Washington State House of Representatives
Office of Program Research

BILL ANALYSIS

Finance Committee

HB 2977

Brief Description: Encouraging job creation and retention in rural economies through the transparent and accountable provision of targeted tax relief for silicon smelters.

Sponsors: Representatives Short, Kretz and Schmick.

Brief Summary of Bill

- Establishes a public utility tax and business and occupation tax credit for utilities that sell manufactured gas, natural gas, or electricity to a silicon smelter.
- Provides a use tax exemption to silicon smelters for the use of manufactured or natural gas if shipped directly to the smelter through a pipeline.

Hearing Date: 2/26/16

Staff: Dominique Meyers (786-7150).

Background:

Business and Occupation Tax.
Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. The tax is imposed on the gross receipts from all business activities conducted within the state. Revenues are deposited in the State General Fund. There are several rate categories, and a business may be subject to more than one B&O tax rate, depending on the types of activities conducted. Current law authorizes multiple exemptions, deductions and credits to reduce the B&O tax liability for specific taxpayers and business industries.

Public Utility Tax (PUT).
Income from utility operations is taxed under the PUT and is in lieu of the B&O tax; other income of the utility firm, e.g. retail sales of tangible personal property, is subject to the B&O tax. Unlike the B&O tax which pyramids, the PUT applies only on sales to consumers. Five

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different rates apply, depending upon the specific utility activity. The current rates, including permanent surtaxes, are as follows:

- distribution of water, 5.029 percent;
- generation or distribution of electrical power, 3.873 percent;
- telegraph companies, distribution of natural gas, and collection of sewerage, 3.852 percent;
- urban transportation and watercraft vessels under 65 feet in length, 0.642 percent; and
- railroads, railroad car companies, motor transportation, and all other public service businesses, 1.926 percent.

Brokered Natural Gas.
A use tax is levied on businesses that use natural or manufactured gas within the state if the gas is shipped directly to the business through a pipeline. The use tax rate is equal to the PUT rate for gas distribution businesses. The use tax is not levied on gas that was delivered by some other means for which the PUT tax has already been paid.

Tax Preferences.
All new tax preference legislation is required to include a tax preference performance statement. The performance statement must clearly specify the public policy objectives of the tax preference, and the specific metrics and data that will be used by the joint legislative audit and review committee (JLARC) to evaluate the efficacy of the tax preference. In addition, an automatic 10-year expiration date is applied to new tax preferences if an alternate expiration date is not provided in the new tax preference legislation.

Summary of Bill:

Utilities that provide manufactured gas, natural gas, or electricity to a silicon smelter at a reduced price are authorized to take a credit against their PUT liability for the amount of savings passed on to the silicon smelter in the reduced price of the gas or electricity. These utilities may also use the credit towards any B&O liability if the same conditions are met.

Silicon smelters that use manufactured or natural gas that was shipped directly through a pipeline are exempt from use tax on the gas. This exemption does not apply to gas that was purchased and delivered by some other means and is subject to PUT tax.

The tax preferences established in the bill must be reviewed by the Joint Legislative Audit and Review Committee (JLARC) during the committee's normal ten-year review cycle. JLARC must specifically look at the number of beneficiaries receiving the credit and smelters receiving the benefit through reduced prices of electricity and gas. JLARC must also include specific job metrics as part of the review. There is no specific expiration date in the bill, therefore the tax preferences will expire ten years after the effective date.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on May 1, 2016.