



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

May 2, 2003

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit:

Senate File 275, an Act relating to the taxation of utilities, including establishment of a natural gas delivery tax rate for new electric power generating plants, establishment of a replacement transmission tax for certain municipal utilities, methods of allocation of replacement generation tax incurred by certain new stand-alone electric power generating plants, a formula for determining taxable value for property generating replacement tax annually, extending the task force, and providing for applicability.

The above Senate File is hereby approved this date.

Sincerely,

Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House





SENATE FILE 275

AN ACT

RELATING TO THE TAXATION OF UTILITIES, INCLUDING ESTABLISHMENT OF A NATURAL GAS DELIVERY TAX RATE FOR NEW ELECTRIC POWER GENERATING PLANTS, ESTABLISHMENT OF A REPLACEMENT TRANSMISSION TAX FOR CERTAIN MUNICIPAL UTILITIES, METHODS OF ALLOCATION OF REPLACEMENT GENERATION TAX INCURRED BY CERTAIN NEW STAND-ALONE ELECTRIC POWER GENERATING PLANTS, A FORMULA FOR DETERMINING TAXABLE VALUE FOR PROPERTY GENERATING REPLACEMENT TAX ANNUALLY, EXTENDING THE TASK FORCE, AND PROVIDING FOR APPLICABILITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 426B.2, subsections 1 and 3, Code 2003, are amended to read as follows:

1. The moneys in the property tax relief fund available to counties for a fiscal year shall be distributed as provided in this section. A county's proportion of the moneys shall be equivalent to the sum of the following three factors:

a. One-third based upon the county's proportion of the state's general population.

b. One-third based upon the county's proportion of the state's total taxable property valuation assessed for taxes payable in the previous fiscal year.

c. One-third based upon the county's proportion of all counties' base year expenditures, as defined in section 331.438.

Moneys provided to a county for property tax relief in a fiscal year, excluding replacement taxes in the property tax relief fund, in accordance with this subsection shall not be less than the amount provided for property tax relief in the previous fiscal year.

3. The director of human services shall draw warrants on the property tax relief fund, payable to the county treasurer in the amount due to a county in accordance with subsection 1 and mail the warrants to the county auditors in July and January of each year. Any replacement generation tax in the property tax relief fund as of November 1 shall be paid to the county treasurers in July and January of the fiscal year beginning the following July 1.

Sec. 2. Section 437A.3, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. "Cogeneration facility" means a facility with a capacity of two hundred megawatts or less that uses the same energy source for the sequential generation of electrical or mechanical power in combination with steam, heat, or other forms of useful energy and, except for ownership, meets the criteria to be a qualifying cogeneration facility as defined in the federal Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 2601 et seq., and related federal regulations.

Sec. 3. Section 437A.3, subsection 10, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "New electric power generating plant" means an electric power generating plant that is owned by or leased to an electric company, electric cooperative, or municipal utility, and that initially generates electricity subject to replacement generation tax under section 437A.6 on or after January 1, 2003.

Sec. 4. Section 437A.3, subsection 13, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Local amount" for the purposes of determining the local taxable value for a new electric power generating plant shall annually be determined to be equal up to the first forty-four million four hundred forty-four thousand four hundred forty-five dollars of the taxable value of the new electric power generating plant. "Local amount" for the purposes of determining the local assessed value for a new electric power generating plant shall be annually determined to be the percentage share of the taxable value of the new electric power generating plant allocated as the local amount multiplied by the total assessed value of the new electric power generating plant.

Sec. 5. Section 437A.3, subsection 21, paragraph a, subparagraph (1), subparagraph subdivision (am), Code 2003, is amended to read as follows:

(am) The city of Waukee in Dallas county and the area within two miles of the city limits of Waukee as of January 1, 1999, not including any part of the cities of Clive, Urbandale, or West Des Moines.

Sec. 6. Section 437A.3, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 27A. "Taxable value" means as defined in section 437A.19, subsection 2, paragraph "f".

Sec. 7. Section 437A.5, subsection 1, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Notwithstanding paragraphs "a" and "b", a natural gas delivery rate of one and eleven-hundredths of a cent (.0111) per therm of natural gas is imposed on all natural gas delivered to or consumed by a new electric power generating plant for purposes of generating electricity within the state during the tax year. However, if a new electric power generating plant is exempt from a replacement generation tax pursuant to section 437A.6, subsection 1, paragraph "b", the natural gas delivery rate for the municipal service area that the new plant serves shall instead apply for deliveries of natural gas by the municipal gas utility.

The provisions of subsection 8, shall not apply to the therms of natural gas subject to the delivery tax set forth in this paragraph.

If the new electric power generating plant is part of a cogeneration facility, the natural gas delivery rate for that plant shall be the lesser of the natural gas delivery rate established in this paragraph or the rate per therm of natural gas as in effect at the time of the initial natural gas deliveries to the plant for the natural gas competitive service area where the new electric power generating plant is located.

Sec. 8. Section 437A.5, subsection 6, Code 2003, is amended to read as follows:

6. Notwithstanding subsection 1, the natural gas delivery tax rate applied to therms of natural gas delivered by a taxpayer to utility property and facilities ~~which~~ that are

placed in service on or after January 1, 1999, and which that are owned by or leased to and initially served by such taxpayer shall be the natural gas delivery tax rate in effect for the natural gas competitive service area principally served by such utility property and facilities even though such utility property and facilities may be physically located in another natural gas competitive service area.

This subsection shall not apply to natural gas delivered to or consumed by new electric power generating plants.

Sec. 9. Section 437A.7, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. In lieu of the replacement transmission tax imposed in subsection 1, a municipal utility whose replacement transmission tax liability for the tax year 1999 was limited to the tax imposed by this section and whose anticipated tax revenues from a taxpayer, as defined in section 437A.15, subsection 4, for the tax year 1999, exceeded its replacement transmission tax by more than one hundred thousand dollars shall be subject to replacement transmission tax on all transmission lines owned by or leased to the municipal utility as of the last day of the tax year 2000 as follows:

a. Three thousand twenty-five dollars per pole mile of transmission line owned or leased by the taxpayer not exceeding one hundred kilovolts.

b. Seven thousand dollars per pole mile of transmission line owned or leased by the taxpayer greater than one hundred fifty kilovolts but not exceeding three hundred kilovolts.

Sec. 10. Section 437A.8, subsection 4, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Notwithstanding paragraph "a", a taxpayer who owns or leases a new electric power generating plant and who has no other operating property in the state of Iowa except for operating property directly serving the new electric power generating plant as described in section 437A.16, shall pay the replacement generation tax associated with the allocation of the local amount to the county treasurer of the county in which the local amount is located and shall remit the remaining replacement generation tax, if any, to the director according to paragraph "a" for remittance

of the tax to county treasurers. The director shall notify each taxpayer on or before August 31 following a tax year of its remaining replacement generation tax to be remitted to the director. All remaining replacement generation tax revenues received by the director shall be deposited in the property tax relief fund created in section 426B.1, and shall be distributed as provided in section 426B.2.

Sec. 11. Section 437A.15, subsection 3, paragraph a, Code 2003, is amended to read as follows:

a. All replacement taxes owed by a taxpayer shall be allocated among the local taxing districts in which such taxpayer's property is located in accordance with a general allocation formula determined by the department of management on the basis of general property tax equivalents. General property tax equivalents shall be determined by applying the levy rates reported by each local taxing district to the department of management on or before June 30 following a tax year to the assessed taxable value of taxpayer property allocated to each such local taxing district as adjusted and reported to the department of management in such tax year by the director pursuant to section 437A.19, subsection 2. The general allocation formula for a tax year shall allocate to each local taxing district that portion of the replacement taxes owed by each taxpayer which bears the same ratio as such taxpayer's general property tax equivalents for each local taxing district bears to such taxpayer's total general property tax equivalents for all local taxing districts in Iowa.

When allocating natural gas delivery taxes on deliveries of natural gas to a new electric power generating plant, ten percent of those natural gas delivery taxes shall be allocated over new gas property built to directly serve the new electric power generating plant and ninety percent of those natural gas delivery taxes shall be allocated to the general property tax equivalents of all gas property within the natural gas competitive service area or areas where the new gas property is located.

Sec. 12. Section 437A.15, subsection 3, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Notwithstanding the provisions of this section, if a taxpayer is a municipal utility or a municipal owner of an electric power facility financed under the provisions of chapter 28F or 476A, the assessed value, other than the local amount, of a new electric power generating plant shall be allocated to each taxing district in which the municipal utility or municipal owner is serving customers and has electric meters in operation in the ratio that the number of operating electric meters of the municipal utility or municipal owner located in the taxing district bears to the total number of operating electric meters of the municipal utility or municipal owner in the state as of January 1 of the tax year. If the municipal utility or municipal owner of an electric power facility financed under the provisions of chapter 28F or 476A has a new electric power generating plant but the municipal utility or municipal owner has no operating electric meters in this state, the municipal utility or municipal owner shall pay the replacement generation tax associated with the new electric power generating plant allocation of the local amount to the county treasurer of the county in which the local amount is located and shall remit the remaining replacement generation tax, if any, to the director at the times contained in section 437A.8, subsection 4, for remittance of the tax to the county treasurers. All remaining replacement generation tax revenues received by the director shall be deposited in the property tax relief fund created in section 426B.1, and shall be distributed as provided in section 426B.2.

Sec. 13. Section 437A.15, subsection 7, Code 2003, is amended to read as follows:

7. ~~On or before July 17, 1998, the~~ The department of management, in consultation with the department of revenue and finance, shall ~~initiate and~~ coordinate the ~~establishment of a utility replacement tax~~ task force and provide staffing assistance to the task force. It is the intent of the general assembly that the task force include representatives of the department of management, department of revenue and finance, electric companies, natural gas companies, municipal utilities, electric cooperatives, counties, cities, school boards, and industrial, commercial, and residential consumers, and other appropriate stakeholders.

The task force shall study the effects of the replacement tax on local taxing authorities, local taxing districts, consumers, and taxpayers and the department of management shall report to the general assembly by January 1 of each year through January 1, ~~2003~~ 2005, the results of the study and the specific recommendations of the task force for modifications to the replacement tax, if any, which will further the purposes of tax neutrality for local taxing authorities, local taxing districts, taxpayers, and consumers, consistent with the stated purposes of this chapter. The department of management shall also report to the legislative council by November 15 of each year through ~~2002~~ 2004, the status of the task force study and any recommendations.

Sec. 14. Section 437A.19, subsection 2, paragraph f, Code 2003, is amended to read as follows:

f. In the event the base year assessed value of taxpayer property is adjusted as a result of taxpayer appeals, reduce the assessed value of taxpayer property in each local taxing district to reflect such adjustment. The adjustment shall be allocated in proportion to the allocation of the taxpayer's assessed value among the local taxing districts determined without regard to this adjustment. ~~If an~~ An adjustment to the base year assessed value of taxpayer property ~~is finally determined on or before September 30, 1999, it shall be reflected in the January 1, 1999, assessed value. --~~ Otherwise, any such adjustment shall be made as of January 1 of the year following the date on which the adjustment is finally determined.

In no event shall the adjustments set forth in this subsection reduce the assessed value of taxpayer property in any local taxing district below zero.

The director, ~~on or before October 31, 1999, in the case of January 1, 1999, assessed values,~~ and on or before August 31 of each subsequent assessment year, shall report to the department of management and to the auditor of each county the adjusted assessed value of taxpayer property as of January 1 of such assessment year for each local taxing district, ~~provided that for a taxpayer whose base year as defined in section 437A.3, subsection 1, changed from 1997 to 1998, the director shall, before May 1, 2000, report to the department~~

~~of management and to the auditor of each county, the assessed values as of January 1, 1999.~~ For purposes of this subsection, the assessed value of taxpayer property in each local taxing district subject to adjustment under this section by the director means the assessed value of such property as of the preceding January 1 as determined and allocated among the local taxing districts by the director.

Nothing in this chapter shall be interpreted to authorize local taxing authorities to exclude from the calculation of levy rates the ~~adjusted-assessed~~ taxable value of taxpayer property reported to county auditors pursuant to this subsection.

In addition to reporting the assessed values as described in this subsection, the director, on or before October 31, 2003, in the case of January 1, 2003, values, and on or before August 31 of each subsequent assessment year, shall also report to the department of management and to the auditor of each county the taxable value of taxpayer property as of January 1 of such assessment year for each local taxing district. For purposes of this chapter, "taxable value" means the value for all property subject to the replacement tax annually determined by the director, by dividing the estimated annual replacement tax liability for that property by the prior year's consolidated taxing district rate for the taxing district where that property is located, then multiplying the quotient by one thousand. The prior year's replacement tax amounts for that property shall be used to estimate the current tax year's taxable value for that property. If property not subject to any threshold recalculation is generating replacement tax for the first time, or if a taxpayer's replacement tax will not be changed by any threshold recalculation and the taxpayer believes that the replacement tax will vary more than ten percent from the previous tax year, the taxpayer shall report to the director by July 15 of the current calendar year, on forms prescribed by the director, the estimated replacement tax liability that will be attributable to that property for the current tax year. For the purposes of computing the taxable value of property in a taxing district, the taxing district's share of the estimated replacement tax liability shall be the taxing

district's percentage share of the "assessed value allocated by property tax equivalent" multiplied by the total estimated replacement tax. "Assessed value allocated by property tax equivalent" shall be determined by dividing the taxpayer's current year assessed valuation in a taxing district by one thousand, and then multiplying by the prior year's consolidated tax rate.

Sec. 15. RETROACTIVE APPLICABILITY. This bill applies retroactively to tax years beginning on or after January 1, 2003.



MARY E. KRAMER

President of the Senate



CHRISTOPHER C. RANTS

Speaker of the House

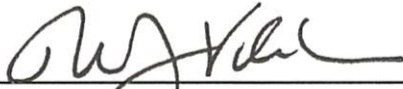
I hereby certify that this bill originated in the Senate and is known as Senate File 275, Eightieth General Assembly.



MICHAEL E. MARSHALL

Secretary of the Senate

Approved May 2, 2003



THOMAS J. VILSACK

Governor