

CERTIFICATION OF ENROLLMENT
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2518

58th Legislature
2004 Regular Session

Passed by the House March 11, 2004
Yeas 92 Nays 4

Speaker of the House of Representatives

Passed by the Senate March 11, 2004
Yeas 48 Nays 1

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2518** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2518

AS AMENDED BY THE SENATE

Passed Legislature - 2004 Regular Session

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; adding a
3 new section to chapter 82.16 RCW; adding a new section to chapter 82.32
4 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) The exemption provided for in this section does not apply to
25 amounts received from the remarketing or resale of electricity
26 originally obtained by contract for the electrolytic process.

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

32 (5)(a) This section does not apply to sales of electricity made
33 after December 31, 2010.

34 (b) This section expires June 30, 2011.

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

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

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

9 (3) The goals of the electrolytic processing business tax exemption
10 are:

11 (a) To retain family wage jobs by enabling electrolytic processing
12 businesses to maintain production of chlor-alkali and sodium chlorate
13 at a level that will preserve at least seventy-five percent of the jobs
14 that were on the payroll effective January 1, 2004; and

15 (b) To allow the electrolytic processing industries to continue
16 production in this state through 2011 so that the industries will be
17 positioned to preserve and create new jobs when the anticipated
18 reduction of energy costs occur.

19 (4)(a) A person who receives the benefit of an electrolytic
20 processing business tax exemption shall make an annual report to the
21 department detailing employment, wages, and employer-provided health
22 and retirement benefits per job at the manufacturing site. The report
23 is due by March 31st following any year in which a tax exemption is
24 claimed or used. The report shall not include names of employees. The
25 report shall detail employment by the total number of full-time,
26 part-time, and temporary positions. The report shall indicate the
27 quantity of product produced at the plant during the time period
28 covered by the report. The first report filed under this subsection
29 shall include employment, wage, and benefit information for the
30 twelve-month period immediately before first use of a tax exemption.
31 Employment reports shall include data for actual levels of employment
32 and identification of the number of jobs affected by any employment
33 reductions that have been publicly announced at the time of the report.
34 Information in a report under this section is not subject to the
35 confidentiality provisions of RCW 82.32.330 and may be disclosed to the
36 public upon request.

37 (b) If a person fails to submit an annual report under (a) of this
38 subsection by the due date of the report, the department shall declare

1 the amount of taxes exempted for that year to be immediately due and
2 payable. Public utility taxes payable under this subsection are
3 subject to interest but not penalties, as provided under this chapter.
4 This information is not subject to the confidentiality provisions of
5 RCW 82.32.330 and may be disclosed to the public upon request.

6 (5) By December 1, 2007, and by December 1, 2010, the fiscal
7 committees of the house of representatives and the senate, in
8 consultation with the department, shall report to the legislature on
9 the effectiveness of the tax incentive under section 1 of this act.
10 The report shall measure the effect of the incentive on job retention
11 for Washington residents, and other factors as the committees select.
12 The report shall also discuss expected trends or changes to electricity
13 prices as they affect the industries that benefit from the incentives.

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