
HOUSE BILL 2977

State of Washington 64th Legislature 2016 Regular Session

By Representatives Short, Kretz, and Schmick

Read first time 02/08/16. Referred to Committee on Finance.

1 AN ACT Relating to encouraging job creation and retention in
2 rural economies through the transparent and accountable provision of
3 targeted tax relief for silicon smelters; amending RCW 82.12.022;
4 adding a new section to chapter 82.16 RCW; adding a new section to
5 chapter 82.04 RCW; creating a new section; providing an effective
6 date; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that an
9 opportunity exists through a smelting process that will produce
10 silicon metal, which can be used in the production of photovoltaic
11 cells for solar energy systems. The legislature further finds that
12 energy is one of the largest costs for the smelting process and
13 ensuring the lowest possible energy cost is one of the key drivers of
14 business location decisions. The legislature further finds that the
15 silicon smelting process creates an opportunity to reduce carbon
16 dioxide emissions used in the manufacturing of materials for solar
17 energy systems. The legislature further finds that if the silicon
18 smelting process occurs in Washington, the carbon footprint of the
19 end product solar energy systems is likely to be less than if the
20 silicon smelting occurred elsewhere. It is the legislature's specific
21 public policy objective to promote the manufacturing of silicon for

1 use in production of photovoltaic cells for solar energy systems. The
2 legislature intends to provide a public utility tax credit, a
3 business and occupation tax credit, and an exemption from the
4 brokered natural gas use tax for silicon smelters thereby promoting
5 the manufacture of silicon for solar energy systems, thereby reducing
6 the cost of energy in the smelting process, and thereby stimulating
7 economic growth and job creation in Washington's rural communities.

8 (2)(a) This section is the tax preference performance statement
9 for the tax preferences contained in this act. This performance
10 statement is only intended to be used for subsequent evaluation of
11 the tax preferences. It is not intended to create a private right of
12 action by any party or be used to determine eligibility for
13 preferential tax treatment.

14 (b) The legislature categorizes the tax preferences in sections 2
15 through 4 of this act as ones intended to create jobs, as indicated
16 in RCW 82.32.808(2)(c) and to provide tax relief for certain
17 businesses or individuals as indicated in RCW 82.32.808(2)(e).

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

22 (i) The number of businesses who are claiming the tax preferences
23 in sections 2 through 4 of this act, and the total relief provided to
24 them, as reported to the department of revenue on an annual basis;

25 (ii) The number of taxpayers who benefit from the tax preferences
26 in sections 2 through 4 of this act, and the total relief provided to
27 them, as reported to the department of revenue on an annual basis;
28 and

29 (iii) The volume of processed silicon made in Washington compared
30 to years prior to the effective date of this section.

31 (d) In addition to the data sources described under this section,
32 the joint legislative audit and review committee may use any other
33 data it deems necessary in performing the evaluation under (c) of
34 this subsection.

35 (e) The joint legislative audit and review committee must review
36 the tax preferences provided in this act as part of its normal review
37 process of tax preferences. The committee must specifically assess
38 the number of employment positions for silicon smelters claiming or
39 receiving the benefit of the preferences in sections 2 through 4 of
40 this act, using data provided by the department of revenue, and

1 estimate the cost per job based on the amount of tax preferences
2 taken by eligible persons. The committee must also consider how many
3 solar energy systems were likely produced using Washington state
4 processed silicon based on the volume of silicon smelted in
5 Washington at facilities utilizing the incentive. The committee must
6 also consider the number of jobs paying above county median average
7 in the county in which the facility is located and the proportion of
8 such above-median jobs in the county represented by the jobs provided
9 by the business utilizing the incentive.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.16
11 RCW to read as follows:

12 (1) A person who is subject to tax under this chapter on gross
13 income from sales of electricity, natural gas, or manufactured gas
14 made to a silicon smelter is eligible for an exemption from the tax
15 in the form of a credit, if the contract for sale of electricity or
16 gas to the silicon smelter specifies that the price charged for the
17 electricity or gas will be reduced by an amount equal to the credit.

18 (2) The credit is equal to the gross income from the sale of the
19 electricity or gas to a silicon smelter multiplied by the
20 corresponding rate in effect at the time of the sale for the public
21 utility tax under RCW 82.16.020.

22 (3) The exemption provided for in this section does not apply to
23 amounts received from the remarketing or resale of electricity
24 originally obtained by contract for the smelting process.

25 (4) The department must provide a separate tax reporting line for
26 reporting credits under this section by sellers of electricity,
27 natural gas, or manufactured gas.

28 (5) For purposes of the annual survey required by RCW
29 82.32.808(5):

30 (a) The silicon smelter receiving the benefit of the credit under
31 this section is deemed to be the taxpayer claiming the credit and is
32 required to file the annual survey; and

33 (b) The person selling the electricity, natural gas, or
34 manufactured gas to the silicon smelter is not required to file the
35 annual survey.

36 (6) For the purposes of this section, "silicon smelter" means a
37 manufacturing facility that processes silica into solar grade
38 silicon. "Solar grade silicon" has the same meaning as provided in
39 RCW 82.04.294.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04
2 RCW to read as follows:

3 (1) A person who is subject to tax under this chapter on gross
4 income from sales of electricity, natural gas, or manufactured gas
5 made to a silicon smelter is eligible for an exemption from the tax
6 in the form of a credit, if the contract for sale of electricity or
7 gas to the silicon smelter specifies that the price charged for the
8 electricity or gas will be reduced by an amount equal to the credit.

9 (2) The credit is equal to the gross income from the sale of the
10 electricity or gas to a silicon smelter multiplied by the
11 corresponding rate in effect at the time of the sale under this
12 chapter.

13 (3) The exemption provided for in this section does not apply to
14 amounts received from the remarketing or resale of electricity
15 originally obtained by contract for the smelting process.

16 (4) The department must provide a separate tax reporting line for
17 reporting credits under this section by sellers of electricity,
18 natural gas, or manufactured gas.

19 (5) For purposes of the annual survey required by RCW
20 82.32.808(5):

21 (a) The silicon smelter receiving the benefit of the credit under
22 this section is deemed to be the taxpayer claiming the credit and is
23 required to file the annual survey; and

24 (b) The person selling the electricity, natural gas, or
25 manufactured gas to the silicon smelter is not required to file the
26 annual survey.

27 (6) For the purposes of this section, "silicon smelter" has the
28 same meaning as provided in section 2 of this act.

29 **Sec. 4.** RCW 82.12.022 and 2015 3rd sp.s. c 6 s 506 are each
30 amended to read as follows:

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

35 (2) The tax must be levied and collected in an amount equal to
36 the value of the article used by the taxpayer multiplied by the rate
37 in effect for the public utility tax on gas distribution businesses
38 under RCW 82.16.020. The "value of the article used" does not include
39 any amounts that are paid for the hire or use of a gas distribution

1 business as defined in RCW 82.16.010(2) in transporting the gas
2 subject to tax under this subsection if those amounts are subject to
3 tax under that chapter.

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

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

11 (5)(a) The tax levied in this section does not apply to the use
12 of natural or manufactured gas by an aluminum smelter as that term is
13 defined in RCW 82.04.217 before January 1, 2027.

14 (b) A person claiming the exemption provided in this subsection
15 (5) must file a complete annual report with the department under RCW
16 82.32.534.

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

21 (7) The tax levied in this section does not apply to the use of
22 natural or manufactured gas by a silicon smelter as that term is
23 defined in section 2 of this act.

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

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

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

34 ~~((+8))~~ (9) The use tax imposed in this section must be paid by
35 the consumer to the department.

36 ~~((+9))~~ (10) There is imposed a reporting requirement on the
37 person who delivered the gas to the consumer to make a quarterly
38 report to the department. Such report must contain the volume of gas
39 delivered, name of the consumer to whom delivered, and such other
40 information as the department may require by rule.

1 (~~(10)~~) (11) The department may adopt rules under chapter 34.05
2 RCW for the administration and enforcement of sections 1 through 6,
3 chapter 384, Laws of 1989.

4 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
5 preservation of the public peace, health, or safety, or support of
6 the state government and its existing public institutions, and takes
7 effect May 1, 2016.

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