

BILL ANALYSIS

Senate Research Center
85R6935 CJC-F

S.B. 559
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Business & Commerce
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Miscellaneous Gross Receipts Tax (MGRT) is tax imposed upon gas, electric, and water utility companies based upon the gross receipts from business done in cities and towns with certain population ranges. The deregulation of electric utilities in 1999 changed the way in which these entities conducted business, and Retail Electric Providers (REPs) were created for the purpose of selling electricity at retail to customers across Texas. The current statute includes the word "located" after utility company in determining who is subject to the tax. The placement of the word "located" has led some to conclude that the location of the utility company, rather than the location of the customer, is the determining factor of whether tax is due. This reading is inconsistent with the history of MGRT provisions and would allow REPs to locate in a city with a population of less than 1,000 inhabitants and sell to any location, regardless of population, without being subject to MGRT. The ambiguity created in this argument now places compliant REPs at a competitive disadvantage.

S.B. 559 clarifies current policy that MGRT is imposed on a company that sells retail electric service to a customer located in a town or city with a population of 1,000 or more, regardless of where the company is located.

As proposed, S.B. 559 amends current law relating to the application of the miscellaneous gross receipts tax on utility companies.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 182.021(1), Tax Code, to redefine "utility company."

SECTION 2. Amends Section 182.022(a), Tax Code, to provide that a tax is imposed on each utility company doing business in, rather than located in, an incorporated city or town having a population of more than 1,000, according to the last federal census next preceding the filing of the report.

SECTION 3. Amends Section 182.025(e)(3), Tax Code, to redefine "public utility."

SECTION 4. Provides that the amendments made by this Act to Sections 182.021, 182.022, and 182.025, Tax Code, are a clarification of existing law and do not imply that existing law may be construed as inconsistent with the laws as amended by this Act.

SECTION 5. Effective date: upon passage or September 1, 2017.