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**SUBSTITUTE HOUSE BILL 1062**

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**State of Washington                      61st Legislature                      2009 Regular Session**

**By** House Finance (originally sponsored by Representatives Takko, Warnick, Blake, Orcutt, Ericks, and Morris)

READ FIRST TIME 03/02/09.

1            AN ACT Relating to the expiration date, goals, and legislative  
2 reporting provisions of the electrolytic processing business tax  
3 exemption; amending RCW 82.16.0421 and 82.32.560; and providing an  
4 expiration date.

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

6            **Sec. 1.** RCW 82.16.0421 and 2004 c 240 s 1 are each amended to read  
7 as follows:

8            (1) For the purposes of this section:

9            (a) "Chlor-alkali electrolytic processing business" means a person  
10 who is engaged in a business that uses more than ten average megawatts  
11 of electricity per month in a chlor-alkali electrolytic process to  
12 split the electrochemical bonds of sodium chloride and water to make  
13 chlorine and sodium hydroxide. A "chlor-alkali electrolytic processing  
14 business" does not include direct service industrial customers or their  
15 subsidiaries that contract for the purchase of power from the  
16 Bonneville power administration as of June 10, 2004.

17            (b) "Sodium chlorate electrolytic processing business" means a  
18 person who is engaged in a business that uses more than ten average  
19 megawatts of electricity per month in a sodium chlorate electrolytic

1 process to split the electrochemical bonds of sodium chloride and water  
2 to make sodium chlorate and hydrogen. A "sodium chlorate electrolytic  
3 processing business" does not include direct service industrial  
4 customers or their subsidiaries that contract for the purchase of power  
5 from the Bonneville power administration as of June 10, 2004.

6 (2) Effective July 1, 2004, the tax levied under this chapter does  
7 not apply to sales of electricity made by a light and power business to  
8 a chlor-alkali electrolytic processing business or a sodium chlorate  
9 electrolytic processing business for the electrolytic process if the  
10 contract for sale of electricity to the business contains the following  
11 terms:

12 (a) The electricity to be used in the electrolytic process is  
13 separately metered from the electricity used for general operations of  
14 the business;

15 (b) The price charged for the electricity used in the electrolytic  
16 process will be reduced by an amount equal to the tax exemption  
17 available to the light and power business under this section; and

18 (c) Disallowance of all or part of the exemption under this section  
19 is a breach of contract and the damages to be paid by the chlor-alkali  
20 electrolytic processing business or the sodium chlorate electrolytic  
21 processing business are the amount of the tax exemption disallowed.

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 electrolytic process.

25 (4) In order to claim an exemption under this section, the chlor-  
26 alkali electrolytic processing business or the sodium chlorate  
27 electrolytic processing business must provide the light and power  
28 business with an exemption certificate in a form and manner prescribed  
29 by the department.

30 (5)(a) This section does not apply to sales of electricity made  
31 after December 31, (~~2010~~) 2018.

32 (b) This section expires June 30, (~~2011~~) 2019.

33 **Sec. 2.** RCW 82.32.560 and 2004 c 240 s 2 are each amended to read  
34 as follows:

35 (1) For the purposes of this section, "electrolytic processing  
36 business tax exemption" means the exemption and preferential tax rate  
37 under RCW 82.16.0421.

1 (2) The legislature finds that accountability and effectiveness are  
2 important aspects of setting tax policy. In order to make policy  
3 choices regarding the best use of limited state resources, the  
4 legislature needs information to evaluate whether the stated goals of  
5 legislation were achieved.

6 (3) The goals of the electrolytic processing business tax exemption  
7 are:

8 (a) To retain family wage jobs by enabling electrolytic processing  
9 businesses to maintain production of chlor-alkali and sodium chlorate  
10 at a level that will preserve at least seventy-five percent of the jobs  
11 that were on the payroll effective January 1, 2004; and

12 (b) To allow the electrolytic processing industries to continue  
13 production in this state (~~through 2011~~) so that the industries will  
14 remain competitive and be positioned to preserve and create new jobs  
15 (~~when the anticipated reduction of energy costs occur~~).

16 (4)(a) A person who receives the benefit of an electrolytic  
17 processing business tax exemption shall make an annual report to the  
18 department detailing employment, wages, and employer-provided health  
19 and retirement benefits per job at the manufacturing site. The report  
20 is due by March 31st following any year in which a tax exemption is  
21 claimed or used. The report shall not include names of employees. The  
22 report shall detail employment by the total number of full-time, part-  
23 time, and temporary positions. The report shall indicate the quantity  
24 of product produced at the plant during the time period covered by the  
25 report. The first report filed under this subsection shall include  
26 employment, wage, and benefit information for the twelve-month period  
27 immediately before first use of a tax exemption. Employment reports  
28 shall include data for actual levels of employment and identification  
29 of the number of jobs affected by any employment reductions that have  
30 been publicly announced at the time of the report. Information in a  
31 report under this section is not subject to the confidentiality  
32 provisions of RCW 82.32.330 and may be disclosed to the public upon  
33 request.

34 (b) If a person fails to submit an annual report under (a) of this  
35 subsection by the due date of the report, the department shall declare  
36 the amount of taxes exempted for that year to be immediately due and  
37 payable. Public utility taxes payable under this subsection are

1 subject to interest but not penalties, as provided under this chapter.  
2 This information is not subject to the confidentiality provisions of  
3 RCW 82.32.330 and may be disclosed to the public upon request.

4 (5) By (~~December 1, 2007, and by~~) December 1, (~~2010~~) 2011, and  
5 every four years thereafter, the fiscal committees of the house of  
6 representatives and the senate, in consultation with the department,  
7 shall report to the legislature on the effectiveness of the tax  
8 incentive under RCW 82.16.0421. The report shall measure the effect of  
9 the incentive on job retention for Washington residents, and other  
10 factors as the committees select. The report shall also discuss  
11 expected trends or changes to electricity prices as they affect the  
12 industries that benefit from the incentives.

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