HOUSE BILL REPORT
HB 2977

As Reported by House Committee On:
Finance

Title: An act relating to encouraging job creation and retention in rural economies through the transparent and accountable provision of targeted tax relief for silicon smelters.

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 History:
Committee Activity:
Finance: 2/26/16, 2/29/16 [DPS].

Brief Summary of Substitute 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.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Lytton, Chair; Robinson, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Frame, Manweller, Reykdal, Ryu, Springer, Stokesbary, Vick, Wilcox and Wylie.

Minority Report: Without recommendation. Signed by 1 member: Representative Pollet.

Staff: Dominique Meyers (786-7150).

Background:

Business and Occupation Tax.

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.

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.
Income from utility operations is taxed under the public utility tax (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 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 Substitute 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 the PUT.

Any silicon smelter that does not meet the following job requirements must pay back the amount of tax benefit received for the utilization of the preferences from May 1, 2016, through June 30, 2021:

- the average number of employment positions during calendar years 2019 and 2020 must be at least 100; and
- the average wage for all employees must be at least 10 percent above county median household income within the county the silicon smelter operates.

The Department of Revenue (DOR) is required to make the determination of the job requirements by June 2021 and notify a smelter that is required to pay back taxes in the amount of the benefit received. If a silicon smelter is required to pay back any taxes, they no longer qualify to receive the benefit of the tax preferences claimed by a utility and the tax preferences expire July 1, 2021.

The tax preferences established in the bill must be reviewed by the JLARC by April 1, 2021. The JLARC must specifically look at the number of beneficiaries receiving the credit and smelters receiving the benefit through reduced prices of electricity and gas. The JLARC must also include specific job metrics as part of the review. If the DOR determination does not result in a silicon smelter paying back taxes for the amount of benefit received, the tax preferences will expire 10 years after the effective date, May 1, 2026.

Substitute Bill Compared to Original Bill:

The substitute bill creates a claw-back provision for any silicon smelter that does not meet the following job requirements:

- the average number of employment positions during calendar years 2019 and 2020 must be at least 100; and
- the average wage for all employees must be at least 10 percent above county median household income within the county the silicon smelter operates.

The DOR is required to make the determination of the job requirements by June 2021 and notify a smelter that is required to pay back taxes in the amount of the benefit received. If a silicon smelter is required to pay back any taxes, they no longer qualify to receive the benefit of the tax preferences claimed by a utility and the tax preferences expire July 1, 2021.

The JLARC report is given a specific due date of April 1, 2021.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) There is a company that is interested in doing manufacturing business in the small town of Addy. This company would bring new jobs to this small community. When a large manufacturer recently left the community, 350 jobs were lost, and the community and schools suffered. It is hard to find family wage jobs, and this legislation, which would support the move for a manufacturer, would be a huge benefit to a small community. This bill will create a ripple effect of economic benefit to the community and beyond with tax revenue for the entire state. Stevens County has a 9 percent unemployment rate compared to the approximate 5 percent state rate. Seventy-three percent of the kids enrolled in our schools are at the poverty rate. The newest school in the district is 35 years old. The community desperately needs jobs, and this bill would help bring good family wage jobs to the area. The closest supplier to consumers of silicon in the state is the east coast or overseas. This bill would benefit consumers of silicon, which is used to produce solar panels, and benefit the community where the new smelter would be located. A company, HiTest Sand, is looking at building a silicon smelter in Washington. Original the thought was to build in Canada, but over the last six months, with the help of local officials, analysis shows that building in Washington could be feasible, especially with the benefits in this legislation.

(Opposed) None.

(Other) The Department of Commerce is other on the bill because it has a fiscal impact that is currently not included in the Governor's budget. However, this project has a number of benefits it can offer the state, including potential jobs in an area that is severely depressed in terms of job creation. This bill would provide great jobs with good family wages. This is a potential growth industry where Washington could benefit from the use of the product in state and it could become a great export for the state.

Persons Testifying: (In support) Eric Lohnes, Association of Washington Business; Bob Guenther, International Brotherhood of Electrical Workers; Christopher Bowes, REC Silicone; Dorothy Knauss, City of Chewelah; and Jayson Tymko, HiTest Sand.

(Other) Nick Demerice, Department of Commerce.

Persons Signed In To Testify But Not Testifying: None.