SENATE BILL REPORT
SHB 1062

As of March 25, 2009

Title: An act relating to the expiration date, goals, and legislative reporting provisions of the electrolytic processing business tax exemption.

Brief Description: Modifying the electrolytic processing business tax exemption.

Sponsors: House Committee on Finance (originally sponsored by Representatives Takko, Warnick, Blake, Orcutt, Ericks and Morris).

Brief History: Passed House: 3/06/09, 95-0.
Committee Activity: Ways & Means: 3/23/09.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dianne Criswell (786-7433)

Background: The Public Utility Tax (PUT) is a tax on public service businesses, including businesses that engage in transportation, communications, and the supply of electricity, natural gas, and water. The tax is paid on gross income derived from operation of public and privately owned utilities in lieu of the business and occupation (B&O) tax. The PUT does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. For electrical utilities, the applicable tax rate is 3.873 percent.

In 2004 the Legislature enacted a PUT exemption for sales of electricity by a utility to a chlor-alkali or a sodium chlorate chemical business in order to retain family wage jobs by enabling electrolytic processing businesses to maintain production of chlor-alkali and sodium chlorate at a level that will preserve at least 75 percent of the jobs that were on the payroll effective January 1, 2004, and to allow the electrolytic processing industries to continue production in this state through 2011 so that the industries will be positioned to preserve and create new jobs when the anticipated reduction of energy costs occurs. In order to qualify for the PUT exemption, the sales contract between the utility and chlor-alkali or a sodium chlorate chemical business must meet 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; and (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. 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

---

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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 (DOR) 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 must study the effectiveness of the tax incentive with respect to job creation and other factors deemed necessary. The committees must consult with the DOR and address expected trends in electricity prices. The next report to the Legislature is due in December of 2010.

The PUT exemption does not apply to the sales of electricity by a utility to a chlor-alkali or a sodium chlorate chemical business after December 31, 2010, and the exemption expires on June 30, 2011.

Summary of Bill: The expiration date for the PUT exemption is extended to sales of electricity by a utility to a chlor-alkali or a sodium chlorate chemical business until December 31, 2018, and the section expires on June 30, 2019.

By December 1, 2011, and every four years thereafter, the fiscal committees of the House of Representatives and the Senate, in consultation with the DOR, must report to the Legislature on the effectiveness of the tax incentive.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill provides tax incentives similar to those for the aluminum smelting industry, which do not expire. Continuing this tax incentive for electrolytic processing is important for keeping 60 family wage jobs going in Longview. The counties where these businesses are located, Grant and Cowlitz Counties, are experiencing unemployment rates at or above 12 percent. The largest cost for businesses in this industry is electricity, which can account for over half of their operating costs. Therefore, the public utility tax exemption for these activities greatly assists in keeping Washington competitive.

Persons Testifying: PRO: Representative Takko, prime sponsor; Tim Boyd, Eka Chemicals and Equa-Chlor Marketing, LLC; Calvin Greene, Eka Chemicals; Tim Root, Equa-Chlor Marketing, LLC.