

54:10A-6; 54:13-11

LEGISLATIVE HISTORY CHECKLIST

(Eliminated double taxes on electricity purchased by New Jersey Public Utilities from out of state utilities)

NJSA 54:10A-6; 54:13-11

LAWS 1982

CHAPTER 39

Bill No. S1073

Sponsor(s) Dalton, Feldman and Cardinale

Date Introduced February 25, 1982

Committee: Assembly ---

Senate Energy and Environment

Amended during passage Yes No

Date of Passage: Assembly May 3, 1982

Senate March 8, 1982

Date of approval June 16, 1982

Following statements are attached if available:

Sponsor statement	Yes	<del>No</del>
Committee Statement: Assembly	<del>Yes</del>	No
Senate	Yes	<del>No</del>
Fiscal Note	<del>Yes</del>	No
Veto Message	<del>Yes</del>	No
Message on signing	Yes	<del>No</del>

Following were printed:

Reports	<del>Yes</del>	No
Hearings	<del>Yes</del>	No

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CHAPTER 39 LAWS OF N. J. 1982  
APPROVED 6-16-82

SENATE, No. 1073

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 25, 1982

By Senators DALTON, FELDMAN and CARDINALE

Referred to Committee on Energy and Environment

AN ACT concerning the taxation of certain public utilities, and  
amending P. L. 1945, c. 162, and R. S. 54:13-11.

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

1 1. Section 6 of P. L. 1945, c. 162 (C. 54:10A-6) is amended to  
2 read as follows:

3 6. In the case of a taxpayer which maintains a regular place of  
4 business outside this State other than a statutory office, the portion  
5 of its entire net worth to be used as a measure of the tax imposed  
6 by section 5(a) of this act, and the portion of its entire net income  
7 to be used as a measure of the tax imposed by section 5(c) of this  
8 act, shall be determined by multiplying such entire net worth and  
9 entire net income, respectively, by an allocation factor which shall  
10 be the average of the fractions computed in (A), (B) and (C)  
11 below, or of so many of them as may be applicable, that is:

12 (A) The average value of the taxpayer's real and tangible per-  
13 sonal property within the State during the period covered by its  
14 report divided by the average value of all the taxpayer's real and  
15 tangible personal property wherever situated during such period;

16 (B) The receipts of the taxpayer, computed on the cash or ac-  
17 crual basis according to the method of accounting used in the  
18 computation of its net income for federal tax purposes, arising  
19 during such period from

20 (1) sales of its tangible personal property located within  
21 this State at the time of the receipt of or appropriation to  
22 the orders where shipments are made to points within this  
23 State,

**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.

24 (2) sales of tangible personal property located without the  
25 State at the time of the receipt of or appropriation to the  
26 orders where shipment is made to points within the State,

27 (3) (Deleted by amendment.)

28 (4) services performed within the State,

29 (5) rentals from property situated, and royalties from the  
30 use of patents or copyrights, within the State,

31 (6) all other business receipts (excluding dividends ex-  
32 cluded from entire net income by subsection (k) (1) of sec-  
33 tion 4 hereof) earned within the State, divided by the total  
34 amount of the taxpayer's receipts, similarly computed, aris-  
35 ing during such period from all sales of its tangible personal  
36 property, services, rentals, royalties and all other business  
37 receipts, whether within or without the State[;].

38 *For the purposes of this section, receipts shall not include any*  
39 *sum or sums of money received in payment for gas or electric*  
40 *energy sold to a public utility subject to taxation pursuant to P. L.*  
41 *1940, c. 5 (C. 54:30A-49 et seq.) for resale to ratepayers of the*  
41A *public utility.*

42 (C) The total wages, salaries and other personal service com-  
43 pensation, similarly computed, during such period of officers and  
44 employees within the State divided by the total wages, salaries  
45 and other personal service compensation, similarly computed, dur-  
46 ing such period of all the taxpayer's officers and employees within  
47 and without the State.

48 In the case of a taxpayer which does not maintain a regular  
49 place of business outside this State other than a statutory office,  
50 the allocation factor shall be 100%.

1 2. R. S. 54:13-11 is amended to read as follows:

2 54:13-11. The following companies shall pay an annual tax, for  
3 the use of the State, by way of a license for corporate franchises,  
4 as provided by this article:

5 a. Every telegraph, telephone or cable company not subject to  
6 tax [under chapter 31 of this Title (§ 54:31-1 et seq.),] pursuant  
7 to P. L. 1940, c. 4 (C. 54:30A-16 et seq.), and every express com-  
8 pany not owned by a railroad company and otherwise taxed;

9 b. Every palace, parlor or sleeping car company;

10 c. Every dam power company organized under the provisions of  
11 article 2 of chapter 14 of the Title, Public Utilities (§ 48:14-4  
12 et seq.), and every gas company and electric light company, not  
13 subject to tax [under said chapter 31;] pursuant to P. L. 1940, c. 5  
14 (C. 54:30A-49 et seq.), except public utility companies organized  
15 under the laws of another state whose primary business activity in

16 *New Jersey is the transfer of gas or electric energy to a public*  
 17 *utility subject to taxation pursuant to P. L. 1940, c. 5 (C. 54:30A-49*  
 18 *et seq.) for resale to ratepayers of such utility;*

19 d. Every oil or pipe line company not subject to tax [under said  
 20 chapter 31] pursuant to P. L. 1940, c. 4 (C. 54:30A-16 et seq.).

1 3. This act shall take effect immediately.

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#### STATEMENT

This bill provides that gas or electricity purchased by New Jersey utilities from out-of-state utilities which are subject to New Jersey taxes will not be subject to double taxation.

This bill addresses instances in which the receipts for the sale of energy of out-of-state utilities selling electricity or natural gas to New Jersey utilities are subject to either the Corporation Business Tax Act or the Gross Receipts Tax on certain corporations. In these instances, this energy would be taxed twice, because it would also be subject to the Gross Receipts and Franchise Tax when it is sold by the New Jersey utility to its ratepayers. And, ultimately, all of these taxes are passed on to the ratepayer. This bill clarifies existing law to prevent this double taxation.

Specifically, this bill exempts from the New Jersey Corporation Business Tax Act receipts received by a utility, whose principal place of business is out-of-state, in payment for gas or electricity sold to a New Jersey utility which will pay Gross Receipts and Franchise taxes on this energy when it sells it to its ratepayers.

This bill also exempts from the Gross Receipts Tax on Certain Corporations (R. S. 54:13-11 et seq.), which applies to utility companies not subject to the gross receipts and franchise tax imposed by P. L. 1940, c. 5 (C. 54:30A-49 et seq.), any out-of-state utility whose primary business consists of transferring gas or electricity to a New Jersey public utility subject to the gross receipts and franchise tax imposed by P. L. 1940, c. 5.

When New Jersey utilities sell energy to each other, these transactions are exempted from the Gross Receipts and Franchise Tax, to insure that ratepayers will not be paying a double tax on the same energy. This bill provides that transfers of energy from certain out-of-state utilities will be treated in the same way.

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S1073 (1982)

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

**SENATE, No. 1073**

**STATE OF NEW JERSEY**

DATED: MARCH 1, 1982

Senate Bill No. 1073 clarifies existing tax law to prevent the double taxation of electricity and natural gas which is transferred from an out-of-state utility to a New Jersey public utility.

The Gross Receipts and Franchise Tax (54:30A-49 et seq.), now imposed on New Jersey public utilities which sell energy to retail customers, specifically exempts sales of energy between utilities, so that the consumer who ultimately pay the taxes imposed on utilities will not be taxed twice on the same energy. This bill provides that interstate sales of energy to a New Jersey utility will be treated in the same way.

Specifically, this bill amends the Corporation Business Tax Act (54:10A-1 et seq.) and the Gross Receipts Tax on Certain Corporations (54:13-11 et seq.), the two statutes under which out-of-state utilities can be taxed, to exempt from taxation sales of energy to a New Jersey utility.

The Board of Public Utilities, the New Jersey Department of Energy, and the New Jersey Department of the Public Advocate support the provisions of this bill as a way to insure that the State will not tax the same energy twice.

OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

CONTACT: DAVID DE MAIO

June 17, 1982

Governor Thomas H. Kean has signed two bills, including legislation banning the manufacture, sale and distribution of so-called "look-alike" drugs in New Jersey, and another preventing the double taxation of electric power sales.

S-666, sponsored by Senator Walter Rand (D-Camden) and others, supplements the Controlled Dangerous Substances Act by prohibiting any person from possessing with intent to distribute, distributing, or manufacturing look-alike drugs.

"Look-alikes" are relatively mild, uncontrolled chemical substances, such as caffeine or the decongestants phenylpropanolamine and ephedrine sulfate, which are manufactured to closely resemble amphetamines or other controlled dangerous substances.

Penalties for unlawful distribution or manufacture under the bill are prison terms not to exceed three years, a fine of no more than \$100,000, or both.

The bill exempts doctors, pharmacists and researchers who either administer non-controlled substances as placebos to patients or use them in tests during the normal course of their practice or research.

Governor Kean also signed S-1073, sponsored by Senator Daniel J. Dalton (D-Gloucester) which exempts interstate sales of gas or electric power from the New Jersey Gross Receipts and Franchise Tax in order to prevent double taxation of energy sales.

The bill amends two statutes concerning business taxes to prevent the double taxation of power sold by out-of-state utilities to New Jersey companies who then sell the power to customers in the State. Intrastate energy sales between New Jersey utilities are already exempted from the Gross Receipts Tax and therefore protected against double taxation.

The legislation is primarily aimed at a New York State-based holding company, Orange and Rockland Utilities, which sells power to its subsidiary, Rockland Electric Company. Rockland Electric services 150,000 customers in Bergen, Passaic and Sussex Counties.

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Under current law, power sold from the holding company to Rockland Electric --- commonly called "State-line" sales of power --- is subject to the Gross Receipts Tax. The same power is again subject to the same tax when Rockland Electric sells to its customers in New Jersey. Since a utility is allowed to pass along taxes as part of its rate base, consumers bear the burden of the double taxation in the form of higher utility rates.

This bill is expected to help moderate rate increases as more and more New Jersey companies purchase power from out-of-state sources.

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