

and penalties which will become due from such employer during the next ensuing calendar year, said bond to be conditioned upon payment of all contributions ((and)), interest, and penalties due and owing within thirty days after the expiration of the next ensuing calendar year or at such earlier date as the court may fix.

Action pursuant to the provisions of this section may be instituted in the superior court of any county of the state wherein the employer resides, has its principal place of business, or where it has anyone performing services for it, whether or not such services constitute employment.

Sec. 15. Section 7, chapter 286, Laws of 1955 and RCW 50.24.190 are each amended to read as follows:

The commissioner shall commence action for the collection of contributions, interest, penalties, and benefit overpayments imposed by this title by assessment or suit within three years after a return is filed or notice of benefit overpayment is served. No proceedings for the collection of such amounts shall be begun after the expiration of such period.

In case of a false or fraudulent return with intent to evade contributions ((or)), interest, or penalties, or in the event of a failure to file a return, the contributions ((and)), interest, and penalties may be assessed or a proceeding in court for the collection thereof may be begun at any time.

Sec. 16. Section 8, chapter 286, Laws of 1955 and RCW 50.24.200 are each amended to read as follows:

The commissioner may charge off as uncollectible and no longer an asset of the unemployment compensation fund or the administrative contingency fund, as the case may be, any delinquent contributions, interests, penalties, credits, or benefit overpayments at any time after three years from the date of delinquency or service of notice of benefit overpayment, if the commissioner and the attorney general are satisfied that there are no available and lawful means by which such contributions, interest, penalties, credits, or benefit overpayments may thereafter be collected.

Passed the House May 7, 1979.

Passed the Senate May 4, 1979.

Approved by the Governor May 17, 1979.

Filed in Office of Secretary of State May 17, 1979.

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## CHAPTER 191

[Substitute House Bill No. 1013]

### COGENERATION—TAX CREDIT, EXEMPTION—NONPOLLUTING POWER GENERATION—REGULATION EXEMPTION

AN ACT Relating to energy and utilities regulation; amending section 80.04.010, chapter 14, Laws of 1961 as last amended by section 1, chapter 47, Laws of 1977 ex. sess. and RCW 80.04.010; adding a new chapter to Title 82 RCW; adding a new section to chapter 84.36 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. The state of Washington has a large and growing need for electrical energy. The state of Washington possesses a great potential for the generation of electrical or mechanical power and useful heat energy through the process of cogeneration. It is the purpose and intent of the legislature to promote the growth of cogeneration in the state of Washington.

NEW SECTION. Sec. 2. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Cogeneration" means the sequential generation of electrical or mechanical power and useful heat from the same primary energy source or fuel.

(2) "Cogeneration facility" means any machinery, equipment, structure, process, or property, or any part thereof, installed or acquired for the primary purpose of cogeneration by a person or corporation other than an electric utility.

(3) "Certificate" means a cogeneration tax credit certificate granted by the department.

(4) "Cost" means only the cost of a cogeneration facility which is in addition to the cost that the applicant otherwise would incur to meet the applicant's demands for useful heat. "Cost" does not include expenditures which are offset by cost savings, including but not limited to savings resulting from early retirement of existing equipment.

(5) "Department" means the department of revenue.

(6) "Electric utility" means any person, corporation, or governmental subdivision authorized and operating under the Constitution and laws of the state of Washington which is primarily engaged in the generation or sale of electric energy.

(7) "Office" means the state energy office.

NEW SECTION. Sec. 3. (1) An application for a certificate shall be filed with the department. The application shall contain the estimated or actual cost, plans, and specifications of the cogeneration facility, including all materials incorporated or to be incorporated therein, and a list describing and showing all expenditures made by the applicant for the purpose of cogeneration, together with the operating procedure for the facility, and if the facility has not been constructed, a time schedule for the acquisition and installation or attachment of the cogeneration facility and the proposed operating procedure for the cogeneration facility.

(2) The department shall provide a copy of the application to the energy office within ten days after receipt thereof. Within sixty days after receipt of the application from the department, the office shall approve the application but only if it first determines that construction of the cogeneration facility began or will begin after the effective date of this act, that the cogeneration

facility is designed and is operated or will be operated primarily for cogeneration, and that the cogeneration facility is suitable, reasonably adequate, and meets the intent and purposes of this chapter.

(3) Within ten days after approval of the application, the office shall provide a copy thereof to the department. Within thirty days after receipt thereof the department shall issue the certificate but only if it finds that the cost data in the application is accurate. If the application contains estimated cost data, the certificate shall be conditioned upon the applicant providing sufficient information for the department to determine the actual cost of the cogeneration facility on the date it becomes operational. Within sixty days after the cogeneration facility is operational the department shall review the certificate. If the actual cost of the cogeneration facility is less than the cost shown in the certificate, the department shall issue a modified certificate or a supplement to the original certificate, showing the actual cost of the cogeneration facility.

(4) The department, with the approval of the office, may adopt rules specifying the administrative procedures applicable to applications for certification, the form and manner in which the applications shall be filed and additional information to be contained therein. The rules shall apply to administrative procedures before both the office and the department. An applicant shall have the opportunity for a hearing before the office and the department in respect to their respective decisions granting or denying approval or certification.

This section shall expire on December 31, 1984.

NEW SECTION. Sec. 4. (1) No certificate or supplement may be issued after December 31, 1984.

(2) The department shall keep a running tabulation of the total cogeneration facility costs incurred or planned to be incurred pursuant to certificates or supplements issued under this chapter. The department may not issue any new certificate or any supplement if the certificate or supplement would result in the tabulation exceeding one hundred million dollars. Nothing in this section shall be deemed to bar any certificate holder from amending the certificate or obtaining a supplement thereto so long as the amendment or supplement is issued prior to December 1, 1984, and does not increase the total amount of cogeneration facility costs incurred or planned to be incurred under the original certificate.

(3) The department may adopt any rules under chapter 34.04 RCW it considers necessary for the administration of this chapter.

NEW SECTION. Sec. 5. When a cogeneration facility is operational and a certificate pertaining thereto has been issued, a credit may be claimed against taxes imposed under chapter 82.04 RCW, if the due date for payment of the taxes is after the effective date of the certificate: **PROVIDED,** That the date on which the facility is operational is no more than four years after the date of issuance of the certificate. The amount of the credit shall

be two percent of the cost of a facility covered by the certificate for each year the certificate remains in force. The credits shall be cumulative and shall be subject only to the following limitations:

(1) The tax credit shall apply to capital costs only and shall not apply to operating costs.

(2) A person, firm, corporation, or organization which acquires a cogeneration facility shall be entitled to the credit only to the extent that it has previously not been taken. Under no circumstances may a credit be taken more than once against any cost or portion thereof of a cogeneration facility.

(3) No credit exceeding fifty percent of the taxes payable under chapter 82.04 RCW shall be allowed in any reporting period.

(4) The total cumulative amount of the credits allowed for any cogeneration facility covered by a certificate shall not exceed fifty percent of the cost of the cogeneration facility.

(5) The total cumulative amount of credits against state taxes authorized by this chapter shall be reduced by the total amount of any federal investment credit or other federal tax credit actually received by the certificate holder applicable to the cogeneration facility. This reduction shall be made as an offset against the credit claimed in the first reporting period following the allowance of the investment credit, or other credit, and thereafter as an offset against any credit balance as it shall become available to the certificate holder.

NEW SECTION. Sec. 6. If subsequent to the issuance of a certificate for a cogeneration facility and prior to December 31, 1984, a determination is made to modify or replace the cogeneration facility, the holder of the certificate may file an application for a modified certificate or supplement to the existing certificate covering the modified or replacement cogeneration facility in accordance with the procedures set forth in this chapter for original certificates and supplements. After the issuance by the department of any modified certificate or supplement, all subsequent tax credits and exemptions for the cogeneration facility shall be based on the modified certificate or supplement and shall be exclusively based on the cost shown in the modified or supplemented certificate.

This section shall expire on December 31, 1984.

NEW SECTION. Sec. 7. The department shall send a certificate or supplement, when issued, by certified mail to the applicant. Notice of the department's refusal to issue a certificate or supplement shall likewise be sent to the applicant by certified mail.

NEW SECTION. Sec. 8. (1) Except as provided in subsection (2) of this section, the department shall revoke any certificate issued under this chapter if it finds that any of the following have occurred with respect to the certificate:

(a) The certificate was obtained by fraud or deliberate misrepresentation;

(b) The certificate was obtained through the use of inaccurate data but without any intention to commit fraud or misrepresentation;

(c) The facility was constructed or operated in violation of any provision of this chapter or provision imposed by the department as a condition of certification; or

(d) The cogeneration facility is no longer capable of being operated for the primary purpose of cogeneration.

(2) If the department finds that there are few inaccuracies under subsection (1)(b) of this section and that cumulatively they are insignificant in terms of the cost or operation of the facility or that the inaccurate data is not attributable to carelessness or negligence and its inclusion was reasonable under the circumstances, then the department may provide for the continuance of the certificate and whatever modification it considers in the public interest.

(3) Any person, firm, corporation, or organization that obtains a certificate revoked under this section shall be liable for the total amount of money saved by claiming the credits and exemptions provided under this chapter and section 9 of this act. The total amount of the credits shall be collected as delinquent business and occupation taxes, and the total of the exemptions shall be collected and distributed as delinquent property taxes. Interest shall accrue on the amounts of the credits and exemptions from the date the taxes were otherwise due.

(4) The office shall provide technical assistance to the department in carrying out its responsibilities under this section.

**NEW SECTION.** Sec. 9. There is added to chapter 84.36 RCW a new section to read as follows:

Cogeneration facilities which have been granted a cogeneration tax credit certificate under chapter ... RCW (sections 1 through 8 of this act) shall be exempt from property taxation for a period of seven years from the date on which the facility is operational or until the certificate is revoked, whichever is first. For the purposes of the exemption under this section the value of the cogeneration facility shall be based upon the cost shown in the certificate.

Claims for the exemption authorized by this section shall be filed with the county assessor on forms prescribed by the department of revenue and furnished by the assessor. The assessor shall verify and approve such claims as he or she determines to be justified in accordance with this section.

The department of revenue shall promulgate such rules and regulations, pursuant to chapter 34.04 RCW as are necessary and convenient to properly administer the provisions of this section.

Sec. 10. Section 80.04.010, chapter 14, Laws of 1961 as last amended by section 1, chapter 47, Laws of 1977 ex. sess. and RCW 80.04.010 are each amended to read as follows:

As used in this title, unless specifically defined otherwise or unless the context indicates otherwise:

"Commission" means the utilities and transportation commission.

"Commissioner" means one of the members of such commission.

"Corporation" includes a corporation, company, association or joint stock association.

"Person" includes an individual, a firm or copartnership.

"Gas plant" includes all real estate, fixtures and personal property, owned, leased, controlled, used or to be used for or in connection with the transmission, distribution, sale or furnishing of natural gas, or the manufacture, transmission, distribution, sale or furnishing of other type gas, for light, heat or power.

"Gas company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receiver appointed by any court whatsoever, and every city or town, owning, controlling, operating or managing any gas plant within this state.

"Electric plant" includes all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat, or power for hire; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

"Electrical company" includes any corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever (other than a railroad or street railroad company generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others), and every city or town owning, operating or managing any electric plant for hire within this state. "Electrical company" does not include a company or person employing a cogeneration facility solely for the generation of electricity for its own use or the use of its tenants or for sale to an electrical company, state or local public agency, municipal corporation, or quasi municipal corporation engaged in the sale or distribution of electrical energy, but not for sale to others, unless such company or person is otherwise an electrical company.

"Telephone company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, operating or managing any telephone line or part of telephone line used in

the conduct of the business of affording telephonic communication for hire within this state.

"Telephone line" includes conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated, owned or controlled by any telephone company to facilitate the business of affording telephonic communication.

"Telegraph company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any telegraph line or part of telegraph line used in the conduct of the business of affording for hire communication by telegraph within this state.

"Telegraph line" includes conduits, poles, wire, cables, cross-arms, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated or owned by any telegraph company to facilitate the business of affording communication by telegraph.

"Water system" includes all real estate, easements, fixtures, personal property, dams, dikes, head gates, weirs, canals, reservoirs, flumes or other structures or appliances operated, owned, used or to be used for or in connection with or to facilitate the supply, storage, distribution, sale, furnishing, diversion, carriage, apportionment or measurement of water for power, irrigation, reclamation, manufacturing, municipal, domestic or other beneficial uses for hire.

"Water company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any water system for hire within this state: PROVIDED, That it shall not include any water system serving less than sixty customers where the average annual gross revenue per customer does not exceed one hundred twenty dollars per year.

"Cogeneration facility" means any machinery, equipment, structure, process, or property, or any part thereof, installed or acquired for the primary purpose of the sequential generation of electrical or mechanical power and useful heat from the same primary energy source or fuel.

"Public service company" includes every gas company, electrical company, telephone company, telegraph company and water company. Ownership or operation of a cogeneration facility does not, by itself, make a company or person a public service company.

The term "service" is used in this title in its broadest and most inclusive sense.

**NEW SECTION.** Sec. 11. The generation of power by a nonpolluting, renewable energy source by an individual natural person not otherwise engaged in the business of power generation is declared to be exempt from all

statutes and rules otherwise regulating the generation of power: PROVIDED, That such an individual is hereby authorized to provide such power to the utility servicing the property on which the power is generated and the servicing utility is hereby authorized to accept such power under such terms and conditions as may be agreed to between the parties.

NEW SECTION. Sec. 12. The house and senate energy and utilities committees are authorized and directed to monitor the effectiveness of the business and occupation tax credit and property tax exemption for cogeneration facilities as an incentive for the implementation of cogeneration, and to study the cost and effectiveness of alternative state incentives for cogeneration, including, but not limited to direct grants, loans, other tax incentives, and partial funding for feasibility studies. The committees shall report their findings and recommendations to the forty-seventh legislature of the state of Washington convened in regular session.

NEW SECTION. Sec. 13. If any provision of this 1979 act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 14. Sections 1 through 8 of this act shall constitute a new chapter in Title 82 RCW.

Passed the House May 7, 1979.

Passed the Senate May 1, 1979.

Approved by the Governor May 17, 1979.

Filed in Office of Secretary of State May 17, 1979.

## CHAPTER 192

[Substitute House Bill No. 1031]

### TRANSPORTATION STUDIES—COMPREHENSIVE PLANS—AVIATION STUDY, APPROPRIATION—HANDICAPPED PARKING PRIVILEGES

AN ACT Relating to transportation; amending section 1, chapter 201, Laws of 1973 1st ex. sess. as last amended by section 112, chapter 158, Laws of 1979 and RCW 44.40.070; amending and reenacting section 1, chapter 128, Laws of 1961 as last amended by section 1, chapter 7, Laws of 1979 1st ex. sess., by section 1, chapter 26, Laws of 1979 1st ex. sess., by section 1, chapter 27, Laws of 1979 1st ex. sess., and by section 50, chapter .. (EHB 101), Laws of 1979 1st ex. sess. and RCW 46.16.380; amending section 75, chapter 51, Laws of 1970 ex. sess. as amended by section 9, chapter 73, Laws of 1971 ex. sess. and RCW 47.17.370; creating new sections; making an appropriation; providing effective dates; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. The legislative transportation committee, in consultation with the house and senate standing committees on transportation, is authorized to conduct the following studies and activities and such