

# Senate Ways and Means Committee

*Sonja Caldwell 271-2117*

**HB 102**, establishing a commission to study worldwide combined reporting method for unitary businesses under the business profits tax.

**Hearing Date:** March 9, 2022

**Members of the Committee Present:** Senators Giuda, Daniels, Hennessey and Rosenwald

**Members of the Committee Absent:** Senator D'Allesandro

**Bill Analysis:** This bill establishes a commission to study worldwide combined reporting method for unitary businesses under the business profits tax. The bill also provides for the tax treatment of water and sewer disposal utilities under the business profits tax.

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**Sponsors:**

Rep. Schamberg

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**Who supports the bill:** Rep. Schamberg, Rep. Abrami, Donald Ware (Pennichuck Water Works), Bob Scott (DES)

**Who opposes the bill:** no one

**Who is neutral on the bill:** no one

**Summary of testimony presented:**

**Rep. Schamberg**

- Since the NH legislature put the state on course to transition to single sales factor for business taxes beginning in 2023, the study commission established by this bill is necessary to ensure competitiveness and provide a competitive playing field for domestic NH businesses.
- Without comparing the shift to single sales factor with the present Water's Edge method versus the Worldwide reporting tax method, NH domestic businesses could be at a competitive disadvantage, paying more than their fair share.
- A study commission will make sure they have a level tax field with multinational companies in NH and will allow for an in-depth comparison on what is the most equitable tax policy.

**Sen. Giuda**

- Introduced amendment 1039s, which deals with a problem that a number of agencies are here to testify on.

- A provision of the 2017 tax cuts and jobs act eliminated a tax exemption for Contributions in Aid of Construction (CIAC) for water line extensions made by current or prospective customers of private water utilities. This increased costs for water and wastewater projects.
- The recently passed Infrastructure Investment and Jobs Act restores this exemption for private water companies.
- The NH Department of Environmental Services and the Department of Revenue Administration request that the legislature update the state's treatment of CIAC under the business profits tax (BPT) in order to align with the new federal tax code.
- This will ensure that CIAC are not treated as taxable contributions and will mean that water and wastewater funds NH is spending to address water quality issues go farther.

**Mr. Donald Ware-** COO Pennichuck Water Works.

- Largest water utility in NH, serving 18,000 customers.
- Loss of CIAC tax exemption impacted them at the state and federal tax level. The value of the contributed property got treated as normal income which created an immediate tax burden.
- The PUC worked with them to allow the developer to gross up the grant so when tax obligations came through, they could pay it. This creates additional costs for developers and diminishes the value of grants.
- They worked with Senators Shaheen and Hassan and Congresswoman Kuster to get the CIAC tax eliminated at the federal level. Now they are asking the state to do the same. They are looking for reinstatement of the exemption.

**Sen. Rosenwald** asked if with the elimination of this tax, ratepayers could expect water rates to go down.

**Mr. Ware** said that when the tax came into effect, they had the PUC require the tax be paid by the developer, so it was never passed on to ratepayer so it will be rate neutral.

**Sen. Rosenwald** said she thought he said the taxes had been an expense for Pennichuck

**Mr. Ware** said it was an expense, but it was paid by either the developer or the DES. They have collected the tax obligation from the developer or DES since 2017.

**Commissioner Bob Scott DES**

- They have been successful at the federal level getting the exemption reinstated. The BPT at the state has lagged behind that change. The intent is to make the state BPT mirror the change that happened at the federal level. It is important to DES.
- They have the drinking groundwater trust fund and put that money back into communities.
- They have taken advantage of ARPA funds for community projects.
- They see a lot of water contamination issues in the state. In many cases, when private wells are contaminated, the best solution is to get them disconnected from the home and connected to a water system.
- He gave the example of St. Gobain. DES worked with them to get those residents on private wells onto public water with Pennichuck, who then incurred a 30% tax liability at the federal level for taking money from the party responsible for the contamination and putting the residents on public water.
- Another example is the Town of Plaistow, which has a lot of water quality issues. DES asked Hampstead Water Company to accept money from the state to serve Plaistow and they incurred over \$1 million in tax liability for accepting money from the state.

- These are examples of what they are trying to correct with this amendment.

**Carolynn Lear** Assistant Commissioner DRA

- Assisted with drafting of the amendment.
- NH uses federally reported income as a starting point for calculating business tax liability.
- To control the impact of federal changes, NH chooses what version of code we conform to. We are tied to a version of the code that eliminated the CIAC exemption. This would adopt the most recent federal treatment of CIAC for NH BPT purposes without us updating our full reference to the IRC.

**Sen. Hennessey** asked if the effective upon passage date was correct.

**Ms. Lear** said it was correct because there is an applicability section that addresses who this would apply to.

**Sen. Rosenwald** asked if the DRA had calculated the cost.

**Ms. Lear** said they had not, nor could they. It is an extremely narrow class of taxpayers that this applies to; too few taxpayers for them to disclose. Also because of the way they are tied to the federal return, they don't see what would show up as an exemption.

**Sen. Rosenwald** suggested it would not be a giant cost and Ms. Lear said that was a fair statement.

**Sen. Giuda** asked for clarification that this is applicable going forward.

**Ms. Lear** said the applicability date is for contributions starting after January 1, 2022. It could claw back some projects in process during the last two months.

SC

Date Hearing Report completed: March 10, 2022