

# HOUSE BILL REPORT

## HB 1405

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**As Reported by House Committee On:**  
Technology, Telecommunications & Energy  
Finance

**Title:** An act relating to extending eligibility for the public utility tax deduction for facilities generating energy from cogeneration.

**Brief Description:** Extending the public utility tax deduction for cogeneration.

**Sponsors:** Representatives Anderson, Poulsen, Crouse, Linville, Kagi, Hatfield, Van Luven, Cooper, O'Brien, Campbell, Roach, Bush, Lisk, Berkey, Miloscia and Kessler.

**Brief History:**

**Committee Activity:**

Technology, Telecommunications & Energy: 1/31/01, 2/26/01 [DPS];  
Finance: 2/28/01, 3/8/01 [DP2S(w/o sub TTE)].

**Brief Summary of Second Substitute Bill**

- Allows a deduction from the Public Utility Tax on gross receipts for the costs of producing energy through new cogeneration facilities constructed after July 1, 2001 and before January 1, 2011.

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### HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Crouse, Republican Co-Chair; Poulsen, Democratic Co-Chair; Casada, Republican Vice Chair; Anderson, Berkey, Bush, B. Chandler, DeBolt, Delvin, Esser, Linville, Mielke, Morris, Pflug, Reardon and Wood.

**Minority Report:** Without recommendation. Signed by 4 members: Representatives Ruderman, Democratic Vice Chair; Cooper, Hunt and Simpson.

**Staff:** Pam Madson (786-7166).

**Background:**

Electricity produced through cogeneration uses excess or "waste" energy created by

various kinds of industries. Capturing energy that would otherwise be lost through the industrial process allows this energy to be reused to produce electricity for a particular company's own use and may be sold to other customers. Cogeneration is defined in statute as the sequential generation of electrical or mechanical power and useful heat from the same primary energy source or fuel.

Public and privately-owned utilities, and certain other businesses, are subject to the public utility tax (PUT). The PUT is applied to the gross receipts of a light and power business. Businesses that are subject to the state PUT are exempt from the business and occupation (B&O) tax. All wholesale sales of electricity are exempt from the PUT.

In calculating the PUT, certain deductions from a utility's gross receipts are available. A deduction is allowed for costs of producing energy through cogeneration facilities or renewable energy resources such as solar energy, wind, hydroelectric, wood, and agricultural products. The deduction includes expenditures to improve consumer's efficiency of energy use or to reduce the use of energy by consumers.

The deduction applies only to facilities or measures to improve energy use on which construction or installation occurred after June 12, 1980 and before January 1, 1990. A deduction for cogeneration is allowed for a period not longer than 30 years after the project becomes operational.

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**Summary of Substitute Bill:**

A deduction from the PUT on gross receipts is available for new or expanded cogeneration facilities built between July 1, 2001 and January 1, 2011. For the deduction to be available, the company must produce gross revenues from the sale of electricity to retail customers.

Specific cogeneration is not eligible for the tax deduction. All cogeneration facilities fueled by diesel, and other cogeneration facilities not meeting a specified efficiency standard are not eligible for the deduction. A lower efficiency standard is provided for the application of the deduction for cogeneration facilities built or expanded to increase the efficiency of generating plants fueled by wood chips or other biomass.

A taxpayer requesting the deduction is required to file specified information every fiscal year with the Department of Revenue for the purpose of determining whether the facility meets the relevant efficiency standard. A mechanism is established for the department to acquire technical assistance if needed to make that determination and to obtain information to determine a facility's eligibility for the deduction where the facility has not yet operated for an entire fiscal year.

### **Substitute Bill Compared to Original Bill:**

This substitute bill further clarifies the definition of cogeneration. It limits the deduction for expanded cogeneration facilities to the amount by which generation for sale has increased. All cogeneration facilities fueled by diesel, and other cogeneration facilities not meeting a specified efficiency standard are not eligible for the deduction. The substitute bill also provides a lower efficiency standard for the application of the deduction for cogeneration facilities built or expanded to increase the efficiency of generating plants fueled by wood chips or other biomass. A taxpayer requesting the deduction is required to file specified information every fiscal year with the Department of Revenue for the purpose of determining whether the facility meets the relevant efficiency standard. A mechanism is established for the department to acquire technical assistance if needed to make that determination and to obtain information to determine a facility's eligibility for the deduction where the facility has not yet operated for an entire fiscal year.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** This bill helps produce incentives for increased electrical generation and incentives for more efficient generation. Industrial users can benefit from cogeneration of electricity by supplying their own power or a portion of it and using steam for other processes like drying paper. This results in a more efficient process. This bill can help make it more affordable. The use of waste fuel such as non merchantable wood products can also support some employment in rural areas. The state needs to use every tool available to produce energy and increase efficiency of production. In order to fully utilize the benefits of this bill, public utility districts need to expand the types of entities they can partner with.

**Testimony Against:** None.

**Testified:** (In support) Bruce McComas, Port Townsend Paper Corporation; Bill Quigg, Grays Harbor Paper; Stu Trefry, Washington Public Utility District Association; Dave Danner, Governor's Office; Aaron Jones, Washington Rural Electric Cooperative Association; and Mellani Hughes, Association of Washington Businesses.

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### **HOUSE COMMITTEE ON FINANCE**

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Technology, Telecommunications & Energy. Signed by 10 members: Representatives Cairnes, Republican Co-Chair; Morris, Democratic Co-Chair; Berkey, Democratic Vice Chair; Roach, Republican Vice Chair; Carrell, Conway, Pennington, Santos, Van Luven and Veloria.

**Staff:** Mark Matteson (786-7145).

**Summary of Recommendation of Committee On Finance Compared to Recommendation of Committee On Technology, Telecommunications & Energy:**

The second substitute is a technical redraft of the substitute bill as a stand-alone section within the public utility tax chapter, in order to address definitional conflicts with the existing statutory deduction. Technical changes are made to clarify that the deduction is for the cost of production of electrical energy produced from cogeneration at new or expanded cogeneration facilities, and not for new or expanded cogeneration (which is a process). The filing requirement to claim a deduction is modified to allow the taxpayer to provide additional information beyond that which the bill specifically enumerates.

**Appropriation:** None.

**Fiscal Note:** Available for the substitute bill.

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

**Testimony For:** This bill provides industrial employers the ability to protect jobs and put excess capacity on the grid.

Cogeneration increases the efficiency of industrial processes by as much as 50 percent. Waste heat is used to generate power. It is estimated that expanded cogeneration could add 100 megawatts of capacity. Policies that provide abundant supplies of power at a reasonable cost are good. From an environmental perspective, this is a good proposal because it reduces the need for new plant capacity.

**Testimony Against:** None.

**Testified:** Representative Anderson, prime sponsor; Dave Danner, Governor's Office; Kristen Harte-Sawin, Association of Washington Business; and Collins K. Sprague, Avista Corporation.