FINAL BILL REPORT
E2SHB 2518

C 240 L 04

Synopsis as Enacted

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

Sponsors: By House Committee on Finance (originally sponsored by Representatives Kirby, Conway, Morris, Holmquist and Hinkle).

House Committee on Technology, Telecommunications & Energy
House Committee on Finance
Senate Committee on Economic Development
Senate Committee on Ways & Means

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 in 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 are 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, and the income to BPA (a federal agency) from those sales is not subject to the 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 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 the number of jobs created, the location of new investments, and other information. For certain incentives, firms must meet certain eligibility requirements, such as the requirement under the rural county and distressed area sales and use tax deferral that, for counties with community empowerment zones, a certain number of employees be hired from within the zones, depending on the level of investment. Firms in such areas that fail to meet these requirements are required to repay the deferred taxes.

Summary:

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:

- The electricity used in the chemical processing is separately metered from the electricity used in the general operation of the business.
- 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.
- 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 the PUT exemption must report annually 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.

The fiscal committees of the House of Representatives and the Senate are required to study the effectiveness of the tax incentive with respect to job creation and other factors deemed necessary. The committees must consult with the Department and address expected trends in electricity prices. Reports must be submitted in December 2007 and December 2010.

The tax exemption expires January 1, 2011.

Votes on Final Passage:

House	88	5	
Senate	48	1	(Senate amended)
House	92	4	(House concurred)

Effective: June 10, 2004