

48:2- 29.37

LEGISLATIVE HISTORY CHECKLIST

NJSA: 54:30A-50; 48:2-29.37

(Gross receipts tax - public utilities - cogeneration electricity)

LAWS OF: 1983

CHAPTER: 95

FOR ATTACHMENTS  
SEE 54:30A-50

Bill No: A770

Sponsor(s): Van Wagner

Date Introduced: Feb. 8, 1982

Committee: Assembly: Revenue, Finance and Appropriations

Senate: Transportation and Communications

Amended during passage: Yes // Amendments during passage denoted by asterisks

Date of Passage: Assembly: Sept. 30, 1982

Senate: Dec. 30, 1982

Date of Approval: March 11, 1983

Following statements are attached if available:

Sponsor statement: Yes // Also attached: Assembly amendments, adopted 9-20-82 (with statement)

Committee statement: Assembly Yes //

Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: /// ~~No~~ Yes

Following were printed:

Reports: /// No

Hearings: /// No

DEC 1983

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ASSEMBLY, No. 770

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 8, 1982

By Assemblyman VAN WAGNER

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning the taxation of cogenerated electricity, amending P. L. 1940, c. 5, and supplementing Title 48 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Section 2 of P. L. 1940, c. 5 (C. 54:30A-50) is amended to  
2 read as follows:

3 2. Definitions: As used in this act—unless the context otherwise  
4 requires:

5 (a) "Taxpayer" means any corporation subject to taxation  
6 under the provisions of this act **\*\*\*[\*and shall not include any**  
6A **cogenerator as defined in subsection (j) of this section\*]\*\*\* **\*\*\*A**  
6B *person or business entity owning or operating a cogeneration*  
6C *facility as defined in subsection (j) of this section shall not be*  
6D *deemed a corporation subject to taxation under this act unless it*  
6E *shall be a public utility as specifically enumerated in sections 1 and*  
6F *6 of P. L. 1940, c. 5 (C. 54:30A-49 et seq.)\*\*\*.***

7 (b) "Real estate" means lands and buildings, but it does not  
8 include railways, tracks, ties, lines, wires, cables, poles, pipes,  
9 conduits, bridges, viaducts, dams and reservoirs (except that the  
10 lands upon which dams and reservoirs are situated are real estate),  
11 machinery, apparatus and equipment, notwithstanding any attach-  
12 ment thereof to lands or buildings.

13 (c) "Gross receipts" means all receipts from the taxpayer's  
14 business over, in, through or from the whole of its lines or mains

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.**

**Matter printed in italics thus is new matter.**

**Matter enclosed in asterisks or stars has been adopted as follows:**

**\*—Assembly committee amendments adopted June 28, 1982.**

**\*\*—Assembly amendments adopted September 20, 1982.**

**\*\*\*Senate committee amendments adopted December 13, 1982.**

15 but does not include any sum or sums of money received by the  
 16 taxpayer in payment for gas or electrical energy or water sold  
 17 and furnished to another public utility which is also subject to the  
 18 payment of a tax based upon its gross receipts, *nor any sum or*  
 19 *sums of money received by the taxpayer \*\*\*[in payment for elec-*  
 20 *trical energy produced \*by a cogenerator\* through the process of*  
 21 *cogeneration, \*and sold to the taxpayer for resale]\*\*\* \*\*\*from a*  
 22 *cogenerator in payment for cogenerated electrical energy resold*  
 23 *by the taxpayer\*\*\* \*\*to the producing cogenerator where pro-*  
 24 *duced\*\*,\** nor in the case of a street railway or traction corporation  
 25 the receipts from the operation of autobuses or vehicles of the  
 26 character described in Title 48, chapter 15, section 41 to the end of  
 27 the chapter, of the Revised Statutes (Revised Statutes, section  
 28 48:15-41, et seq.), nor in the case of a sewerage corporation an  
 29 amount equal to any sum or sums of money payable by such sewer-  
 29A erage corporation to any board, commission, department, branch,  
 29B agency or authority of the State or of any county or municipality,  
 29C for the treatment, purification or disposal of sewage or other  
 29D wastes.

30 (d) "Scheduled property" means only those classes or types of  
 31 property of a taxpayer set forth in section 10 of this act and which  
 32 are to be used in computing the apportionment value as herein  
 33 defined.

34 (e) "Unit value" means the value set forth in section 10 of this  
 35 act to be uniformly applied to each of the several classes or types  
 36 of scheduled property in computing the apportionment value.

37 (f) "Apportionment value" or "apportionment valuation"  
 38 means the result obtained by multiplying the quantities of each  
 39 class or type of scheduled property of a taxpayer by the applicable  
 40 unit value, and the addition of such results.

41 (g) "Public street, highway, road or other public place," in-  
 42 cludes any street, highway, road or other public place which is open  
 43 and used by the public, even though the same has not been formally  
 44 accepted as a public street, highway, road, or other public place.

45 (h) "Service connection" means the wires or pipes connecting  
 46 the building or place where the service or commodity supplied by  
 47 the taxpayer is used or delivered, or is made available for use or  
 48 delivery, with a supply line or supply main in the street, highway,  
 49 road, or other public place, or with such supply line or supply main  
 50 on private property.

51 (i) "State Tax Commissioner" or "director" means the Direc-  
 52 tor of the Division of Taxation in the Department of the Treasury.

53 (j) \*["Cogeneration" means the simultaneous production of

54 *electricity and thermal energy*]\* *“Cogenerator” means a person*  
 55 *or business entity which owns or operates a cogeneration facility*  
 56 *in the State of New Jersey which facility is a plant, installation or*  
 57 *other structure whose primary purpose is the sequential produc-*  
 58 *tion of electricity and steam or other forms of useful energy which*  
 59 *are used for industrial \*\*\*[or]\*\*\* \*\*\*,\*\*\* commercial\*\*\*,\*\*\* heat-*  
 60 *ing or cooling purposes; and which is designated by the Federal*  
 61 *Energy Regulatory Commission, or its successor, as a “qualifying*  
 62 *facility” pursuant to the provisions of the “Public Utilities Regu-*  
 63 *latory Policies Act of 1978,” Pub. L. 95-617\*.*

1 2. (New section) The Board of Public Utilities *\*is hereby*  
 2 *empowered to and\** shall direct every electric utility to allow any  
 3 ratepayer *\*who is also a cogenerator and\** who sells cogenerated  
 4 electricity to the utility *\*and repurchases electricity from the*  
 5 *utility\** a credit against *\*\*[the]\*\* \*that\*\** ratepayer’s electricity  
 6 charges. The credit shall be in an amount equal to the gross receipts  
 7 and franchise taxes imposed by P. L. 1940, c. 5 (C. 54:30A-49 et  
 8 seq.) which, except for the provisions of section 2 of P. L. 1940, c. 5  
 9 (C. 54:30A-50), would have been paid by the utility on receipts  
 10 received *\*\*\*[in payment for the amount of cogenerated electricity*  
 11 *purchased by the utility from the ratepayer \*to the extent that*  
 12 *electricity is repurchased by the \*\*cogenerating\*\* ratepayer\*]\*\*\**  
 13 *\*\*\*by the utility from the cogenerating ratepayer in payment for*  
 14 *cogenerated electrical energy resold by the utility to the producing*  
 15 *cogenerator where produced\*\*\*. The credit provided by this act*  
 16 *shall be computed \*[on the basis of the actual amount of cogener-*  
 17 *ated electricity sold by the ratepayer to the utility]\* during each*  
 18 *regular billing period. \*[For the purposes of this section, “cogen-*  
 19 *eration” means the simultaneous production of electricity and*  
 20 *thermal energy.]\* \*The credit for any given billing period may be*  
 21 *utilized by the \*\*cogenerating\*\* ratepayer against any electricity*  
 22 *purchases up to six months after said billing period.\**

1 3. This act shall take effect immediately.

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6A *erator as defined in subsection (j) of this section\*.*

7 (b) "Real estate" means lands and buildings, but it does not  
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10 lands upon which dams and reservoirs are situated are real estate),  
11 machinery, apparatus and equipment, notwithstanding any attach-  
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13 (c) "Gross receipts" means all receipts from the taxpayer's  
14 business over, in, through or from the whole of its lines or mains  
15 but does not include any sum or sums of money received by the  
16 taxpayer in payment for gas or electrical energy or water sold  
17 and furnished to another public utility which is also subject to the  
18 payment of a tax based upon its gross receipts, *nor any sum or*  
19 *sums of money received by the taxpayer in payment for electrical*

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**\*—Assembly committee amendments adopted June 23, 1982.**

**\*\*—Assembly amendments adopted September 20, 1982.**

20 *energy produced \*by a cogenerator\* through the process of co-*  
 20A *generation, \*and sold to the taxpayer for resale \*\*to the producing*  
 21 *cogenerator where produced\*\*,\** nor in the case of a street railway  
 22 or traction corporation the receipts from the operation of autobuses  
 23 or vehicles of the character described in Title 48, chapter 15, sec-  
 24 tion 41 to the end of the chapter, of the Revised Statutes (Revised  
 25 Statutes, section 48:15-41, et seq.), nor in the case of a sewerage  
 26 corporation an amount equal to any sum or sums of money payable  
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51 (i) "State Tax Commissioner" or "director" means the Direc-  
 52 tor of the Division of Taxation in the Department of the Treasury.

53 (j) \*["Cogeneration" means the simultaneous production of  
 54 electricity and thermal energy]\* \*"Cogenerator" means a person  
 55 or business entity which owns or operates a cogeneration facility  
 56 in the State of New Jersey which facility is a plant, installation or  
 57 other structure whose primary purpose is the sequential produc-  
 58 tion of electricity and steam or other forms of useful energy which  
 59 are used for industrial or commercial heating or cooling purposes;  
 60 and which is designated by the Federal Energy Regulatory Com-

61 mission, or its successor, as a "qualifying facility" pursuant to the  
62 provisions of the "Public Utilities Regulatory Policies Act of  
63 1978," Pub. L. 95-617\*.

1 2. (New section) The Board of Public Utilities *\*is hereby*  
2 *empowered to and\** shall direct every electric utility to allow any  
3 ratepayer *\*who is also a cogenerator and\** who sells cogenerated  
4 electricity to the utility *\*and repurchases electricity from the*  
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13 credit provided by this act shall be computed *\*[on the basis of the*  
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#### STATEMENT

This bill exempts utility companies from paying gross receipts and franchise taxes on receipts received in payment for electricity originally produced through the process of cogeneration.

This bill also provides that any person who sells cogenerated electricity to an electric utility shall be allowed a credit on his utility bill. The credit would be equal to the amount of gross receipts and franchise taxes which, except for the provisions of section 1 of this bill, the utility would have paid on the amount of cogenerated electricity which it purchased from the cogenerator.

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 25 the receipts from the operation of autobuses or vehicles of the  
 26 character described in Title 48, chapter 15, section 41 to the end of  
 27 the chapter, of the Revised Statutes (Revised Statutes, section  
 28 48:15-41, et seq.), nor in the case of a sewerage corporation an  
 29 amount equal to any sum or sums of money payable by such sewer-  
 29A erage corporation to any board, commission, department, branch,  
 29B agency or authority of the State or of any county or municipality,  
 29C for the treatment, purification or disposal of sewage or other  
 29D wastes.

30 (d) "Scheduled property" means only those classes or types of  
 31 property of a taxpayer set forth in section 10 of this act and which  
 32 are to be used in computing the apportionment value as herein  
 33 defined.

34 (e) "Unit value" means the value set forth in section 10 of this  
 35 act to be uniformly applied to each of the several classes or types  
 36 of scheduled property in computing the apportionment value.

37 (f) "Apportionment value" or "apportionment valuation"  
 38 means the result obtained by multiplying the quantities of each  
 39 class or type of scheduled property of a taxpayer by the applicable  
 40 unit value, and the addition of such results.

41 (g) "Public street, highway, road or other public place," in-  
 42 cludes any street, highway, road or other public place which is open  
 43 and used by the public, even though the same has not been formally  
 44 accepted as a public street, highway, road, or other public place.

45 (h) "Service connection" means the wires or pipes connecting  
 46 the building or place where the service or commodity supplied by  
 47 the taxpayer is used or delivered, or is made available for use or  
 48 delivery, with a supply line or supply main in the street, highway,  
 49 road, or other public place, or with such supply line or supply main  
 50 on private property.

51 (i) "State Tax Commissioner" or "director" means the Direc-  
 52 tor of the Division of Taxation in the Department of the Treasury.

53 (j) \*["Cogeneration" means the simultaneous production of

54 *electricity and thermal energy*]\* *“Cogenerator” means a person*  
 55 *or business entity which owns or operates a cogeneration facility*  
 56 *in the State of New Jersey which facility is a plant, installation or*  
 57 *other structure whose primary purpose is the sequential produc-*  
 58 *tion of electricity and steam or other forms of useful energy which*  
 59 *are used for industrial \*\*\*[or]\*\*\*, \*\*\* commercial\*\*\*, \*\*\* heat-*  
 60 *ing or cooling purposes; and which is designated by the Federal*  
 61 *Energy Regulatory Commission, or its successor, as a “qualifying*  
 62 *facility” pursuant to the provisions of the “Public Utilities Regu-*  
 63 *latory Policies Act of 1978,” Pub. L. 95-617\*.*

1 2. (New section) The Board of Public Utilities *is hereby*  
 2 *empowered to and*\* shall direct every electric utility to allow any  
 3 ratepayer *who is also a cogenerator and*\* who sells cogenerated  
 4 electricity to the utility *and repurchases electricity from the*  
 5 *utility*\* a credit against *the*\*\* *that*\*\* ratepayer’s electricity  
 6 charges. The credit shall be in an amount equal to the gross receipts  
 7 and franchise taxes imposed by P. L. 1940, c. 5 (C. 54:30A-49 et  
 8 seq.) which, except for the provisions of section 2 of P. L. 1940, c. 5  
 9 (C. 54:30A-50), would have been paid by the utility on receipts  
 10 received *in payment for the amount of cogenerated electricity*  
 11 *purchased by the utility from the ratepayer to the extent that*  
 12 *electricity is repurchased by the “cogenerating” ratepayer*\*\*  
 13 *by the utility from the cogenerating ratepayer in payment for*  
 14 *cogenerated electrical energy resold by the utility to the produc-*  
 15 *ing cogenerator where produced*\*\*\*. The credit provided by this act  
 16 shall be computed *on the basis of the actual amount of cogener-*  
 17 *ated electricity sold by the ratepayer to the utility*\* during each  
 18 regular billing period. *For the purposes of this section, “cogen-*  
 19 *eration” means the simultaneous production of electricity and*  
 20 *thermal energy.*]\* *The credit for any given billing period may be*  
 21 *utilized by the “cogenerating” ratepayer against any electricity*  
 22 *purchases up to six months after said billing period.\**

1 3. This act shall take effect immediately.



ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS  
COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 770**  
with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 28, 1982

This bill exempts utility companies from paying gross receipts and franchise taxes on receipts received in payment for electricity originally produced through the process of cogeneration.

This bill also provides that any person who sells cogenerated electricity to an electric utility shall be allowed a credit on his utility bill. The credit would be equal to the amount of gross receipts and franchise taxes, which, except for the provisions of section 1 of this bill, the utility would have paid on the amount of cogenerated electricity which it purchased from the cogenerator.

SENATE TRANSPORTATION AND COMMUNICATIONS  
COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 770**

[SECOND OFFICIAL COPY REPRINT]  
with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: DECEMBER 13, 1982

This bill, as amended by the committee, exempts a person or business entity owning or operating a cogeneration facility from the gross receipts and franchise taxes, unless it is a public utility. A cogeneration facility is a facility whose primary purpose is the sequential production of electricity, steam or other forms of useful energy, and which qualifies under federal law. Cogeneration is a process which permits an industrial plant to use its excess or waste heat to produce electricity, steam, etc.

The bill also provides that moneys received from a cogenerator by a utility for cogenerated electrical energy which is resold to the originating cogenerator shall not be considered "gross receipts." The Board of Public Utilities shall also require every electric utility to allow a cogenerator who sells cogenerated electricity to the utility and repurchases it, a credit against its electric bill. The credit would be equal to the amount of the gross receipts and franchise taxes which, notwithstanding the gross receipts tax exemption in section 1 of the bill, the utility would have paid on the moneys received from the cogenerator in payment for cogenerated electricity which is resold to the originating cogenerator.

The Board of Public Utilities supports the bill, as amended.

# STATE OF NEW JERSEY

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATELY

CONTACT: PAUL WOLCOTT

FRIDAY, MARCH 11, 1983

Governor Thomas H. Kean has signed the following bills:

A-717, sponsored by Assemblyman John O. Bennett, (R-Monmouth), the Public Utility Accident Fault Determination Act, which establishes a procedure for allocating the cost of accidents or other mishaps at electric power facilities. The bill requires the Board of Public Utilities to conduct a fault investigation to determine the causes and responsibilities for any accident at an electric generating or transmission facility for which a utility has made a rate increase request in excess of \$10 million. The bill provides that a utility found at fault may not recover the costs of remedying the accident from ratepayers. It also provides that the Board may authorize as expenses, without regard to fault, costs that are certified by the Board as an appropriate contribution to a national cost sharing formula. This provision will allow a clean-up at Three Mile Island under the plan proposed by Pennsylvania Governor Dick Thornburgh.

A-1619, sponsored by Assemblyman Dean A. Gallo, (R-Morris), which revises statutes governing the practice of veterinary medicine.

A-770, sponsored by Assemblyman Richard VanWagner, (D-Monmouth), which exempts utilities from paying gross receipts and franchise taxes on payments for electricity which was originally produced through cogeneration and resold to the cogenerator.

A-384, sponsored by Assemblyman Harry A. McEnroe, (D-Essex), which requires all solid waste disposal facilities to install and utilize scales to determine the weight of all vehicles disposing of solid waste at these facilities.

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