
SECOND SUBSTITUTE HOUSE BILL 2518

State of Washington 58th Legislature 2004 Regular Session

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

READ FIRST TIME 02/10/04.

1 AN ACT Relating to exempting from the state public utility tax the
2 sales of electricity to an electrolytic processing business; amending
3 RCW 82.16.020; adding a new section to chapter 82.16 RCW; adding a new
4 section to chapter 82.32 RCW; and providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.16 RCW
7 to read as follows:

8 (1) For the purposes of this section:

9 (a) "Chlor-alkali electrolytic processing business" means a person
10 who is engaged in a business that uses more than ten average megawatts
11 of electricity per month in a chlor-alkali electrolytic process to
12 split the electrochemical bonds of sodium chloride and water to make
13 chlorine and sodium hydroxide. A "chlor-alkali electrolytic processing
14 business" does not include direct service industrial customers or their
15 subsidiaries that contract for the purchase of power from the
16 Bonneville power administration as of the effective date of this
17 section.

18 (b) "Sodium chlorate electrolytic processing business" means a
19 person who is engaged in a business that uses more than ten average

1 megawatts of electricity per month in a sodium chlorate electrolytic
2 process to split the electrochemical bonds of sodium chloride and water
3 to make sodium chlorate and hydrogen. A "sodium chlorate electrolytic
4 processing business" does not include direct service industrial
5 customers or their subsidiaries that contract for the purchase of power
6 from the Bonneville power administration as of the effective date of
7 this section.

8 (2) Effective July 1, 2004, the tax levied under this chapter does
9 not apply to sales of electricity made by a light and power business to
10 a chlor-alkali electrolytic processing business or a sodium chlorate
11 electrolytic processing business for the electrolytic process if the
12 contract for sale of electricity to the business contains the following
13 terms:

14 (a) The electricity to be used in the electrolytic process is
15 separately metered from the electricity used for general operations of
16 the business;

17 (b) The price charged for the electricity used in the electrolytic
18 process will be reduced by an amount equal to the tax exemption
19 available to the light and power business under this section; and

20 (c) Disallowance of all or part of the exemption under this section
21 is a breach of contract and the damages to be paid by the chlor-alkali
22 electrolytic processing business or the sodium chlorate electrolytic
23 processing business are the amount of the tax exemption disallowed.

24 (3) If the electrolytic processing business is located within a
25 jurisdiction that imposes tax under RCW 35.21.865 on a light and power
26 business that supplies electricity to the electrolytic processing
27 business, the exemption provided for in this section does not apply.
28 However, a preferential tax rate applies to the sale of electricity by
29 the light and power business to the electrolytic processing business.
30 If the rate of tax imposed under RCW 35.21.865 on the sale of
31 electricity by the light and power business to the electrolytic
32 processing business is less than the general rate of tax imposed on
33 electric energy businesses, the tax rate provided under RCW 82.16.020
34 for the light and power business is reduced by an equal percentage.

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

1 (5) In order to claim an exemption under this section, the
2 chlor-alkali electrolytic processing business or the sodium chlorate
3 electrolytic processing business must provide the light and power
4 business with an exemption certificate in a form and manner prescribed
5 by the department.

6 (6)(a) This section does not apply to sales of electricity made
7 after December 31, 2006.

8 (b) This section expires June 30, 2007.

9 **Sec. 2.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to read
10 as follows:

11 (1) There is levied and there shall be collected from every person
12 a tax for the act or privilege of engaging within this state in any one
13 or more of the businesses herein mentioned. The tax shall be equal to
14 the gross income of the business, multiplied by the rate set out after
15 the business, as follows:

16 (a) Express, sewerage collection, and telegraph businesses: Three
17 and six-tenths percent;

18 (b) Light and power business: Three and sixty-two one-hundredths
19 percent, except as provided in section 1 of this act;

20 (c) Gas distribution business: Three and six-tenths percent;

21 (d) Urban transportation business: Six-tenths of one percent;

22 (e) Vessels under sixty-five feet in length, except tugboats,
23 operating upon the waters within the state: Six-tenths of one percent;

24 (f) Motor transportation, railroad, railroad car, and tugboat
25 businesses, and all public service businesses other than ones mentioned
26 above: One and eight-tenths of one percent;

27 (g) Water distribution business: Four and seven-tenths percent.

28 (2) An additional tax is imposed equal to the rate specified in RCW
29 82.02.030 multiplied by the tax payable under subsection (1) of this
30 section.

31 (3) Twenty percent of the moneys collected under subsection (1) of
32 this section on water distribution businesses and sixty percent of the
33 moneys collected under subsection (1) of this section on sewerage
34 collection businesses shall be deposited in the public works assistance
35 account created in RCW 43.155.050.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.32 RCW
2 to read as follows:

3 (1) For the purposes of this section, "electrolytic processing
4 business tax exemption" means the exemption and preferential tax rate
5 under section 1 of this act.

6 (2) The legislature finds that accountability and effectiveness are
7 important aspects of setting tax policy. In order to make policy
8 choices regarding the best use of limited state resources, the
9 legislature needs information to evaluate whether the stated goals of
10 legislation were achieved.

11 (3) The goals of the electrolytic processing business tax exemption
12 are:

13 (a) To retain family wage jobs by enabling electrolytic processing
14 businesses to maintain production of chlor-alkali and sodium chlorate
15 at a level that will preserve at least seventy-five percent of the jobs
16 that were on the payroll effective January 1, 2004, as adjusted for
17 employment reductions publicly announced before November 30, 2003; and

18 (b) To allow the electrolytic processing industries to continue
19 production in this state through 2006 so that the industries will be
20 positioned to preserve and create new jobs when the anticipated
21 reduction of energy costs occur.

22 (4)(a) A person who receives the benefit of an electrolytic
23 processing business tax exemption shall make an annual report to the
24 department detailing employment, wages, and employer-provided health
25 and retirement benefits per job at the manufacturing site. The report
26 is due by March 31st following any year in which a tax exemption is
27 claimed or used. The report shall not include names of employees. The
28 report shall detail employment by the total number of full-time,
29 part-time, and temporary positions. The report shall indicate the
30 quantity of product produced at the plant during the time period
31 covered by the report. The first report filed under this subsection
32 shall include employment, wage, and benefit information for the
33 twelve-month period immediately before first use of a tax exemption.
34 Employment reports shall include data for actual levels of employment
35 and identification of the number of jobs affected by any employment
36 reductions that have been publicly announced at the time of the report.
37 Information in a report under this section is not subject to the

1 confidentiality provisions of RCW 82.32.330 and may be disclosed to the
2 public upon request.

3 (b) If a person fails to submit an annual report under (a) of this
4 subsection by the due date of the report, the department shall declare
5 the amount of taxes exempted for that year to be immediately due and
6 payable. Public utility taxes payable under this subsection are
7 subject to interest but not penalties, as provided under this chapter.
8 This information is not subject to the confidentiality provisions of
9 RCW 82.32.330 and may be disclosed to the public upon request.

10 (5) By December 1, 2005, and by December 1, 2006, the fiscal
11 committees of the house of representatives and the senate, in
12 consultation with the department, shall report to the legislature on
13 the effectiveness of the tax incentive under section 1 of this act.
14 The report shall measure the effect of the incentive on job retention
15 for Washington residents, and other factors as the committees select.
16 The report shall also discuss expected trends or changes to electricity
17 prices as they affect the industries that benefit from the incentives.

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