Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Technology, Energy & Communications Committee

HB 1062

Brief Description: Modifying the electrolytic processing business tax exemption.

Sponsors: Representatives Takko, Warnick, Blake, Orcutt, Ericks and Morris.

Brief Summary of Bill

- Removes the expiration date for the Public Utility Tax (PUT) exemption for certain electrolytic processes
- Modifies the goals of the electrolytic processing PUT tax exemption.
- Changes the date and frequency of the tax exemption reporting requirements.

Hearing Date: 2/2/09

Staff: Scott Richards (786-7156)

Background:

Public Utility Tax
The Public Utility Tax (PUT) is a tax on public service businesses, including businesses that engage in transportation, communications, and the supply of electricity, natural gas, and water. The tax is paid on gross income derived from operation of public and privately owned utilities in lieu of the business and occupation (B&O) tax. For electrical utilities, the applicable tax rate is 3.873 percent. Revenues are deposited in the State General Fund.

The PUT does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. However, there are several deductions and credits for specific types of business activities. These activities include wholesale sales and sales of electricity to direct service industrial businesses.

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.

There are a small number of large industrial manufacturers, mostly aluminum smelters, that consume significant amounts of electricity in their processing operations. They purchase their electricity directly from the Bonneville Power Administration (BPA) and are known as direct service industrial customers (DSIs). The DSIs are not utilities and are not subject to the PUT, and the income to BPA (a federal agency) from those sales is not subject to the PUT.

Industrial chemical businesses also use significant amounts of electricity in their chemical processing operations. Some of these businesses purchase their electricity from a local electric utility. The income to the utility from the sale of electricity to the chemical business is subject to the PUT.

Public Utility Tax Exemption for Certain Electrolytic Processes

Currently, statute specifies that income from the sales of electricity by a utility to a chlor-alkali or a sodium chlorate chemical business is exempt from the PUT if the sales contract between the utility and the chemical business meets the following conditions:

1. The electricity used in the chemical processing is separately metered from the electricity used in the general operation of the business.
2. The price of the electricity used in the processing of the chemicals and charged to the chemical business is reduced by the amount of the tax exemption received by the selling utility.
3. If the tax exemption is disallowed, the chemical business must pay the amount of the disallowed exemption to the utility.

If the electricity originally obtained by the utility to meet the contracted amount required by the chemical business for use in the processing of the chemicals is resold by the utility, the income from the resale of that electricity is not exempt from the PUT.

Goals of the Electrolytic Processing PUT Tax Exemption

The goals of the electrolytic processing tax exemption are: (1) to retain family wage jobs by enabling electrolytic processing businesses to maintain production of chlor-alkali and sodium chlorate at a level that will preserve at least 75 percent of the jobs that were on the payroll effective January 1, 2004; and (2) to allow the electrolytic processing industries to continue production in this state through 2011 so that the industries will be positioned to preserve and create new jobs when the anticipated reduction of energy costs occurs.

Reporting Requirements

Businesses that claim the PUT exemption must report annually to the Department of Revenue details of employment, wages, and benefits per job (but excluding individual employee identification). The report must also include the quantity of product produced. The first report must include employment, wage, and benefit information covering the 12-month period preceding the effective date of the incentives. The report content is not subject to statutory confidentiality requirements. During any year, if a business fails to submit a report, all tax savings attributable to the incentives for the year are due. The fiscal committees of the House of Representatives and the Senate are required to study the effectiveness of the tax incentive with respect to job creation and other factors deemed necessary. The committees must consult with the Department of Revenue and address expected trends in electricity prices. The next report to the Legislature is due in December 2010.

Expiration of Tax Incentive
This PUT exemption does not apply to the sales of electricity by a utility to a chlor-alkali or a sodium chlorate chemical business after December 31, 2010. This PUT exemption expires on June 30, 2011.

Summary of Bill:

The expiration date of the PUT exemption is removed for electrolytic processes relating to chlor-alkali or a sodium chlorate chemical business.

The goals of the electrolytic processing business tax exemption are: (1) to retain family wage jobs by enabling electrolytic processing businesses to maintain production of chlor-alkali and sodium chlorate at a level that will preserve at least 75 percent of the jobs that were on the payroll effective January 1, 2004; and (2) to allow the electrolytic processing industries to continue production in this state so that the industries will remain competitive and be positioned to preserve and create new jobs.

By December 1, 2011, and every four years thereafter, the fiscal committees of the House of Representatives and the Senate, in consultation with the Department of Revenue, shall report to the Legislature on the effectiveness of the tax incentive.

Appropriation: None.

Fiscal Note: Requested on January 29, 2009.

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