

Regular Session, 2012

SENATE BILL NO. 273

BY SENATOR PEACOCK

TAX/LOCAL. Excludes payments of a franchise fee or similar charge by an electric, gas, or water public utility to a political subdivision in excess of two percent of the annual gross receipts of the utility from adding the payment to the sales price and billing to customers in the political subdivision. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 33:4510(D), relative to franchise fees and similar charges of  
3 political subdivisions; to exclude certain such payments of certain public utilities  
4 from the authority to add the amount of the payments to the sales price of such public  
5 utility's service and billing pro rata to the utility's customers receiving local service  
6 within the political subdivision; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 33:4510(D) is hereby amended and reenacted to read as follows:

9 §4510. Charge-back of certain taxes and other payments made to a political  
10 subdivision; construction, scope, and application of provisions

11 \* \* \*

12 D.(1) The provisions of this Section shall not apply to any payments by a  
13 utility to a political subdivision in excess of five percent of the annual gross receipts  
14 of the utility from its customers within said political subdivision, whether said  
15 payments are made as a license, occupational, privilege, franchise, or inspection tax,  
16 charge, or fee, or by agreement between the utility and the political subdivision.

17 (2) Notwithstanding any other law or agreement to the contrary,

1           **beginning January 1, 2013, the provisions of this Section shall not apply to any**  
 2           **payments of a franchise fee or similar charge by an electric, gas, or water public**  
 3           **utility to a political subdivision in excess of two percent of the annual gross**  
 4           **receipts of the utility from its customers within such political subdivision.**

5           Section 2. This Act shall become effective upon signature by the governor or, if not  
 6           signed by the governor, upon expiration of the time for bills to become law without signature  
 7           by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 8           vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 9           effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Riley Boudreaux.

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#### DIGEST

Present law authorizes adding the amount of the type of taxes or payments set forth below made by public utilities (including those utilities regulated by the Louisiana Public Service Commission) to political subdivisions to the sales price of such public utility's service and billing pro rata to the utility's customers receiving local service within the political subdivision collecting such taxes or receiving such payments, to the extent that such tax or payment was not included as a part of the cost of furnishing services in the fixing of the rates and charges for such services by the Louisiana Public Service Commission.

The type of taxes or payments covered by present law are those collected or received from a public utility operating within the political subdivision for or by reason of:

- (1) The use of its streets, alleys, or public ways or places, or lands belonging to the state.
- (2) The operation of the utility's business.
- (3) Any agreement between the political subdivision and the utility.

The payments are covered whether they are called a license, occupational, privilege, franchise, or inspection tax, charge, fee, or otherwise.

Present law excludes payment for occupational license tax and property taxes.

Present law excludes any payments by a utility to a political subdivision in excess of 5% of the annual gross receipts of the utility from its customers within the political subdivision, whether the payments are made as a license, occupational, privilege, franchise, or inspection tax, charge, or fee, or by agreement between the utility and the political subdivision.

Proposed law excludes any payments of a franchise fee or similar charge by an electric, gas, or water public utility to a political subdivision in excess of 2% of the annual gross receipts of the utility from its customers within the political subdivision.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 33:4510(D))