

HOUSE BILL REPORT

HB 2518

As Reported by House Committee On:
Technology, Telecommunications & Energy

Title: An act relating to exempting from the state public utility tax the sales of electricity to an electrolytic processing business.

Brief Description: Exempting from the state public utility tax the sales of electricity to an electrolytic processing business.

Sponsors: Representatives Kirby, Conway, Morris, Holmquist and Hinkle.

Brief History:

Committee Activity:

Technology, Telecommunications & Energy: 1/23/04, 2/3/04 [DPS].

Brief Summary of Substitute Bill

- Creates an exemption from the public utility tax (PUT) for income received by a utility from the sale of electricity to a chlor-alkali or a sodium chlorate electrolytic processing business.

HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Morris, Chair; Ruderman, Vice Chair; Sullivan, Vice Chair; Crouse, Ranking Minority Member; Anderson, Blake, Bush, Delvin, Hudgins, Kirby, McMahan, McMorris, Wallace and Wood.

Minority Report: Do not pass. Signed by 3 members: Representatives Nixon, Assistant Ranking Minority Member; Romero and Tom.

Staff: Pam Madson (786-7166).

Background:

Public and privately-owned utilities are subject to the state public utility tax (PUT). The PUT is applied to the gross receipts of the business. For electrical utilities, the applicable tax rate is 3.873 percent. Revenues are deposited to the State General Fund.

The PUT does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. However, there are several deductions and credits for specific types of business activities. These activities include wholesale sales and sales of electricity to direct service industrial businesses.

There is a small number of large industrial manufacturers, mostly aluminum smelters, that consume significant amounts of electricity in their processing operations. They purchase their electricity directly from the Bonneville Power Administration and are known as direct service industrial customers or DSIs. The DSIs are not utilities and are not subject to the PUT tax and the income to BPA (a federal agency) from those sales is not subject to the state PUT.

Industrial chemical businesses also use significant amounts of electricity in their chemical processing operations. Some of these businesses purchase their electricity from a local electric utility. The income to the utility from the sale of electricity to the chemical business is subject to the state PUT.

A number of tax incentives include accountability provisions. The principal components of these provisions are disclosure requirements and enforcement mechanisms. Firms that take certain incentives are required to disclose such information as number of jobs created, location of new investments, and other information. For certain incentives, firms must meet certain eligibility requirements, such as the requirement under the high technology research and development sales tax deferral that for counties with community empowerment zones, a certain number of employees be hired from within the zones, depending on level of investment. Firms in such areas that fail to meet these requirements are required to repay the deferred taxes.

Summary of Substitute Bill:

Effective July 1, 2004, income from the sales of electricity by a utility to a chlor-alkali or a sodium chlorate chemical business is exempt from the PUT if the sales contract between the utility and the chemical business meets the following conditions:

- (1) The electricity used in the chemical processing is separately metered from the electricity used in the general operation of the business;
- (2) The price of the electricity used in the processing of the chemicals and charged to the chemical business is reduced by the amount of the tax exemption received by the selling utility; and
- (3) If the tax exemption is disallowed, the chemical business must pay the amount of the disallowed exemption to the utility.

If the electricity originally obtained by the utility to meet the contracted amount required by the chemical business for use in the processing of the chemicals is resold by the utility, the income from the resale of that electricity is not exempt from the PUT.

Businesses that claim public utility tax credit must annually report to the Department of Revenue details of employment, wages, and benefits per job (but excluding individual employee identification). The report must also include the quantity of product produced. The first report must include employment, wage and benefit information covering the 12-month period preceding the effective date of the incentives. The report content is not subject to statutory confidentiality requirements. During any year, if a business fails to submit a report, all tax savings attributable to the incentives for the year are due.

Substitute Bill Compared to Original Bill:

The substitute removes the emergency clause, adds an employment goal for the businesses that claim public utility tax credit, and requires an annual report to the Department of Revenue.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The purpose of the bill is to save jobs and keep the plants operating. Supplies chemicals to the pulp and paper industry. Process that produces sodium chlorate which is used in bleaching pulp for white paper products. This is a mature commodity in a very competitive global market. Electricity is a prime raw material component in the processing of the product. This exemption may make a small reduction in the price of the electricity but it is significant in this market. Other producers in North America have similar tax exemptions. The Northwest is above the world price of power. In addition to the chemical produced, the process also produces hydrogen that is used by a food processing plant. The plants are very efficient. Electrolytic process also produces chlorine. Being able to operate means a number of jobs with good wages available in the community. For plants that are currently not operating, it would allow them to again be operational and provide employment and allow those to return to work. This bill is an investment in the state's economy.

Testimony Against: None.

Persons Testifying: Representative Holmquist; Calvin Greene, Eka Chemicals Inc.; Jeff Brown, Pioneer Americas; Bill Stauffacher, Pioneer Americas; and Alvin McGee, Pioneer Americas.

Persons Signed In To Testify But Not Testifying: None.