ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2825

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 19, 1997

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2825 (1R), with committee amemdments.

Assembly Bill No. 2825 (1R), as amended, implements a transition to competition among utilities and other energy providers resulting from recent regulatory developments on both the federal and State levels, including the "unbundling" of energy products and services and other moves from regulated monopolies to competition in 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, 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, 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, so the Board of Public Utilities may be assured of access to all relevant information and 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. To reduce the adverse economic effect of high energy taxation rates on all consumers; to prevent the erosion of tax revenues, annually distributed to municipalities, by energy market changes; and to promote economic development and job growth in the State: this bill, effective for 1998, eliminates the current gross receipts and franchise tax as collected by electric, gas and telecommunications utilities. Instead, electric, gas and telecommunications utilities will be subject to the State's corporation business tax. The State's existing sales and use tax will be applied to most retail sales of electric and natural gas (the excepted sales concern municipal electric utilities and companies, and power users who self-generate or co-generate power; provisions of the bill concerning restrictions of certain exemption provisions to "one on-site end user" will be broadly interpreted when applied to affiliated companies operating on the same site). A transitional energy facility assessment will be applied on electric and gas utilities. This assessment will be phased out over five years.

Under a companion bill, Assembly Bill No. 2824, municipalities will be guaranteed, beginning in State fiscal year 1998, an annual State aid distribution of at least $740,000,000 from these replacement revenues, increasing in steps to $755,000,000 for fiscal year 2002 and thereafter.

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.

FISCAL IMPACT:

Information provided by the Board of Public Utilities in June of 1997 indicates an expectation that over the five year period following enactment of the bill, corporation business tax payments by telecommunications corporations are expected to increase slowly while corporation business tax payments by energy companies decline and then stabilize. Sales and use tax collections are expected to (initially, as part of rate reduction) shrink, then grow slowly. The five year phase-out of the transitional energy facility assessment will result in a decline in net revenues from the replacement taxes over the first five years, masking underlying increases in the permanent taxes that will become apparent in the sixth year.

Expected total revenues from replacement taxes are expected to be $1,160 million in calendar year 1998 (CY), $1,070 million in CY 1999, $1,010 million in CY 2000, $941 million in CY 2001, $872 million in CY 2002, $798 million in CY 2003 and $814 million in CY 2004. Sales tax revenue, the largest component of the replacement taxes, will also be the most affected by changes in energy consumption levels and future energy price changes.

COMMITTEE AMENDMENTS:

The amendments reverse or modify several provisions of the first reprint of the bill. These amendments:

- Remove a provision that requires local telephone companies previously subject to gross receipts and franchise taxes to determine, in some cases, corporation business tax liability on the basis of separate operations accounting;
- Restore a sales and use tax exemption for electric and gas utilities' use of electric and gas in operations other than their gas and electric operations;
- Modify the taxation of municipal utilities.

Under the bill as introduced, if a municipal utility expanded sales beyond its municipal boundaries, all of its sales would have become subject to corporation business tax, sales and use tax, and the transitional energy assessment. Under the first reprint, municipal utilities were exempted from corporation business tax, most sales and use taxes and the transitional energy assessment. These amendments provide that if a municipal utility was subject to the gross receipts and franchise taxes it will be subject to corporation business tax, sales and use tax, and the transitional energy assessment; if the municipal utility was not subject to the old taxes and it expands its sales into other territory (1) it will not be subject to corporation business tax (2) only its expanded sales will be subject to sales and use tax and the transitional energy assessment.

The amendments make a number of technical changes. These amendments:

- Clarify that the bill does not affect cable franchises or franchise fees;
- Make changes to the form of customer's billing statement of taxes;
- Clarify the application of the co-generation and self-generation sales tax exemptions;
- Provide a corporation business tax credit for local franchise taxes as well as uniform transitional utility assessments;
- Clarify the sales tax production exemption for natural gas used as feed stock;
- Clarify the tax impact on ne flex-rate agreements;
- Modifies the sales tax definition of electrical "self-generation unit" for consistency with co-generation definitions;
- Specifies various Treasury rule making authority; and
- Corrects timing provisions as they apply to certain co-generators.

The bill also provides that no municipality, regional or county governmental agency shall directly or indirectly tax as real property, or include within the assessment of real property, the public utility-owned electrical interconnect, water lines or gas lines, or any of those interconnections' value, if the interconnections were in the statutory list of scheduled property before enactment of this act, regardless where the interconnections are located.