

SHB 1062 - S COMM AMD  
By Committee on Ways & Means

ADOPTED 04/26/2009

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

3 "Sec. 1. RCW 82.16.0421 and 2004 c 240 s 1 are each amended to  
4 read as follows:

5 (1) For the purposes of this section:

6 (a) "Chlor-alkali electrolytic processing business" means a person  
7 who is engaged in a business that uses more than ten average megawatts  
8 of electricity per month in a chlor-alkali electrolytic process to  
9 split the electrochemical bonds of sodium chloride and water to make  
10 chlorine and sodium hydroxide. A "chlor-alkali electrolytic processing  
11 business" does not include direct service industrial customers or their  
12 subsidiaries that contract for the purchase of power from the  
13 Bonneville power administration as of June 10, 2004.

14 (b) "Sodium chlorate electrolytic processing business" means a  
15 person who is engaged in a business that uses more than ten average  
16 megawatts of electricity per month in a sodium chlorate electrolytic  
17 process to split the electrochemical bonds of sodium chloride and water  
18 to make sodium chlorate and hydrogen. A "sodium chlorate electrolytic  
19 processing business" does not include direct service industrial  
20 customers or their subsidiaries that contract for the purchase of power  
21 from the Bonneville power administration as of June 10, 2004.

22 (2) Effective July 1, 2004, the tax levied under this chapter does  
23 not apply to sales of electricity made by a light and power business to  
24 a chlor-alkali electrolytic processing business or a sodium chlorate  
25 electrolytic processing business for the electrolytic process if the  
26 contract for sale of electricity to the business contains the following  
27 terms:

28 (a) The electricity to be used in the electrolytic process is  
29 separately metered from the electricity used for general operations of  
30 the business;

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

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

8 (3) The exemption provided for in this section does not apply to  
9 amounts received from the remarketing or resale of electricity  
10 originally obtained by contract for the electrolytic process.

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

16 (5)(a) This section does not apply to sales of electricity made  
17 after December 31, (~~(2010)~~) 2018.

18 (b) This section expires June 30, (~~(2011)~~) 2019.

19 **Sec. 2.** RCW 82.32.560 and 2004 c 240 s 2 are each amended to read  
20 as follows:

21 (1) For the purposes of this section, "electrolytic processing  
22 business tax exemption" means the exemption and preferential tax rate  
23 under RCW 82.16.0421.

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

29 (3) The goals of the electrolytic processing business tax exemption  
30 are:

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

35 (b) To allow the electrolytic processing industries to continue  
36 production in this state (~~(through 2011)~~) so that the industries will

1 remain competitive and be positioned to preserve and create new jobs  
2 (~~(when the anticipated reduction of energy costs occur)~~).

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

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

28 (~~(By December 1, 2007, and by December 1, 2010, the fiscal~~  
29 ~~committees of the house of representatives and the senate, in~~  
30 ~~consultation with the department, shall report to the legislature on~~  
31 ~~the effectiveness of the tax incentive under RCW 82.16.0421. The~~  
32 ~~report shall measure)) Pursuant to chapter 43.136 RCW, the citizen  
33 commission for performance measurement of tax preferences must schedule  
34 the electrolytic processing business tax exemption under RCW 82.16.0421  
35 for a tax preference review by the joint legislative audit and review  
36 committee. In addition to any of the factors in RCW 43.136.055(1), the  
37 committee must also study and report on the effect of the incentive on  
38 job retention for Washington residents, and other factors as the~~

1 committee(~~s~~) selects. The report shall also discuss expected trends  
2 or changes to electricity prices as they affect the industries that  
3 benefit from the incentives.

4 NEW SECTION. **Sec. 3.** If chapter . . ., Laws of 2009 (Substitute  
5 House Bill No. 1597 (H-2475/09)) is enacted, section 2, chapter . . .,  
6 Laws of 2009 (section 2 of this act) is null and void."

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7 On page 1, line 3 of the title, after "exemption;" strike the  
8 remainder of the title and insert "amending RCW 82.16.0421 and  
9 82.32.560; creating a new section; and providing an expiration date."

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