
HOUSE BILL 1381

State of Washington

64th Legislature

2015 Regular Session

By Representatives Buys, Lytton, Van Werven, Blake, Wilcox, Condotta, Nealey, and Morris

Read first time 01/19/15. Referred to Committee on Technology & Economic Development.

1 AN ACT Relating to encouraging job retention and creation in
2 rural economies through the transparent and accountable extension of
3 aluminum smelter tax preferences; amending RCW 82.04.2909,
4 82.04.4481, 82.08.805, 82.12.805, and 82.12.022; creating a new
5 section; providing an effective date; and providing an expiration
6 date.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that the
9 aluminum industry in Washington employs over one thousand people. The
10 legislature further finds that average annual wages and benefits for
11 these employment positions exceed one hundred thousand dollars and
12 that each of these employment positions indirectly generates an
13 additional two to three jobs within the state. The legislature
14 further finds that the aluminum industry generates substantial taxes
15 for local jurisdictions. The legislature further finds that the
16 aluminum industry was severely impacted by the global economic
17 recession. The legislature further finds that the London metal
18 exchange, where aluminum is traded as a commodity, is extremely
19 volatile and substantially impacts the profitability of the aluminum
20 industry. The legislature further finds that for the aforementioned
21 reasons, the industry continues to struggle with profitability,

1 putting the continued employment of its Washington workforce in
2 jeopardy.

3 (2)(a) This subsection is the tax preference performance
4 statement for the aluminum industry tax preferences in RCW
5 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, and 82.12.022, as
6 amended in this act. The performance statement is only intended to be
7 used for subsequent evaluation of the tax preference. It is not
8 intended to create a private right of action by any party or be used
9 to determine eligibility for preferential tax treatment.

10 (b) The legislature categorizes this tax preference as one
11 intended to accomplish the general purposes indicated in RCW
12 82.32.808(2) (c) and (d).

13 (c) It is the legislature's specific public policy objective to
14 promote the preservation of employment positions within the
15 Washington aluminum manufacturing industry as the industry continues
16 to grapple with the lingering effects of the economic recession and
17 the volatility of the London metal exchange.

18 (d) To measure the effectiveness of the exemption provided in
19 this act in achieving the specific public policy objective described
20 in (c) of this subsection, the joint legislative audit and review
21 committee shall evaluate the following:

22 (i) Changes in the number of statewide employment positions and
23 wages for the largest aluminum manufacturing firm operating in
24 Washington;

25 (ii) Changes in the price of aluminum on the London metal
26 exchange;

27 (iii) Firm-wide changes in alumina price index and spot pricing
28 as a percentage of third-party shipments for the largest aluminum
29 manufacturing firm operating in Washington; and

30 (iv) Changes in Bonneville power administration contracted power
31 prices for the largest aluminum manufacturing firm operating in
32 Washington.

33 (e)(i) The information provided in the annual report submitted by
34 taxpayers under RCW 82.32.534, data provided by the state employment
35 security department, and information provided in the firm-wide annual
36 financial report for the largest aluminum manufacturing firm
37 operating in Washington, is intended to provide the informational
38 basis for the evaluation under (d) of this subsection.

39 (ii) In addition to the data source described under (e)(i) of
40 this subsection, the joint legislative audit and review committee may

1 use any other data it deems necessary in performing the evaluation
2 under (d) of this subsection.

3 **Sec. 2.** RCW 82.04.2909 and 2011 c 174 s 301 are each amended to
4 read as follows:

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

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

17 (3) A person reporting under the tax rate provided in this
18 section must file a complete annual report with the department under
19 RCW 82.32.534.

20 (4) A person who closes an aluminum smelter must pay the tax
21 preference amounts saved under this section for the current and prior
22 two calendar years from the date that the aluminum smelter closed.
23 The department must declare the taxes to be immediately due and
24 payable. The department may not assess interest or penalties. For the
25 purposes of this subsection (4), "date that the aluminum smelter
26 closed" means the date determined by the department on which the
27 aluminum smelter ceased operations. The department must provide
28 written notice stating the date that an aluminum smelter has ceased
29 operations. Written notice under this subsection (4) must be provided
30 to affected parties, the chief clerk of the house of representatives,
31 the secretary of the senate, the office of the code reviser, and
32 others as deemed appropriate by the department.

33 (5) This section expires January 1, ((2017)) 2022.

34 **Sec. 3.** RCW 82.04.4481 and 2011 c 174 s 302 are each amended to
35 read as follows:

36 (1) In computing the tax imposed under this chapter, a credit is
37 allowed for all property taxes paid during the calendar year on

1 property owned by a direct service industrial customer and reasonably
2 necessary for the purposes of an aluminum smelter.

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

10 (3) Credits may not be claimed under this section for property
11 taxes levied for collection in ((2017)) 2022 and thereafter.

12 (4) A person who closes an aluminum smelter must pay the tax
13 preference amounts saved under this section for the current and prior
14 two calendar years from the date that the aluminum smelter closed.
15 The department must declare the taxes to be immediately due and
16 payable. The department may not assess interest or penalties. For the
17 purposes of this subsection (4), "date that the aluminum smelter
18 closed" means the date determined by the department on which the
19 aluminum smelter ceased operations. The department must provide
20 written notice stating the date that an aluminum smelter has ceased
21 operations. Written notice under this subsection (4) must be provided
22 to affected parties, the chief clerk of the house of representatives,
23 the secretary of the senate, the office of the code reviser, and
24 others as deemed appropriate by the department.

25 (5) A person claiming the credit provided in this section must
26 file a complete annual report with the department under RCW
27 82.32.534.

28 **Sec. 4.** RCW 82.08.805 and 2011 c 174 s 303 are each amended to
29 read as follows:

30 (1) A person who has paid tax under RCW 82.08.020 for personal
31 property used at an aluminum smelter, tangible personal property that
32 will be incorporated as an ingredient or component of buildings or
33 other structures at an aluminum smelter, or for labor and services
34 rendered with respect to such buildings, structures, or personal
35 property, is eligible for an exemption from the state share of the
36 tax in the form of a credit, as provided in this section. A person
37 claiming an exemption must pay the tax and may then take a credit
38 equal to the state share of retail sales tax paid under RCW
39 82.08.020. The person must submit information, in a form and manner

1 prescribed by the department, specifying the amount of qualifying
2 purchases or acquisitions for which the exemption is claimed and the
3 amount of exempted tax.

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

6 (3) A person claiming the tax preference provided in this section
7 must file a complete annual report with the department under RCW
8 82.32.534.

9 (4) A person who closes an aluminum smelter must pay the tax
10 preference amounts saved under this section for the current and prior
11 two calendar years from the date that the aluminum smelter closed.
12 The department must declare the taxes to be immediately due and
13 payable. The department may not assess interest or penalties. For the
14 purposes of this subsection (4), "date that the aluminum smelter
15 closed" means the date determined by the department on which the
16 aluminum smelter ceased operations. The department must provide
17 written notice stating the date that an aluminum smelter has ceased
18 operations. Written notice under this subsection (4) must be provided
19 to affected parties, the chief clerk of the house of representatives,
20 the secretary of the senate, the office of the code reviser, and
21 others as deemed appropriate by the department.

22 (5) Credits may not be claimed under this section for taxable
23 events occurring on or after January 1, ((2017)) 2022.

24 **Sec. 5.** RCW 82.12.805 and 2011 c 174 s 305 are each amended to
25 read as follows:

26 (1) A person who is subject to tax under RCW 82.12.020 for
27 personal property used at an aluminum smelter, or for tangible
28 personal property that will be incorporated as an ingredient or
29 component of buildings or other structures at an aluminum smelter, or
30 for labor and services rendered with respect to such buildings,
31 structures, or personal property, is eligible for an exemption from
32 the state share of the tax in the form of a credit, as provided in
33 this section. The amount of the credit equals the state share of use
34 tax computed to be due under RCW 82.12.020. The person must submit
35 information, in a form and manner prescribed by the department,
36 specifying the amount of qualifying purchases or acquisitions for
37 which the exemption is claimed and the amount of exempted tax.

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

1 (3) A person reporting under the tax rate provided in this
2 section must file a complete annual report with the department under
3 RCW 82.32.534.

4 (4) A person who closes an aluminum smelter must pay the tax
5 preference amounts saved under this section for the current and prior
6 two calendar years from the date that the aluminum smelter closed.
7 The department must declare the taxes to be immediately due and
8 payable. The department may not assess interest or penalties. For the
9 purposes of this subsection (4), "date that the aluminum smelter
10 closed" means the date determined by the department on which the
11 aluminum smelter ceased operations. The department must provide
12 written notice stating the date that an aluminum smelter has ceased
13 operations. Written notice under this subsection (4) must be provided
14 to affected parties, the chief clerk of the house of representatives,
15 the secretary of the senate, the office of the code reviser, and
16 others as deemed appropriate by the department.

17 (5) Credits may not be claimed under this section for taxable
18 events occurring on or after January 1, (~~2017~~) 2022.

19 **Sec. 6.** RCW 82.12.022 and 2014 c 216 s 304 are each amended to
20 read as follows:

21 (1) A use tax is levied on every person in this state for the
22 privilege of using natural gas or manufactured gas, including
23 compressed natural gas and liquefied natural gas, within this state
24 as a consumer.

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

33 (3) The tax levied in this section does not apply to the use of
34 natural or manufactured gas delivered to the consumer by other means
35 than through a pipeline.

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

1 (5)(a) The tax levied in this section does not apply to the use
2 of natural or manufactured gas by an aluminum smelter as that term is
3 defined in RCW 82.04.217 before January 1, (~~2017~~) 2022.

4 (b) A person claiming the exemption provided in this subsection
5 (5) must file a complete annual report with the department under RCW
6 82.32.534. A person who closes an aluminum smelter must pay the tax
7 preference amounts saved under this subsection (5) for the current
8 and prior two calendar years from the date that the aluminum smelter
9 closed. The department must declare the taxes to be immediately due
10 and payable. The department may not assess interest or penalties. For
11 the purposes of this subsection (5), "date that the aluminum smelter
12 closed" means the date determined by the department on which the
13 aluminum smelter ceased operations. The department must provide
14 written notice stating the date that an aluminum smelter has ceased
15 operations. Written notice under this subsection (5) must be provided
16 to affected parties, the chief clerk of the house of representatives,
17 the secretary of the senate, the office of the code reviser, and
18 others as deemed appropriate by the department.

19 (6) The tax imposed by this section does not apply to the use of
20 natural gas, compressed natural gas, or liquefied natural gas, if the
21 consumer uses the gas for transportation fuel as defined in RCW
22 82.16.310.

23 (7) There is a credit against the tax levied under this section
24 in an amount equal to any tax paid by:

25 (a) The person who sold the gas to the consumer when that tax is
26 a gross receipts tax similar to that imposed pursuant to RCW
27 82.16.020 by another state with respect to the gas for which a credit
28 is sought under this subsection; or

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

33 (8) The use tax imposed in this section must be paid by the
34 consumer to the department.

35 (9) There is imposed a reporting requirement on the person who
36 delivered the gas to the consumer to make a quarterly report to the
37 department. Such report must contain the volume of gas delivered,
38 name of the consumer to whom delivered, and such other information as
39 the department may require by rule.

1 (10) The department may adopt rules under chapter 34.05 RCW for
2 the administration and enforcement of sections 1 through 6, chapter
3 384, Laws of 1989.

4 NEW SECTION. **Sec. 7.** This act takes effect August 1, 2015.

--- END ---