

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2438

By: Hamilton

AS INTRODUCED

An Act relating to revenue and taxation; ordering a legislative referendum; enacting the Public Utility Estimated Usage Overcharge Assessment Act; providing short title; defining terms; prohibiting use of estimated billing by certain public service corporations; requiring physical or visual inspection of meter devices; authorizing use of average monthly billing; prescribing method for approved average billing; stating purposes; imposing assessment on certain estimated usage overcharges; prescribing rate of assessment; providing for computation of assessment; requiring reports and returns; providing for apportionment of revenues; creating the Public Utility Estimated Usage Overcharge Revolving Fund; providing for deposit of monies; providing for continuing appropriation of funds; providing for expenditures of funds by Oklahoma Health Care Authority; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. Pursuant to Section 3 of Article V of the Oklahoma Constitution, there is hereby ordered the following legislative referendum which shall be filed with the Secretary of State and addressed to the Governor of the state, who shall submit the same to the people for their approval or rejection at the general election, to be held on November 7, 2006.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6201 of Title 68, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Public Utility Estimated Usage Overcharge Assessment Act".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6202 of Title 68, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Commercial/industrial customer" means a sole proprietor, partnership, corporation, limited liability company, or other legal entity conducting a lawful for profit business;

2. "Meter" means a device designed and actually used for the measurement of the flow of electrical power by the public service corporation engaged in its sale to either residential or commercial-industrial customers or used for the measurement of the flow of natural gas by a public service corporation engaged in its sale to either residential or commercial-industrial customers;

3. "Residential customer" means a natural person or persons residing in a single family or multifamily dwelling designed primarily for domestic occupancy and not primarily designed for business purposes; and

4. "Usage overcharge amount" means the difference between the price charged by a public service corporation for electricity or natural gas using an estimate of actual usage by a residential or commercial-industrial customer and the price that would have been charged had the public service corporation based the billing to the customer upon an actual metered measurement of electricity or natural gas, exclusive of any month during which the utility was authorized by Section 4 of this act to use an estimate or to use an average monthly billing method approved by the customer.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6203 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by this section, a public service corporation engaged in the sale of electricity or natural gas shall base the utility billing upon an actual reading of the

meter which measures the flow of electricity or natural gas to the service address. As used in this section, "actual reading" means the physical and visual inspection of a meter or similar device by an employee or other authorized representative of the public service corporation or an electronic or other method of monitoring actual electrical or natural gas usage that does not involve or require an estimation of the kilowatt hours or natural gas volume units consumed.

B. A public service corporation may not use an estimate of electrical or natural gas usage in order to bill its residential or commercial-industrial customers and except as otherwise authorized by this section, all such billing shall be made on the basis of a physical or visual inspection of the utility meter at the specific service address for the utility customer.

C. The provisions of this section shall not prohibit a public service corporation from using an average monthly billing method if such method has been specifically approved by the utility customer.

D. A public service corporation may bill for electrical usage or natural gas usage using an average billing method, if the utility customer has not approved an average billing method, for not more than four (4) months during the calendar year. Each such billing shall be based upon the billed amount for electrical or natural gas usage, as applicable, for the preceding twelve (12) months at the applicable service address.

E. If a public service corporation fails to comply with the provisions of subsection A of this section, and a utility billing is made to a residential or commercial-industrial customer in violation of the provisions of subsection C or D of this section, the public service corporation shall be subject to the assessment imposed by Section 6 of this act and to the other provisions of the Public Utility Estimated Usage Overcharge Assessment Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6204 of Title 68, unless there is created a duplication in numbering, reads as follows:

The purpose of the assessment imposed by Section 6 of this act shall be to provide revenue for general government purposes and for the specific purposes provided by Section 9 of this act as a result of the apportionment of the revenue to the Public Utility Estimated Usage Overcharge Revolving Fund.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6205 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. There is hereby imposed an assessment upon a public service corporation supplying either electric power or natural gas to residential or commercial-industrial customers equal to ten percent (10%) of the usage overcharge amount.

B. The assessment provided for by this section shall be computed monthly, if the customer of the public service corporation is billed for usage on a monthly basis, or using the same period of time the public service corporation uses for its regular billing of the customer, whether more or less frequently than monthly.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6206 of Title 68, unless there is created a duplication in numbering, reads as follows:

A public service corporation with a liability imposed pursuant to Section 6 of this act shall file a report or return on forms to be prescribed by the Oklahoma Tax Commission not later than the fifteenth day of the month following the month in which the customer has been billed for electric power or natural gas.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6207 of Title 68, unless there is created a duplication in numbering, reads as follows:

The revenue derived from the assessment imposed pursuant to Section 6 of this act shall be apportioned to the Public Utility Estimated Usage Overcharge Revolving Fund to be expended as provided by law.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6208 of Title 68, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma Health Care Authority to be designated the "Public Utility Estimated Usage Overcharge Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Health Care Authority from the levy of the assessment imposed pursuant to Section 6 of this act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Health Care Authority for the purpose of adult day care programs administered by the Authority. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 10. This act shall become effective January 1, 2007, contingent upon the approval of the voters at the General Election to be held November 7, 2006.

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