

February 23, 1995 LB 828

something that goes on top of that and that's the element that will, under this bill, be allowed to not be charged but the subsidy will not be below the actual cost of electricity. Is that your understanding and maybe I'm putting you on the spot, I just...

SENATOR BEUTLER: My understanding, Senator, is exactly that, that it cannot be supplied below cost. Now, we are working, as you know, to gather materials that hopefully can be laid out in a more formal manner to explain to you and to others how it is that the IRS rule ensures that. Basically it has to do with the concept that when you issue tax exempt bonds, you cannot in fact be using that status to cover for granting gain to private companies. In other words, if you're issuing tax exempt bonds, the IRS wants to be sure that the amount of those bonds is not out of control because of course they are losing revenues when you issue tax exempt bonds and so they want to be sure that it is for a municipal use and a public use and they have severe limitations on schemes in whatever form, in fact they've cracked down on industrial development bonds in this respect, that are in effect conduits for giving low-cost money to private industry. And I believe that what they are saying to us is that this is another sort of scheme from the point of view of the IRS and tax exempt bonds that would not be allowed by the IRS, and by scheme I don't mean illegal or underhanded, but creative, let's put it that way.

SENATOR WESELY: Now, if we're relying on the intent of the utilities and we're relying on the IRS rules and regulations, there isn't anything in the statute that says that they have to at least charge for the actual cost of the electricity delivered. Is that correct? I mean the statute doesn't require that.

SENATOR BEUTLER: I believe that is correct. Certainly this statute does not,...

SENATOR WESELY: Okay.

SENATOR BEUTLER: ...and I'm not aware of any other statute that says that.

SENATOR WESELY: Well, I...I...because you're still gathering information, I will leave the point at that. But I do think that I would like to see the information. And if there would be