

ASSEMBLY POLICY AND REGULATORY OVERSIGHT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2825

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 12, 1997

The Assembly Policy and Regulatory Oversight Committee reports favorably Assembly Bill No. 2825 with committee amendments.

This bill implements a transition to competition by utilities resulting from recent regulatory developments on both the federal and State levels, including the unbundling of energy products and services. Although traditionally New Jersey's energy consumers, including natural gas and electric power consumers, have been served by regulated monopolies, there is now a move to competition and the free market. This new business environment has altered the way energy producers do business in this State and the way energy consumers buy and consume energy products.

The Board of Public Utilities is charged with the supervision and regulation of public utilities to ensure that they furnish safe, adequate, and proper service as well as to maintain their property and equipment in such condition as to enable them to do so. New Jersey has a legitimate State interest in the regulation of energy suppliers to protect public health and safety. Accordingly, the Board of Public Utilities already requires that the books and records of public utilities must be kept within this State for in-State inspection. This bill requires that all energy suppliers maintain such books and records as shall be required by regulation of the Board of Public Utilities in an in-State office, in order that the Board of Public Utilities may be ensured of access to all relevant information such that the board may ensure the adequate operation of energy suppliers in this State and ensure an adequate supply of gas and electricity for New Jersey consumers.

New Jersey's current energy taxes are among the highest in the nation constraining the State's economic growth and causing companies doing business or deciding to relocate into the State to consider states with lower energy costs. In order to reduce the adverse economic effect of high energy taxation rates on all consumers, to prevent continued erosion of future tax revenues for annual distribution to municipalities due to changes in the natural gas and electric markets and promote economic development and job

growth in the State, this bill, effective for 1998, eliminates the gross receipts and franchise tax currently collected by electric, gas and telecommunications utilities. In its place, electric, gas and telecommunications utilities will be subject to the State's corporation business tax. The State's existing sales and use tax, with certain exceptions, will be applied to retail sales of electric and natural gas, and a transitional energy facility assessment will be applied for a limited time on electric and gas utilities. The assessment will be phased out over a five year period.

Under a companion bill, municipalities will be guaranteed, beginning in State fiscal year 1997, an annual State aid distribution of at least \$730,000,000 from these replacement revenues. These revenues will be credited to the "Energy Tax Receipts Property Tax Relief Fund," established in the State Treasury as a special dedicated fund. Of the \$730,000,000, a portion approximating \$700,000,000 will be allocated annually to provide each municipality with an amount not less than the largest annual amount it received from the distribution of \$685,000,000 from the proceeds of the public utilities franchise and gross receipts taxes and unit-based energy taxes under P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) in calendar year 1994, 1995 or 1996, or initially proposed for distribution in 1997.

It is the intent of the Legislature that the Board of Public Utilities, when determining electric and natural gas rates, pass along to consumers all tax savings realized by utilities as a result of this bill.

COMMITTEE AMENDMENTS

The committee amended various provisions of the bill, discussed below. The amendments:

- ! Remove from the definition of retail sales, and thus exempt from sales tax, purchases of natural gas converted into a component part of a product, other than electricity or thermal energy, produced for sale by the purchaser.
- ! Modify the concept of on-site sales for purposes of exempting sales of electricity by co-generators to a contiguous user from the sales tax. The electricity would be exempt if was generated by a facility located on the user's property, on property purchased or leased from the user by the co-generator owner and the property is contiguous to the user's property. The electricity could be used on the user's property, and could be transported to the user over wires that cross a property line or public thoroughfare if they merely bifurcate the user's or co-generator owner's otherwise contiguous property.
- ! Exempt from sales tax receipts from electricity sold by a municipal electric utility in existence as of December 31, 1995 within its

municipal boundaries, but only if the municipal electric utility is the sole provider of the utility service for that sale of electricity within its municipal boundary.

- ! Remove municipal electric corporations from the Corporate Business Tax, the Transitional Energy Facility Assessment and the Uniform Transitional Utility Assessment.
- ! Exempt from water company gross receipts sums received for payment 1) for water sold to a gas, electric, or gas and electric public utility subject to the taxes imposed by this bill, and 2) for water that is used to generate electricity that is sold for resale or to an end-user upon whose property is located a co-generation facility or self-generation unit that generated the electricity, or upon the property purchased or leased from the end-user by the person owning the co-generation facility or self-generation unit if the property is contiguous to the user's property and is the property upon which is located a co-generation facility or self-generation unit that generated the electricity.
- ! Remove the sales tax exemption for sales of electricity to gas electric public utilities for use in operations other than their gas and electric operations.
- ! Clarify that the sales tax will not apply to existing "flex rate" agreements; prohibits future flex rate agreements from allowing for any reduction or exemption from any tax or surcharge imposed pursuant to this bill.
- ! Permit an eligible person, as defined in the bill, to change suppliers of natural gas yet maintain the sales tax exemption on the purchase.
- ! Modify language concerning municipal fees charged to telecommunications companies.
- ! Direct that a statement be included upon customers' billings explaining the portion of charges paid to the State to reduce or offset municipal taxes.
- ! Recognize host community benefit agreements.
- ! Direct the Board of Public Utilities to conduct a review of telecommunications taxes and submit findings to the Governor and Legislature.