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**HOUSE BILL 1381**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Buys, Lytton, Van Werven, Blake, Wilcox, Condotta, Nealey, and Morris

AN ACT Relating to encouraging job retention and creation in rural economies through the transparent and accountable extension of aluminum smelter tax preferences; amending RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, and 82.12.022; creating a new section; providing an effective date; and providing an expiration date.

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

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

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

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

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

(d) To measure the effectiveness of the exemption provided in this act in achieving the specific public policy objective described in (c) of this subsection, the joint legislative audit and review committee shall evaluate the following:

(i) Changes in the number of statewide employment positions and wages for the largest aluminum manufacturing firm operating in Washington;

(ii) Changes in the price of aluminum on the London metal exchange;

(iii) Firm-wide changes in alumina price index and spot pricing as a percentage of third-party shipments for the largest aluminum manufacturing firm operating in Washington; and

(iv) Changes in Bonneville power administration contracted power prices for the largest aluminum manufacturing firm operating in Washington.

(e)(i) The information provided in the annual report submitted by taxpayers under RCW 82.32.534, data provided by the state employment security department, and information provided in the firm-wide annual financial report for the largest aluminum manufacturing firm operating in Washington, is intended to provide the informational basis for the evaluation under (d) of this subsection.

(ii) In addition to the data source described under (e)(i) of this subsection, the joint legislative audit and review committee may use any other data it deems necessary in performing the evaluation under (d) of this subsection.

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

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

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

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

(4) A person who closes an aluminum smelter must pay the tax preference amounts saved under this section for the current and prior two calendar years from the date that the aluminum smelter closed. The department must declare the taxes to be immediately due and payable. The department may not assess interest or penalties. For the purposes of this subsection (4), "date that the aluminum smelter closed" means the date determined by the department on which the aluminum smelter ceased operations. The department must provide written notice stating the date that an aluminum smelter has ceased operations. Written notice under this subsection (4) must be provided to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

(5) This section expires January 1, ((~~2017~~))2022.

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

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

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

(3) Credits may not be claimed under this section for property taxes levied for collection in ((~~2017~~))2022 and thereafter.

(4) A person who closes an aluminum smelter must pay the tax preference amounts saved under this section for the current and prior two calendar years from the date that the aluminum smelter closed. The department must declare the taxes to be immediately due and payable. The department may not assess interest or penalties. For the purposes of this subsection (4), "date that the aluminum smelter closed" means the date determined by the department on which the aluminum smelter ceased operations. The department must provide written notice stating the date that an aluminum smelter has ceased operations. Written notice under this subsection (4) must be provided to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

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

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

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

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

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

(4) A person who closes an aluminum smelter must pay the tax preference amounts saved under this section for the current and prior two calendar years from the date that the aluminum smelter closed. The department must declare the taxes to be immediately due and payable. The department may not assess interest or penalties. For the purposes of this subsection (4), "date that the aluminum smelter closed" means the date determined by the department on which the aluminum smelter ceased operations. The department must provide written notice stating the date that an aluminum smelter has ceased operations. Written notice under this subsection (4) must be provided to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

(5) Credits may not be claimed under this section for taxable events occurring on or after January 1, ((~~2017~~))2022.

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

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

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

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

(4) A person who closes an aluminum smelter must pay the tax preference amounts saved under this section for the current and prior two calendar years from the date that the aluminum smelter closed. The department must declare the taxes to be immediately due and payable. The department may not assess interest or penalties. For the purposes of this subsection (4), "date that the aluminum smelter closed" means the date determined by the department on which the aluminum smelter ceased operations. The department must provide written notice stating the date that an aluminum smelter has ceased operations. Written notice under this subsection (4) must be provided to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

(5) Credits may not be claimed under this section for taxable events occurring on or after January 1, ((~~2017~~))2022.

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

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

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

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

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

(5)(a) The tax levied in this section does not apply to the use of natural or manufactured gas by an aluminum smelter as that term is defined in RCW 82.04.217 before January 1, ((~~2017~~))2022.

(b) A person claiming the exemption provided in this subsection (5) must file a complete annual report with the department under RCW 82.32.534. A person who closes an aluminum smelter must pay the tax preference amounts saved under this subsection (5) for the current and prior two calendar years from the date that the aluminum smelter closed. The department must declare the taxes to be immediately due and payable. The department may not assess interest or penalties. For the purposes of this subsection (5), "date that the aluminum smelter closed" means the date determined by the department on which the aluminum smelter ceased operations. The department must provide written notice stating the date that an aluminum smelter has ceased operations. Written notice under this subsection (5) must be provided to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  This act takes effect August 1, 2015.

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