

Amendment to HB 102

1 Amend the title of the bill by replacing it with the following:

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3 AN ACT establishing a commission to study worldwide combined reporting method for unitary
4 businesses under the business profits tax, and relative to the treatment of water or
5 sewerage disposal utilities under the business profits tax.
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7 Amend RSA 77-A:23-b, I(b) as inserted by section 2 of the bill by replacing it with the following:

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9 (b) One member of the senate, appointed by the president of the senate.
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11 Amend the bill by replacing all after section 3 with the following:

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13 4 New Section; Business Profits Tax; Treatment of Water and Sewerage Disposal Utilities.

14 Amend RSA 77-A by inserting after section 3-c the following new section:

15 77-A:3-d Treatment of Water and Sewerage Disposal Utilities. In determining gross business
16 profits, a business organization shall apply section 118 of the United States Internal Revenue Code
17 consistent with the following adjustments:

18 I. The term "contribution to the capital of the taxpayer" includes any amount of money or
19 other property received from any person, whether or not a shareholder, by a regulated public utility
20 which provides water or sewerage disposal services if:

21 (a) Such amount is:

22 (1) A contribution in aid of construction; or

23 (2) A contribution to the capital of such utility by a governmental entity providing
24 for the protection, preservation, or enhancement of drinking water or sewerage disposal services;

25 (b) In the case of a contribution in aid of construction which is property other than water
26 or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of
27 paragraph II; and

28 (c) Such amount, or any property acquired or constructed with such amount, is not
29 included in the taxpayer's rate base for ratemaking purposes.

30 II. An amount meets the requirements of subparagraph I(b) if:

31 (a) An amount equal to such amount is expended for the acquisition or construction of
32 tangible property described in United States Internal Revenue Code section 1231(b):

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1 (1) Which is the property for which the contribution was made or is of the same type
2 as such property; and

3 (2) Which is used predominantly in the trade or business of furnishing water or
4 sewerage disposal services;

5 (b) The expenditure referred to in subparagraph (a) occurs before the end of the second
6 taxable year after the year in which such amount was received; and

7 (c) Accurate records are kept of the amounts contributed and expenditures made, the
8 expenditures to which contributions are allocated, and the year in which the contributions and
9 expenditures are received and made.

10 III. For purposes of this section:

11 (a) "Contribution in aid of construction" shall mean as the term is defined by the United
12 States Department of the Treasury's Treasury Regulations 1.118-2 (2001), except that such term
13 shall not include amounts paid as service charges for starting or stopping services.

14 (b) "Predominantly" means 80 percent or more.

15 (c) "Regulated public utility" has the meaning given such term by Internal Revenue Code
16 section 7701(a)(33), except that such term shall not include any utility which is not required to
17 provide water or sewerage disposal services to members of the general public in its service area.

18 IV. Notwithstanding any other provisions of law, no deduction or credit shall be allowed for,
19 or by reason of, any expenditure which constitutes a contribution in aid of construction to which this
20 section applies. The adjusted basis of any property acquired with contributions in aid of construction
21 to which this section applies shall be zero.

22 5 Applicability; Treatment of Water and Sewerage Disposal Utilities. The provisions of section 4
23 of this act shall apply to contributions made on or after January 1, 2021.

24 6 Effective Date.

25 I. Section 3 of this act shall take effect November 1, 2023.

26 II. The remainder of this act shall take effect upon its passage.

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2022-1048s

AMENDED 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.