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SENATE BILL 5382

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State of Washington

64th Legislature

2015 Regular Session

By Senators Parlette, Ericksen, Hatfield, Braun, Honeyford, and Benton

Read first time 01/21/15. Referred to Committee on Ways & Means.

1 AN ACT Relating to continuing tax preferences for aluminum  
2 smelters; amending RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805,  
3 and 82.12.022; creating a new section; and providing an expiration  
4 date.

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

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

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

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

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

16 (d) To measure the effectiveness of the exemption provided in  
17 this act in achieving the specific public policy objective described  
18 in (c) of this subsection, the joint legislative audit and review  
19 committee must evaluate the changes in the number of statewide  
20 employment positions for the aluminum industry in Washington.

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

23 (1) Upon every person who is an aluminum smelter engaging within  
24 this state in the business of manufacturing aluminum; as to such  
25 persons the amount of tax with respect to such business is, in the  
26 case of manufacturers, equal to the value of the product  
27 manufactured, or in the case of processors for hire, equal to the  
28 gross income of the business, multiplied by the rate of .2904  
29 percent.

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

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

38 (4) This section expires January 1, ((2017)) 2027.

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

3       (1) In computing the tax imposed under this chapter, a credit is  
4 allowed for all property taxes paid during the calendar year on  
5 property owned by a direct service industrial customer and reasonably  
6 necessary for the purposes of an aluminum smelter.

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

14       (3) Credits may not be claimed under this section for property  
15 taxes levied for collection in ((2017)) 2027 and thereafter.

16       (4) A person claiming the credit provided in this section must  
17 file a complete annual report with the department under RCW  
18 82.32.534.

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

21       (1) A person who has paid tax under RCW 82.08.020 for personal  
22 property used at an aluminum smelter, tangible personal property that  
23 will be incorporated as an ingredient or component of buildings or  
24 other structures at an aluminum smelter, or for labor and services  
25 rendered with respect to such buildings, structures, or personal  
26 property, is eligible for an exemption from the state share of the  
27 tax in the form of a credit, as provided in this section. A person  
28 claiming an exemption must pay the tax and may then take a credit  
29 equal to the state share of retail sales tax paid under RCW  
30 82.08.020. The person must submit information, in a form and manner  
31 prescribed by the department, specifying the amount of qualifying  
32 purchases or acquisitions for which the exemption is claimed and the  
33 amount of exempted tax.

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

36       (3) A person claiming the tax preference provided in this section  
37 must file a complete annual report with the department under RCW  
38 82.32.534.

1 (4) Credits may not be claimed under this section for taxable  
2 events occurring on or after January 1, (~~2017~~) 2027.

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

5 (1) A person who is subject to tax under RCW 82.12.020 for  
6 personal property used at an aluminum smelter, or for tangible  
7 personal property that will be incorporated as an ingredient or  
8 component of buildings or other structures at an aluminum smelter, or  
9 for labor and services rendered with respect to such buildings,  
10 structures, or personal property, is eligible for an exemption from  
11 the state share of the tax in the form of a credit, as provided in  
12 this section. The amount of the credit equals the state share of use  
13 tax computed to be due under RCW 82.12.020. The person must submit  
14 information, in a form and manner prescribed by the department,  
15 specifying the amount of qualifying purchases or acquisitions for  
16 which the exemption is claimed and the amount of exempted tax.

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

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

22 (4) Credits may not be claimed under this section for taxable  
23 events occurring on or after January 1, (~~2017~~) 2027.

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

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

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

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

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

8 (5)(a) The tax levied in this section does not apply to the use  
9 of natural or manufactured gas by an aluminum smelter as that term is  
10 defined in RCW 82.04.217 before January 1, (~~2017~~) 2027.

11 (b) A person claiming the exemption provided in this subsection  
12 (5) must file a complete annual report with the department under RCW  
13 82.32.534.

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

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

20 (a) The person who sold the gas to the consumer when that tax is  
21 a gross receipts tax similar to that imposed pursuant to RCW  
22 82.16.020 by another state with respect to the gas for which a credit  
23 is sought under this subsection; or

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

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

30 (9) There is imposed a reporting requirement on the person who  
31 delivered the gas to the consumer to make a quarterly report to the  
32 department. Such report must contain the volume of gas delivered,  
33 name of the consumer to whom delivered, and such other information as  
34 the department may require by rule.

35 (10) The department may adopt rules under chapter 34.05 RCW for  
36 the administration and enforcement of sections 1 through 6, chapter  
37 384, Laws of 1989.

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