

2SSB 6304 - H COMM AMD
By Committee on Finance

ADOPTED 03/05/2004

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature recognizes that the loss of
4 domestic manufacturing jobs has become a national concern. Washington
5 state has lost one out of every six manufacturing jobs since July 2000.
6 The aluminum industry has long been an important component of
7 Washington state's manufacturing base, providing family-wage jobs often
8 in rural communities where unemployment rates are very high. The
9 aluminum industry is electricity intensive and was greatly affected by
10 the dramatic increase in electricity prices which began in 2000 and
11 which continues to affect the Washington economy. Before the energy
12 crisis, aluminum smelters provided about 5,000 direct jobs. Today they
13 provide fewer than 1,000 direct jobs. For every job lost in that
14 industry, almost three additional jobs are estimated to be lost
15 elsewhere in the state's economy. It is the legislature's intent to
16 preserve and restore family wage jobs by providing tax relief to the
17 state's aluminum industry.

18 The electric loads of aluminum smelters provide a unique benefit to
19 the infrastructure of the electric power system. Under the
20 transmission tariff of the Bonneville Power Administration, aluminum
21 smelter loads, whether served with federal or nonfederal power, are
22 subject to short-term interruptions that allow a higher import
23 capability on the transmission interconnection between the northwest
24 and California. These stability reserves allow more power to be
25 imported in winter months, reducing the need for additional generation
26 in the northwest, and would be used to prevent a widespread
27 transmission collapse and blackout if there were a failure in the
28 transmission interconnection between California and the northwest. It
29 is the legislature's intent to retain these benefits for the people of
30 the state.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW,
2 to be codified between RCW 82.04.020 and 82.04.220, to read as follows:

3 (1) "Direct service industrial customer" means the same as in RCW
4 82.16.0495.

5 (2) "Aluminum smelter" means the manufacturing facility of any
6 direct service industrial customer that processes alumina into
7 aluminum.

8 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04 RCW
9 to read as follows:

10 (1) Upon every person who is an aluminum smelter engaging within
11 this state in the business of manufacturing aluminum; as to such
12 persons the amount of tax with respect to such business shall, in the
13 case of manufacturers, be equal to the value of the product
14 manufactured, or in the case of processors for hire, be equal to the
15 gross income of the business, multiplied by the rate of .2904 percent.

16 (2) Upon every person who is an aluminum smelter engaging within
17 this state in the business of making sales at wholesale of aluminum
18 manufactured by that person, as to such persons the amount of tax with
19 respect to such business shall be equal to the gross proceeds of sales
20 of the aluminum multiplied by the rate of .2904 percent.

21 (3) This section expires January 1, 2007.

22 **Sec. 4.** RCW 82.04.240 and 1998 c 312 s 3 are each amended to read
23 as follows:

24 Upon every person (~~((except persons taxable under RCW 82.04.260 (1),~~
25 ~~(2), (4), (5), or (6)))~~) engaging within this state in business as a
26 manufacturer, except persons taxable as manufacturers under other
27 provisions of this chapter; as to such persons the amount of the tax
28 with respect to such business shall be equal to the value of the
29 products, including byproducts, manufactured, multiplied by the rate of
30 0.484 percent.

31 The measure of the tax is the value of the products, including
32 byproducts, so manufactured regardless of the place of sale or the fact
33 that deliveries may be made to points outside the state.

34 **Sec. 5.** RCW 82.04.270 and 2003 2nd sp.s. c 1 s 5 are each amended
35 to read as follows:

36 Upon every person (~~((except persons taxable under RCW 82.04.260 (5)~~

1 ~~or (13), 82.04.298, or 82.04.272))~~ engaging within this state in the
2 business of making sales at wholesale, except persons taxable as
3 wholesalers under other provisions of this chapter; as to such persons
4 the amount of tax with respect to such business shall be equal to the
5 gross proceeds of sales of such business multiplied by the rate of
6 0.484 percent.

7 **Sec. 6.** RCW 82.04.280 and 1998 c 343 s 3 are each amended to read
8 as follows:

9 Upon every person engaging within this state in the business of:
10 (1) Printing, and of publishing newspapers, periodicals, or magazines;
11 (2) building, repairing or improving any street, place, road, highway,
12 easement, right of way, mass public transportation terminal or parking
13 facility, bridge, tunnel, or trestle which is owned by a municipal
14 corporation or political subdivision of the state or by the United
15 States and which is used or to be used, primarily for foot or vehicular
16 traffic including mass transportation vehicles of any kind and
17 including any readjustment, reconstruction or relocation of the
18 facilities of any public, private or cooperatively owned utility or
19 railroad in the course of such building, repairing or improving, the
20 cost of which readjustment, reconstruction, or relocation, is the
21 responsibility of the public authority whose street, place, road,
22 highway, easement, right of way, mass public transportation terminal or
23 parking facility, bridge, tunnel, or trestle is being built, repaired
24 or improved; (3) extracting for hire or processing for hire, except
25 persons taxable as processors for hire under another section of this
26 chapter; (4) operating a cold storage warehouse or storage warehouse,
27 but not including the rental of cold storage lockers; (5) representing
28 and performing services for fire or casualty insurance companies as an
29 independent resident managing general agent licensed under the
30 provisions of RCW 48.05.310; (6) radio and television broadcasting,
31 excluding network, national and regional advertising computed as a
32 standard deduction based on the national average thereof as annually
33 reported by the Federal Communications Commission, or in lieu thereof
34 by itemization by the individual broadcasting station, and excluding
35 that portion of revenue represented by the out-of-state audience
36 computed as a ratio to the station's total audience as measured by the
37 100 micro-volt signal strength and delivery by wire, if any; (7)
38 engaging in activities which bring a person within the definition of

1 consumer contained in RCW 82.04.190(6); as to such persons, the amount
2 of tax on such business shall be equal to the gross income of the
3 business multiplied by the rate of 0.484 percent.

4 As used in this section, "cold storage warehouse" means a storage
5 warehouse used to store fresh and/or frozen perishable fruits or
6 vegetables, meat, seafood, dairy products, or fowl, or any combination
7 thereof, at a desired temperature to maintain the quality of the
8 product for orderly marketing.

9 As used in this section, "storage warehouse" means a building or
10 structure, or any part thereof, in which goods, wares, or merchandise
11 are received for storage for compensation, except field warehouses,
12 fruit warehouses, fruit packing plants, warehouses licensed under
13 chapter 22.09 RCW, public garages storing automobiles, railroad freight
14 sheds, docks and wharves, and "self-storage" or "mini storage"
15 facilities whereby customers have direct access to individual storage
16 areas by separate entrance. "Storage warehouse" does not include a
17 building or structure, or that part of such building or structure, in
18 which an activity taxable under RCW 82.04.272 is conducted.

19 As used in this section, "periodical or magazine" means a printed
20 publication, other than a newspaper, issued regularly at stated
21 intervals at least once every three months, including any supplement or
22 special edition of the publication.

23 **Sec. 7.** RCW 82.04.440 and 2003 2nd sp.s. c 1 s 6 are each amended
24 to read as follows:

25 (1) Every person engaged in activities which are within the purview
26 of the provisions of two or more of sections RCW 82.04.230 to
27 82.04.290, inclusive, shall be taxable under each paragraph applicable
28 to the activities engaged in.

29 (2) Persons taxable under section 3(2) of this act, RCW 82.04.250,
30 82.04.270, or 82.04.260 (4) or (13) with respect to selling products in
31 this state shall be allowed a credit against those taxes for any (a)
32 manufacturing taxes paid with respect to the manufacturing of products
33 so sold in this state, and/or (b) extracting taxes paid with respect to
34 the extracting of products so sold in this state or ingredients of
35 products so sold in this state. Extracting taxes taken as credit under
36 subsection (3) of this section may also be taken under this subsection,
37 if otherwise allowable under this subsection. The amount of the credit

1 shall not exceed the tax liability arising under this chapter with
2 respect to the sale of those products.

3 (3) Persons taxable under RCW 82.04.240 or 82.04.260(1)(b) shall be
4 allowed a credit against those taxes for any extracting taxes paid with
5 respect to extracting the ingredients of the products so manufactured
6 in this state. The amount of the credit shall not exceed the tax
7 liability arising under this chapter with respect to the manufacturing
8 of those products.

9 (4) Persons taxable under RCW 82.04.230, 82.04.240, section 3(1) of
10 this act, or 82.04.260 (1), (2), (4), (6), or (13) with respect to
11 extracting or manufacturing products in this state shall be allowed a
12 credit against those taxes for any (i) gross receipts taxes paid to
13 another state with respect to the sales of the products so extracted or
14 manufactured in this state, (ii) manufacturing taxes paid with respect
15 to the manufacturing of products using ingredients so extracted in this
16 state, or (iii) manufacturing taxes paid with respect to manufacturing
17 activities completed in another state for products so manufactured in
18 this state. The amount of the credit shall not exceed the tax
19 liability arising under this chapter with respect to the extraction or
20 manufacturing of those products.

21 (5) For the purpose of this section:

22 (a) "Gross receipts tax" means a tax:

23 (i) Which is imposed on or measured by the gross volume of
24 business, in terms of gross receipts or in other terms, and in the
25 determination of which the deductions allowed would not constitute the
26 tax an income tax or value added tax; and

27 (ii) Which is also not, pursuant to law or custom, separately
28 stated from the sales price.

29 (b) "State" means (i) the state of Washington, (ii) a state of the
30 United States other than Washington, or any political subdivision of
31 such other state, (iii) the District of Columbia, and (iv) any foreign
32 country or political subdivision thereof.

33 (c) "Manufacturing tax" means a gross receipts tax imposed on the
34 act or privilege of engaging in business as a manufacturer, and
35 includes (i) the taxes imposed in RCW 82.04.240, section 3(1) of this
36 act, and 82.04.260 (1), (2), (4), and (13), and (ii) similar gross
37 receipts taxes paid to other states.

38 (d) "Extracting tax" means a gross receipts tax imposed on the act

1 or privilege of engaging in business as an extractor, and includes the
2 tax imposed in RCW 82.04.230 and similar gross receipts taxes paid to
3 other states.

4 (e) "Business", "manufacturer", "extractor", and other terms used
5 in this section have the meanings given in RCW 82.04.020 through
6 82.04.212, notwithstanding the use of those terms in the context of
7 describing taxes imposed by other states.

8 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.04 RCW
9 to read as follows:

10 (1) In computing the tax imposed under this chapter, a credit is
11 allowed for all property taxes paid during the calendar year on
12 property owned by a direct service industrial customer and reasonably
13 necessary for the purposes of an aluminum smelter.

14 (2) A person taking the credit under this section is subject to all
15 the requirements of chapter 82.32 RCW. A credit earned during one
16 calendar year may be carried over to be credited against taxes incurred
17 in the subsequent calendar year, but may not be carried over a second
18 year. Credits carried over must be applied to tax liability before new
19 credits. No refunds may be granted for credits under this section.

20 (3) Credits may not be claimed under this section for property
21 taxes levied for collection in 2007 and thereafter.

22 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.04 RCW
23 to read as follows:

24 (1) A person who is subject to tax under this chapter on gross
25 income from sales of electricity, natural gas, or manufactured gas made
26 to an aluminum smelter is eligible for an exemption from the tax in the
27 form of a credit, if the contract for sale of electricity or gas to the
28 aluminum smelter specifies that the price charged for the electricity
29 or gas will be reduced by an amount equal to the credit.

30 (2) The credit is equal to the gross income from the sale of the
31 electricity or gas to an aluminum smelter multiplied by the
32 corresponding rate in effect at the time of the sale under this
33 chapter.

34 (3) The exemption provided for in this section does not apply to
35 amounts received from the remarketing or resale of electricity
36 originally obtained by contract for the smelting process.

1 (4) Credits may not be claimed under this section for taxable
2 activity occurring on or after July 1, 2011.

3 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.08 RCW
4 to read as follows:

5 (1) A person who has paid tax under RCW 82.08.020 for tangible
6 personal property used at an aluminum smelter, tangible personal
7 property that will be incorporated as an ingredient or component of
8 buildings or other structures at an aluminum smelter, or for labor and
9 services rendered with respect to such buildings, structures, or
10 tangible personal property, is eligible for an exemption from the state
11 share of the tax in the form of a credit, as provided in this section.
12 A person claiming an exemption must pay the tax and may then take a
13 credit equal to the state share of retail sales tax paid under RCW
14 82.08.020. The person shall submit information, in a form and manner
15 prescribed by the department, specifying the amount of qualifying
16 purchases or acquisitions for which the exemption is claimed and the
17 amount of exempted tax.

18 (2) For the purposes of this section, "aluminum smelter" has the
19 same meaning as provided in section 2 of this act.

20 (3) Credits may not be claimed under this section for taxable
21 events occurring on or after January 1, 2007.

22 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.12 RCW
23 to read as follows:

24 (1) A person who is subject to tax under RCW 82.12.020 for tangible
25 personal property used at an aluminum smelter, or for tangible personal
26 property that will be incorporated as an ingredient or component of
27 buildings or other structures at an aluminum smelter, or for labor and
28 services rendered with respect to such buildings, structures, or
29 tangible personal property, is eligible for an exemption from the state
30 share of the tax in the form of a credit, as provided in this section.
31 The amount of the credit shall be equal to the state share of use tax
32 computed to be due under RCW 82.12.020. The person shall submit
33 information, in a form and manner prescribed by the department,
34 specifying the amount of qualifying purchases or acquisitions for which
35 the exemption is claimed and the amount of exempted tax.

36 (2) For the purposes of this section, "aluminum smelter" has the
37 same meaning as provided in section 2 of this act.

1 (3) Credits may not be claimed under this section for taxable
2 events occurring on or after January 1, 2007.

3 **Sec. 12.** RCW 82.12.022 and 1994 c 124 s 9 are each amended to read
4 as follows:

5 (1) There is hereby levied and there shall be collected from every
6 person in this state a use tax for the privilege of using natural gas
7 or manufactured gas within this state as a consumer.

8 (2) The tax shall be levied and collected in an amount equal to the
9 value of the article used by the taxpayer multiplied by the rate in
10 effect for the public utility tax on gas distribution businesses under
11 RCW 82.16.020. The "value of the article used" does not include any
12 amounts that are paid for the hire or use of a gas distribution
13 business as defined in RCW 82.16.010(7) in transporting the gas subject
14 to tax under this subsection if those amounts are subject to tax under
15 that chapter.

16 (3) The tax levied in this section shall not apply to the use of
17 natural or manufactured gas delivered to the consumer by other means
18 than through a pipeline.

19 (4) The tax levied in this section shall not apply to the use of
20 natural or manufactured gas if the person who sold the gas to the
21 consumer has paid a tax under RCW 82.16.020 with respect to the gas for
22 which exemption is sought under this subsection.

23 (5) The tax levied in this section shall not apply to the use of
24 natural or manufactured gas by an aluminum smelter as that term is
25 defined in section 2 of this act before January 1, 2007.

26 (6) There shall be a credit against the tax levied under this
27 section in an amount equal to any tax paid by:

28 (a) The person who sold the gas to the consumer when that tax is a
29 gross receipts tax similar to that imposed pursuant to RCW 82.16.020 by
30 another state with respect to the gas for which a credit is sought
31 under this subsection; or

32 (b) The person consuming the gas upon which a use tax similar to
33 the tax imposed by this section was paid to another state with respect
34 to the gas for which a credit is sought under this subsection.

35 ~~((+6+))~~ (7) The use tax hereby imposed shall be paid by the
36 consumer to the department.

37 ~~((+7+))~~ (8) There is imposed a reporting requirement on the person
38 who delivered the gas to the consumer to make a quarterly report to the

1 department. Such report shall contain the volume of gas delivered,
2 name of the consumer to whom delivered, and such other information as
3 the department shall require by rule.

4 ~~((+8))~~ (9) The department may adopt rules under chapter 34.05 RCW
5 for the administration and enforcement of sections 1 through 6, chapter
6 384, Laws of 1989.

7 NEW SECTION. **Sec. 13.** A new section is added to chapter 82.16 RCW
8 to read as follows:

9 (1) A person who is subject to tax under this chapter on gross
10 income from sales of electricity, natural gas, or manufactured gas made
11 to an aluminum smelter is eligible for an exemption from the tax in the
12 form of a credit, if the contract for sale of electricity or gas to the
13 aluminum smelter specifies that the price charged for the electricity
14 or gas will be reduced by an amount equal to the credit.

15 (2) The credit is equal to the gross income from the sale of the
16 electricity or gas to an aluminum smelter multiplied by the
17 corresponding rate in effect at the time of the sale for the public
18 utility tax under RCW 82.16.020.

19 (3) The exemption provided for in this section does not apply to
20 amounts received from the remarketing or resale of electricity
21 originally obtained by contract for the smelting process.

22 (4) For the purposes of this section, "aluminum smelter" has the
23 same meaning as provided in section 2 of this act.

24 (5) Credits may not be claimed under this section for taxable
25 activity occurring on or after July 1, 2011.

26 NEW SECTION. **Sec. 14.** A new section is added to chapter 82.32 RCW
27 to read as follows:

28 (1) For the purposes of this section, "smelter tax incentive" means
29 the preferential tax rate under section 3 of this act, or an exemption
30 or credit under section 8, 10, or 11 of this act or RCW 82.12.022(5).

31 (2) The legislature finds that accountability and effectiveness are
32 important aspects of setting tax policy. In order to make policy
33 choices regarding the best use of limited state resources the
34 legislature needs information to evaluate whether the stated goals of
35 legislation were achieved.

36 (3) The goals of the smelter tax incentives are to retain family
37 wage jobs in rural areas by:

1 (a) Enabling the aluminum industry to maintain production of
2 aluminum at a level that will preserve at least 75 percent of the jobs
3 that were on the payroll effective January 1, 2004, as adjusted for
4 employment reductions publicly announced before November 30, 2003; and

5 (b) Allowing the aluminum industry to continue producing aluminum
6 in this state through 2006 so that the industry will be positioned to
7 preserve and create new jobs when the anticipated reduction of energy
8 costs occurs.

9 (4)(a) An aluminum smelter receiving the benefit of a smelter tax
10 incentive shall make an annual report to the department detailing
11 employment, wages, and employer-provided health and retirement benefits
12 per job at the manufacturing site. The report is due by March 31st
13 following any year in which a tax incentive is claimed or used. The
14 report shall not include names of employees. The report shall detail
15 employment by the total number of full-time, part-time, and temporary
16 positions. The report shall indicate the quantity of aluminum smelted
17 at the plant during the time period covered by the report. The first
18 report filed under this subsection shall include employment, wage, and
19 benefit information for the twelve-month period immediately before
20 first use of a tax incentive. Employment reports shall include data
21 for actual levels of employment and identification of the number of
22 jobs affected by any employment reductions that have been publicly
23 announced at the time of the report. Information in a report under
24 this section is not subject to the confidentiality provisions of RCW
25 82.32.330 and may be disclosed to the public upon request.

26 (b) If a person fails to submit an annual report under (a) of this
27 subsection by the due date of the report, the department shall declare
28 the amount of taxes exempted or credited, or reduced in the case of the
29 preferential business and occupation tax rate, for that year to be
30 immediately due and payable. Excise taxes payable under this
31 subsection are subject to interest but not penalties, as provided under
32 this chapter. This information is not subject to the confidentiality
33 provisions of RCW 82.32.330 and may be disclosed to the public upon
34 request.

35 (5) By December 1, 2005, and by December 1, 2006, the fiscal
36 committees of the house of representatives and the senate, in
37 consultation with the department, shall report to the legislature on
38 the effectiveness of the smelter tax incentives and, by December 1,
39 2010, on the effectiveness of the incentives under sections 9 and 13 of

1 this act. The reports shall measure the effect of the tax incentives
2 on job retention for Washington residents and any other factors the
3 committees may select.

4 NEW SECTION. **Sec. 15.** This act takes effect July 1, 2004."

EFFECT: Terminates the ability to earn B&O tax or PUT credit on sales of electricity to a smelter on July 1, 2011. Provides that the credits do not apply to income received from resale of electricity that was originally sold under contract for the purposes of smelting. Requires an evaluation of the B&O tax and PUT credits by December 2010. Requires smelters to make an annual report if receiving any incentive in the bill except the B&O tax or PUT credit for sales of electricity made to a smelter. Requires the report to contain detailed employment information by the total number of full-time, part-time, and temporary positions. Requires that the report information, and the amount of taxes that are due if a report is not filed, be disclosed to the public upon request. Requires an additional evaluation of smelter incentives in 2005 and that the evaluation be conducted by the legislative fiscal committees.

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