effective date; and
6 declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** This section is the tax preference
9 performance statement for the tax preference contained in section 2,
10 chapter . . ., Laws of 2021 (section 2 of this act). This performance
11 statement is only intended to be used for subsequent evaluation of
12 the tax preference. It is not intended to create a private right of
13 action by any party or be used to determine eligibility for
14 preferential tax treatment.

15 (1) The legislature categorizes this tax preference as one
16 intended to induce certain designated behavior by taxpayers, as
17 indicated in RCW 82.32.808(2)(a), and also to create low-income
18 ratepayer tax and utility rate relief under RCW 82.32.808(2)(e).

19 (2) The legislature's specific public policy objectives are to:

20 (a) Increase investment in energy efficiency and conservation
21 programs;

1 (b) Support efforts by utilities to acquire all cost-effective
2 energy conservation and noncarbon-emitting energy resources as
3 required under state law; and

4 (c) Increase funds dedicated to low-income ratepayer assistance
5 and weatherization in Washington.

6 (3) To support the objectives in subsection (2) of this section,
7 it is the legislature's intent to make permanent the exemption from
8 business and occupation tax amounts received by utilities in the form
9 of credits against power contracts or received from the Bonneville
10 power administration for energy conservation purposes, if the tax
11 savings are used by utilities for low-income ratepayer assistance or
12 weatherization programs. This exemption will induce utilities to
13 invest funds in energy conservation and efficiency programs, thereby
14 reducing the amount of electric energy that such utilities must
15 either generate or purchase, thereby reducing energy costs to
16 utilities and customers. Further, state laws mandating utilities to
17 acquire energy through both energy conservation and noncarbon-
18 emitting resources can increase the cost of energy to ratepayers.
19 Therefore, it is the legislature's intent that this exemption from
20 the business and occupation tax apply only to the extent the tax
21 amounts that would otherwise be owed on credits or refunds from the
22 Bonneville power administration are used by a utility for low-income
23 ratepayer assistance or weatherization, and that the funds generated
24 for low-income ratepayer assistance or weatherization be additive to
25 any existing funds used by the utility for those purposes.

26 (4) To measure the effectiveness of the exemption provided in
27 this act in achieving the specific public policy objectives described
28 in subsection (2) of this section, the joint legislative audit and
29 review committee must, at a minimum:

30 (a) Evaluate the average annual investment in energy conservation
31 projects by Washington state utilities that have power contracts with
32 the Bonneville power administration; and

33 (b) Evaluate the average additional funds from the tax savings
34 resulting from this act that are dedicated to low-income ratepayer
35 assistance and weatherization by Washington state utilities that have
36 power contracts with the Bonneville power administration.

37 **Sec. 2.** RCW 82.04.310 and 2019 c 202 s 2 are each amended to
38 read as follows:

1 (1) This chapter does not apply to any person in respect to a
2 business activity with respect to which tax liability is specifically
3 imposed under the provisions of chapter 82.16 RCW including amounts
4 derived from activities for which a deduction is allowed under RCW
5 82.16.050. The exemption in this subsection does not apply to sales
6 of natural gas, including compressed natural gas and liquefied
7 natural gas used or sold to manufacture transportation fuel, and
8 renewable natural gas, by a gas distribution business, if such sales
9 are exempt from the tax imposed under chapter 82.16 RCW as provided
10 in RCW 82.16.310.

11 (2) This chapter does not apply to amounts received by any person
12 for the sale of electrical energy for resale within or outside the
13 state.

14 (3)(a) This chapter does not apply to amounts received by any
15 person for the sale of natural or manufactured gas in a calendar year
16 if that person sells within the United States a total amount of
17 natural or manufactured gas in that calendar year that is no more
18 than twenty percent of the amount of natural or manufactured gas that
19 it consumes within the United States in the same calendar year.

20 (b) For purposes of determining whether a person has sold within
21 the United States a total amount of natural or manufactured gas in a
22 calendar year that is no more than twenty percent of the amount of
23 natural or manufactured gas that it consumes within the United States
24 in the same calendar year, the following transfers of gas are not
25 considered to be the sale of natural or manufactured gas:

26 (i) The transfer of any natural or manufactured gas as a result
27 of the acquisition of another business, through merger or otherwise;
28 or

29 (ii) The transfer of any natural or manufactured gas accomplished
30 solely to comply with federal regulatory requirements imposed on the
31 pipeline transportation of such gas when it is shipped by a third-
32 party manager of a person's pipeline transportation.

33 (4) Until January 1, 2031, this chapter does not apply to amounts
34 received by any person in the form of credits against power contracts
35 with the Bonneville power administration, or funds provided by the
36 Bonneville power administration, for the purpose of implementing
37 energy conservation programs or demand-side management programs, so
38 long as the amount that would otherwise be owed under this chapter is
39 used for purposes of low-income ratepayer assistance or
40 weatherization. The funds generated for low-income ratepayer

1 assistance and weatherization under this subsection must be additive
2 to and not supplant any existing funds used by the utility for low-
3 income ratepayer assistance and weatherization.

4 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
5 preservation of the public peace, health, or safety, or support of
6 the state government and its existing public institutions, and takes
7 effect July 1, 2021.

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