Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Finance Committee

SB 6007

Brief Description: Extending the expiration date of the public utility tax exemption for certain electrolytic processing businesses.

Sponsors: Senators Takko, Sheldon, Van De Wege and Warnick.

Brief Summary of Bill

- Extends the expiration date of the public utility tax exemption for electrolytic processors to December 31, 2028.
- Provides a tax preference performance statement documenting the Legislature's public policy objective for the tax exemption and the metrics to be used by the Joint Legislative Audit and Review Committee in evaluating the effectiveness of the tax exemption.

Hearing Date: 3/7/18

Staff: Tracey O'Brien (786-7152).

Background:

Public Utility Tax.
The gross income derived from the operation of publicly and privately owned utilities is subject to the public utility tax (PUT). These utilities include businesses that engage in transportation, communications, and the supply of water and energy. The tax is imposed in lieu of the B&O tax and is applied only on sales to consumers. Other income of the utility, such as the retail sale of tangible personal property, is subject to the B&O tax.

There are six different PUT rates, depending on the specific utility activity. The rates are: 3.852 percent on telegraph companies, distribution of natural gas, and the collection of sewage; 3.8734 percent on the generation or distribution of electrical power; 0.642 percent on urban transportation and watercraft vessels under 65 feet in length; 1.926 percent on motor

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transportation, railroads, railroad car companies, and all other public service businesses; 5.029 percent on the distribution of water; and 1.3696 percent on log transportation.

Electrolytic Processors PUT Exemption.
Electrolytic processors use electricity to convert dissolved salt into chemicals used by other industries. In 2004 the Legislature enacted a PUT exemption for sales of electricity made by a utility to chlor-alkali or sodium chlorate electrolytic processors (exemption) in order to achieve the following goals:

- retain family-wage jobs in the electrolytic processing industry; and
- allow electrolytic processors to continue electrolytic production in Washington so the industries remain competitive and positioned to preserve and create new jobs.

In order to qualify for the exemption, the sales contract between a utility and a chlor-alkali or sodium chlorate electrolytic processor must meet certain conditions.

Under current law, the exemption does not apply to sales of electricity made after December 31, 2018.

Tax Preferences.
In 2013 the Legislature enacted Engrossed Substitute Senate Bill (ESSB) 5882, which requires tax preference legislation enacted, expanded, or extended after August 1, 2013, to include a tax preference performance statement (TPPS). The TPPS must state the legislative purpose for the new tax preference. The TPPS must also specify clear, relevant, and ascertainable metric and data requirements that allow the Joint Legislative Audit and Review Committee (JLARC) and the Legislature to measure the effectiveness of the new tax preference. In addition, ESSB 5882 also established a default 10-year expiration date for all new tax preferences. The 10-year expiration date does not apply to any existing tax preference that is amended to clarify an ambiguity or correct a technical inconsistency, if the legislation clearly indicates this intent. The Legislature can exempt a tax preference from the default expiration explicitly or by providing a specific expiration date.

Summary of Bill:

The expiration date for the PUT exemption is extended to December 31, 2028.

A tax preference performance statement is provided. It states that the Legislature's public policy objective for this tax exemption is to create or retain jobs and improve industry competitiveness. The JLARC must review the impact of the preference on electricity costs and whether electrolytic processing businesses in other states receive similar tax treatment. In addition, the review must examine the number of employees in family-wage jobs in electrolytic processing in Washington.

The Legislature intends to extend the expiration of the tax exemption if JLARC finds that:

- electricity costs are reduced and the electrolytic processors receive similar tax treatment in other states; or
- the number of family-wage jobs in electrolytic processing businesses in this state has been preserved at the levels for such jobs as of the effective date of this act.

The JLARC must make recommendations on how the tax preference can be improved if JLARC finds that:

- electricity costs have not been reduced or that similar tax treatment in other states has not been maintained; or
- the number of family-wage jobs in electrolytic processing businesses in this state is lower than the levels as of the effective date of this act.

"Family-wage jobs" means jobs paying a wage at least equal to the average manufacturing wage in the county in which the jobs are located.

The JLARC is authorized to utilize data from the Department of Revenue and the Employment Security Department in order to complete its review.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.