

## CHAPTER 278.

[ H. B. 489. ]

## TAXATION OF PUBLIC UTILITY DISTRICTS.

AN ACT relating to public utility districts and the taxation thereof; amending sections 1 and 3a, chapter 245, Laws of 1941, section 1, chapter 227, Laws of 1949 and RCW 54.28-.010, 54.28.020, 54.28.030, 54.28.040, 54.28.050, 54.28.060, 54.28.080, and 54.04.040; adding new sections to chapter 54.28 RCW; and declaring an emergency.

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

SECTION 1. Sections 1 and 3a, chapter 245, Laws of 1941 and section 1, chapter 227, Laws of 1949 (here tofore divided, combined and codified as RCW 54.28-.010, 54.28.020, 54.28.030, 54.28.040, 54.28.050, 54.28-.060, 54.28.080, and 54.04.040) are amended to read as set forth in sections 2 through 9 of this act.

Combination,  
division and  
amendment.

SEC. 2. (RCW 54.28.020) There is hereby levied and there shall be collected from every district a tax for the act or privilege of engaging within this state in the business of operating works, plants or facilities for the generation, distribution and sale of electric energy. With respect to each such district, such tax shall be the sum of the following amounts: (1) Two percent of the gross revenues derived by the district from the sale of all "distributed energy," i.e., electric energy which it distributes to consumers but neither generates nor purchases from generating districts; (2) five percent of the gross revenues derived by the district from the sale of all "self generated and distributed energy," i.e., the electric energy which it distributes to customers and also generates; and (3) five percent of the gross revenues derived by the district from the sale of "distributed energy purchased from another generating district," i.e., electric energy which it distributes to consumers and also purchases from another district which generated the same.

RCW 54.28.020  
amended.  
Privilege taxes.  
Tax imposed—  
Rates.

RCW 54.28.030  
amended.  
Public utility  
districts—Priv-  
ilege taxes.  
Districts' re-  
port to tax  
commission.

SEC. 3. (RCW 54.28.030) On or before the fifteenth day of March of each year, each district subject to this tax shall file with the tax commission a report verified by the affidavit of its manager or secretary on forms prescribed by the tax commission. Such report shall state (1) the county or counties wherein the operating property of the district is located, (2) as to the entire property and as to each county, the reproduction cost new and less depreciation of such operating property insofar as that information is available from the district's existing records without taking additional inventory or procuring an engineering report or survey, (3) actual cost and general description of operating property purchased or constructed, (4) the district's separately stated gross revenues for the preceding year derived from the sale of each of the three classes of electric energy described in RCW 54.28.020, and (5) such other and further information as the tax commission reasonably may require in order to administer the provisions of this chapter. In case of failure by a district to file such report, the commission may proceed to determine the information, which determination shall be contestable by the district only for actual fraud. The tax commission shall proceed to determine the fair cash market value of the operating property of each and all of the districts taxable hereunder as of December 31st last past, and the percentage thereof located in each of the county or counties wherein such operating property is located.

RCW 54.28.040  
amended.  
Tax computed  
—Payment  
—Disposition.

SEC. 4. (RCW 54.28.040) Prior to May 1st, the tax commission shall compute the tax imposed by this chapter for the last preceding calendar year and notify the district of the amount thereof, which shall be payable on or before the following June 1st. Upon receipt of the amount of each tax imposed the tax commission shall deposit the same with the state treasurer, who shall deposit four percent thereof in

the general fund of the state and shall distribute the remainder in the manner hereinafter set forth. The state treasurer shall send a duplicate copy of each such letter of transmittal to the tax commission.

SEC. 5. (RCW 54.28.050) After computing the tax imposed by this chapter, the tax commission shall separately compute the values of each district's generating properties and its other operating properties used in the generation, distribution and sale of electric energy. If all the properties of a district are within one county, the tax commission shall instruct the state treasurer to remit the total amount of the tax collected from the district, less the four percent placed in the state general fund, to the county treasurer of the county in which the district operates for distribution to the taxing districts of the county as provided in this act.

RCW 54.28.050  
amended.  
Apportionment  
of tax to taxing  
districts.

If the district has operating property in more than one county, the tax commission shall instruct the state treasurer, after placing four percent in the state general fund, to distribute the balance collected under section 2, subsection (1) to each county according to the proportionate share of the district's operating property other than generating property in each county; the balance collected under section 2, subsection (2) shall be distributed to each county (a) forty percent according to the proportionate share of the district's operating property other than generating property in each county, and (b) sixty percent according to the proportionate share of the district's generating property in each county; the balance collected under section 2, subsection (3) shall be distributed to each county (a) forty percent according to the proportionate share of the purchasing district's operating property other than generating property in each county, and (b) sixty percent according to the proportionate share of the selling district's generating property in each county.

RCW 54.28.060  
enacted  
without  
amendment.

SEC. 6. (RCW 54.28.060) Interest at the rate of six percent per annum shall be added to the tax hereby imposed after the due date. The tax shall constitute a debt to the state and may be collected as such.

RCW 54.28.010  
enacted  
without  
amendment.

SEC. 7. (RCW 54.28.010) As used in this chapter:  
"Tax commission" means the state tax commission;

"Operating property" means all of the property utilized by a public utility district in the operation of a plant or system for the generation, transmission, or distribution of electric energy for sale;

"Taxing districts" means counties, cities, towns, school districts, and road districts;

"Distributes to consumers" means the sale of electric energy to ultimate consumers thereof, and does not include sales of electric energy for resale by the purchaser.

RCW 54.28.080  
enacted  
without  
amendment.

SEC. 8. (RCW 54.28.080) Whenever any district acquires an operating property from any private person, firm, or corporation and a portion of the operating property is situated within the boundaries of any school district and at the time of such acquisition there is an outstanding bonded indebtedness of the school district, then the public utility district shall, in addition to the tax imposed by this chapter, pay directly to the school district a proportion of all subsequent payments by the school district of principal and interest on said bonded indebtedness, said additional payments to be computed and paid as follows: The amount of principal and interest required to be paid by the school district shall be multiplied by the percentage which the assessed value of the property acquired bore to the assessed value of the total property in the school district at the time of such acquisition. Such additional amounts shall be paid by the public utility district to the school district not less than fifteen days prior

to the date that such principal and interest payments are required to be paid by the school district. In addition, any public utility district which acquires from any private person, firm, or corporation an operating property situated within a school district, is authorized to make voluntary payments to such school district for the use and benefit of the school district.

SEC. 9. (RCW 54.04.040) A district shall not construct any property to be utilized by it in the operation of a plant or system for the generation, transmission, or distribution of electric energy for sale, on the streets, alleys, or public places within a city or town without the consent of the governing body of the city or town and approval of the plan and location of the construction, which shall be made under such reasonable terms as the city or town may impose. All such properties shall be maintained and operated subject to such regulations as the city or town may prescribe under its police power.

RCW 54.04.040  
enacted  
without  
amendment.

SEC. 10. There is added to chapter 54.28 RCW, a new section to read as follows:

New section.

The county commissioners of each county shall direct the county treasurer to deposit funds to the credit of each taxing district in the county according to the manner they deem most equitable; except not less than thirty-five percent of all moneys so received shall be apportioned to the school districts within the county having district properties within their limits, and not less than an amount equal to three-fourths of one percent of the gross revenues obtained by a district from the sale of electric energy within any incorporated city or town shall be remitted to such city or town. Information furnished by the district to the county commissioners shall be the basis for the determination of the amount to be paid to such cities or towns.

Apportionment  
of tax by  
county  
commissioners.

New section. SEC. 11. There is added to chapter 54.28 RCW, a new section to read as follows:

Disposition of funds received. All moneys received by any taxing district shall be used for purposes for which state taxes may be used under the provisions of the state constitution.

New section. SEC. 12. There is added to chapter 54.28 RCW, a new section to read as follows:

"Gross revenue" defined. "Gross revenue" shall mean the amount received from the sale of electric energy excluding any tax levied by a municipal corporation upon the district pursuant to RCW 54.28.070.

New section. SEC. 13. There is added to chapter 54.28 RCW, a new section to read as follows:

Voluntary payments by district to municipal corporation for revenue lost. Whenever, hereafter, property is removed from the tax rolls as a result of the acquisition of operating property or the construction of a generating plant by a public utility district, such public utility district may make voluntary payments to any municipal corporation or other entity authorized to levy and collect taxes in an amount not to exceed the amount of tax revenues being received by such municipal corporation or other entity at the time of said acquisition or said construction and which are lost by such municipal corporation or other entity as a result of the acquisition of operating property or the construction of a generating plant by the public utility district: *Provided*, That this section shall not apply to taxing districts as defined in RCW 54.28.010, and: *Provided further*, That in the event any operating property so removed from the tax rolls is dismantled or partially dismantled the payment which may be paid hereunder shall be correspondingly reduced.

Proviso.

Proviso.

New section. SEC. 14. There is added to chapter 54.28 RCW, a new section to read as follows:

In the event any district hereafter purchases or otherwise acquires electric utility properties com-

prising all or a portion of an electric generation and/or distribution system from a public service company, as defined in RCW 80.04.010, the total amount of privilege taxes imposed under this act to be paid by the district annually on the combined operating property within each county where such utility property is located, irrespective of any other basis of levy contained in this chapter, will be not less than the combined total of the ad valorem taxes, based on regular levies, last levied against the electric utility property constituting the system so purchased or acquired plus the taxes paid by the district for the same year on the revenues of other operating property in the same county under terms of this chapter. If all or any portion of the property so acquired is subsequently sold, or if rates charged to purchasers of electric energy are reduced, the amount of privilege tax required under this section shall be proportionately reduced.

District purchasing electric utility properties—Formula for determining minimum privilege tax—Same, when sale.

SEC. 15. There is added to chapter 54.28 RCW a new section. to read as follows:

It is the purpose of this act that electric energy generated by a district shall be taxed but once under this act and in each instance at the point of last sale by any district.

Purpose of act.

SEC. 16. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Emergency.

Passed the House March 14, 1957.

Passed the Senate March 14, 1957.

Approved by the Governor March 26, 1957.