

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 2672

61st Legislature
2010 1st Special Session

Passed by the House March 17, 2010
Yeas 94 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 18, 2010
Yeas 42 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2672** 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 HOUSE BILL 2672

Passed Legislature - 2010 1st Special Session

State of Washington **61st Legislature** **2010 Regular Session**

By Representatives Linville, Ericksen, Quall, Morris, Armstrong, Williams, Condotta, Simpson, Van De Wege, and Conway

Read first time 01/12/10. Referred to Committee on Finance.

1 AN ACT Relating to tax relief for aluminum smelters; amending RCW
2 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, 82.12.022, and 82.32.570;
3 and providing an expiration date.

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

5 **Sec. 1.** RCW 82.04.2909 and 2006 c 182 s 1 are each amended to read
6 as follows:

7 (1) Upon every person who is an aluminum smelter engaging within
8 this state in the business of manufacturing aluminum; as to such
9 persons the amount of tax with respect to such business (~~shall~~) is,
10 in the case of manufacturers, (~~be~~) equal to the value of the product
11 manufactured, or in the case of processors for hire, (~~be~~) equal to
12 the gross income of the business, multiplied by the rate of .2904
13 percent.

14 (2) Upon every person who is an aluminum smelter engaging within
15 this state in the business of making sales at wholesale of aluminum
16 manufactured by that person, as to such persons the amount of tax with
17 respect to such business (~~shall-be~~) is equal to the gross proceeds of
18 sales of the aluminum multiplied by the rate of .2904 percent.

19 (3) This section expires January 1, (~~2012~~) 2017.

1 **Sec. 2.** RCW 82.04.4481 and 2006 c 182 s 2 are each amended to read
2 as follows:

3 (1) In computing the tax imposed under this chapter, a credit is
4 allowed for all property taxes paid during the calendar year on
5 property owned by a direct service industrial customer and reasonably
6 necessary for the purposes of an aluminum smelter.

7 (2) A person taking the credit under this section is subject to all
8 the requirements of chapter 82.32 RCW. A credit earned during one
9 calendar year may be carried over to be credited against taxes incurred
10 in the subsequent calendar year, but may not be carried over a second
11 year. Credits carried over must be applied to tax liability before new
12 credits. No refunds may be granted for credits under this section.

13 (3) Credits may not be claimed under this section for property
14 taxes levied for collection in ((2012)) 2017 and thereafter.

15 **Sec. 3.** RCW 82.08.805 and 2009 c 535 s 513 are each amended to
16 read as follows:

17 (1) A person who has paid tax under RCW 82.08.020 for personal
18 property used at an aluminum smelter, tangible personal property that
19 will be incorporated as an ingredient or component of buildings or
20 other structures at an aluminum smelter, or for labor and services
21 rendered with respect to such buildings, structures, or personal
22 property, is eligible for an exemption from the state share of the tax
23 in the form of a credit, as provided in this section. A person
24 claiming an exemption must pay the tax and may then take a credit equal
25 to the state share of retail sales tax paid under RCW 82.08.020. The
26 person ((shall)) must submit information, in a form and manner
27 prescribed by the department, specifying the amount of qualifying
28 purchases or acquisitions for which the exemption is claimed and the
29 amount of exempted tax.

30 (2) For the purposes of this section, "aluminum smelter" has the
31 same meaning as provided in RCW 82.04.217.

32 (3) Credits may not be claimed under this section for taxable
33 events occurring on or after January 1, ((2012)) 2017.

34 **Sec. 4.** RCW 82.12.805 and 2009 c 535 s 620 are each amended to
35 read as follows:

36 (1) A person who is subject to tax under RCW 82.12.020 for personal

1 property used at an aluminum smelter, or for tangible personal property
2 that will be incorporated as an ingredient or component of buildings or
3 other structures at an aluminum smelter, or for labor and services
4 rendered with respect to such buildings, structures, or personal
5 property, is eligible for an exemption from the state share of the tax
6 in the form of a credit, as provided in this section. The amount of
7 the credit (~~((shall be))~~) is equal to the state share of use tax computed
8 to be due under RCW 82.12.020. The person (~~((shall))~~) must submit
9 information, in a form and manner prescribed by the department,
10 specifying the amount of qualifying purchases or acquisitions for which
11 the exemption is claimed and the amount of exempted tax.

12 (2) For the purposes of this section, "aluminum smelter" has the
13 same meaning as provided in RCW 82.04.217.

14 (3) Credits may not be claimed under this section for taxable
15 events occurring on or after January 1, (~~((2012))~~) 2017.

16 **Sec. 5.** RCW 82.12.022 and 2006 c 182 s 5 are each amended to read
17 as follows:

18 (1) There is (~~((hereby))~~) levied and (~~((there shall be))~~) collected
19 from every person in this state a use tax for the privilege of using
20 natural gas or manufactured gas within this state as a consumer.

21 (2) The tax (~~((shall be))~~) is levied and collected in an amount equal
22 to the value of the article used by the taxpayer multiplied by the rate
23 in effect for the public utility tax on gas distribution businesses
24 under RCW 82.16.020. The "value of the article used" does not include
25 any amounts that are paid for the hire or use of a gas distribution
26 business as defined in RCW 82.16.010(~~((+7))~~) (2) in transporting the gas
27 subject to tax under this subsection if those amounts are subject to
28 tax under that chapter.

29 (3) The tax levied in this section (~~((shall))~~) does not apply to the
30 use of natural or manufactured gas delivered to the consumer by other
31 means than through a pipeline.

32 (4) The tax levied in this section (~~((shall))~~) does not apply to the
33 use of natural or manufactured gas if the person who sold the gas to
34 the consumer has paid a tax under RCW 82.16.020 with respect to the gas
35 for which exemption is sought under this subsection.

36 (5) The tax levied in this section (~~((shall))~~) does not apply to the

1 use of natural or manufactured gas by an aluminum smelter as that term
2 is defined in RCW 82.04.217 before January 1, (~~2012~~) 2017.

3 (6) There (~~shall be~~) is a credit against the tax levied under
4 this section in an amount equal to any tax paid by:

5 (a) The person who sold the gas to the consumer when that tax is a
6 gross receipts tax similar to that imposed pursuant to RCW 82.16.020 by
7 another state with respect to the gas for which a credit is sought
8 under this subsection; or

9 (b) The person consuming the gas upon which a use tax similar to
10 the tax imposed by this section was paid to another state with respect
11 to the gas for which a credit is sought under this subsection.

12 (7) The use tax hereby imposed (~~shall~~) must be paid by the
13 consumer to the department.

14 (8) There is imposed a reporting requirement on the person who
15 delivered the gas to the consumer to make a quarterly report to the
16 department. Such report (~~shall~~) must contain the volume of gas
17 delivered, name of the consumer to whom delivered, and such other
18 information as the department (~~shall~~) requires by rule.

19 (9) The department may adopt rules under chapter 34.05 RCW for the
20 administration and enforcement of sections 1 through 6, chapter 384,
21 Laws of 1989.

22 **Sec. 6.** RCW 82.32.570 and 2006 c 182 s 6 are each amended to read
23 as follows:

24 (1) For the purposes of this section, "smelter tax incentive" means
25 the preferential tax rate under RCW 82.04.2909, or an exemption or
26 credit under RCW 82.04.4481, 82.08.805, 82.12.805, or 82.12.022(5).

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

32 (3) The goals of the smelter tax incentives are to retain family-
33 wage jobs in rural areas by:

34 (a) Enabling the aluminum industry to maintain production of
35 aluminum at a level that will preserve at least 75 percent of the jobs
36 that were on the payroll effective January 1, 2004, as adjusted for
37 employment reductions publicly announced before November 30, 2003; and

1 (b) Allowing the aluminum industry to continue producing aluminum
2 in this state through ((2012)) 2017 so that the industry will be
3 positioned to preserve and create new jobs when the anticipated
4 reduction of energy costs occurs.

5 (4)(a) An aluminum smelter receiving the benefit of a smelter tax
6 incentive shall make an annual report to the department detailing
7 employment, wages, and employer-provided health and retirement benefits
8 per job at the manufacturing site. The report is due by March 31st
9 following any year in which a tax incentive is claimed or used. The
10 report shall not include names of employees. The report shall detail
11 employment by the total number of full-time, part-time, and temporary
12 positions. The report shall indicate the quantity of aluminum smelted
13 at the plant during the time period covered by the report. The first
14 report filed under this subsection shall include employment, wage, and
15 benefit information for the twelve-month period immediately before
16 first use of a tax incentive. Employment reports shall include data
17 for actual levels of employment and identification of the number of
18 jobs affected by any employment reductions that have been publicly
19 announced at the time of the report. Information in a report under
20 this section is not subject to the confidentiality provisions of RCW
21 82.32.330 and may be disclosed to the public upon request.

22 (b) If a person fails to submit an annual report under (a) of this
23 subsection by the due date of the report, the department shall declare
24 the amount of taxes exempted or credited, or reduced in the case of the
25 preferential business and occupation tax rate, for that year to be
26 immediately due and payable. Excise taxes payable under this
27 subsection are subject to interest but not penalties, as provided under
28 this chapter. This information is not subject to the confidentiality
29 provisions of RCW 82.32.330 and may be disclosed to the public upon
30 request.

31 ~~((5) By December 1, 2007, December 1, 2010, and December 1, 2015,~~
32 ~~the fiscal committees of the house of representatives and the senate,~~
33 ~~in consultation with the department, shall report to the legislature on~~
34 ~~the effectiveness of the smelter tax incentives under RCW 82.04.4482~~
35 ~~and 82.16.0498. The reports shall measure the effect of the tax~~
36 ~~incentives on job retention for Washington residents and any other~~
37 ~~factors the committees may select.)) Pursuant to chapter 43.136 RCW,~~
38 the citizen commission for performance measurement of tax preferences

1 must schedule the tax preferences under RCW 82.04.4482, 82.16.0498,
2 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, 82.12.022, and 82.32.570
3 for a tax preference review by the joint legislative audit and review
4 committee in 2015. The review must include an analysis of the marginal
5 number of jobs retained as a result of the tax preferences with an
6 explanation of how the tax preferences accomplished that result; the
7 wages, hours and benefits paid to each of the retained jobs; and a
8 demographic analysis of the workers in the retained jobs that must
9 include an analysis of those workers relative to the surrounding
10 communities.

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