

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE DRS35199-TM-5 (03/08)

Short Title: Privilege Tax for Unregulated Utilities.

(Public)

Sponsors: Senators Hartsell and Bingham (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT IMPOSING A FRANCHISE OR PRIVILEGE TAX ON UNREGULATED
3 UTILITIES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 3 of Chapter 105 of the General Statutes is amended by
6 adding a new section to read:

7 "§ 105-116.2. Franchise or privilege tax on unregulated electric power and water
8 companies.

9 (a) Tax. – An annual franchise or privilege tax is imposed on the following companies
10 if the company is not subject to the tax imposed by G.S. 105-116(a) because the company is not
11 regulated by the North Carolina Utilities Commission:

12 (1) An electric power company engaged in the business of furnishing electricity,
13 electric lights, current, or power for either commercial or domestic use or
14 consumption with gross taxable receipts equal to or exceeding six million
15 dollars (\$6,000,000).

16 (2) A water company engaged in the sale of water delivered by or through main
17 lines or pipes for either commercial or domestic use or consumption with
18 gross taxable receipts equal to or exceeding six million dollars (\$6,000,000).

19 (b) The tax on an electric power company is six percent (6%) of the company's taxable
20 gross receipts from the business of furnishing electricity, electric lights, current, or power. The
21 tax on a water company is six percent (6%) of the company's taxable gross receipts from the
22 sale of water delivered by or through main lines or pipes. A company's taxable gross receipts
23 are its gross receipts from business inside the State, including all power generated inside the
24 State regardless of the location of the user and all water placed into pipes inside the State. A
25 company that engages in more than one business taxed under this section shall pay tax on each
26 business. A company that sells electricity or water on a wholesale basis is considered selling
27 electricity or water for commercial use or consumption.

28 (c) Report and Payment. – The tax imposed by this section is payable quarterly or
29 monthly as specified in this subsection. A return is due quarterly. A water company must pay
30 tax quarterly when filing a return. An electric power company must pay tax in accordance with
31 the schedule and requirements that apply to payments of sales and use tax under
32 G.S. 105-164.16 and must file a return quarterly. A quarterly return covers a calendar quarter
33 and is due by the last day of the month that follows the quarter covered by the return. A
34 taxpayer must submit a return on a form provided by the Secretary. The return must include the
35 taxpayer's gross receipts from all property it owned or operated during the reporting period in



1 connection with its business taxed under this section. A taxpayer must report its gross receipts
2 on an accrual basis. A return must contain the following information:

3 (1) The taxpayer's gross receipts for the reporting period from business inside
4 and outside this State, stated separately.

5 (2) The amount of and price paid by the taxpayer for commodities or services
6 described in subsection (a) of this section that are purchased from others
7 engaged in business in this State and the name of each vendor.

8 (3) For an electric power company, the entity's gross receipts from the sale
9 within each city of the commodities and services described in subsection (a)
10 of this section."

11 **SECTION 2.** The General Assembly finds that unregulated utilities were not being
12 taxed under G.S. 105-166(a); that this bill equalizes the taxation of regulated and unregulated
13 utilities; that unregulated utilities received a tax benefit under S.L. 2001-476 and this bill
14 recaptures that tax benefit; and the General Assembly does not intend for this bill to affect the
15 operation and interpretation of G.S. 105-166(a).

16 **SECTION 3.** This act becomes effective for taxable years beginning on or after
17 January 1, 2012. This act is effective when it becomes law.