
SENATE BILL 6007

State of Washington

65th Legislature

2018 Regular Session

By Senators Takko, Sheldon, Van De Wege, and Warnick

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1 AN ACT Relating to extending the expiration date of the public
2 utility tax exemption for certain electrolytic processing businesses;
3 amending RCW 82.16.0421; creating a new section; and providing an
4 expiration date.

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

6 NEW SECTION. **Sec. 1.** (1) This section is the tax preference
7 performance statement for the tax preference contained in section 2,
8 chapter . . . , Laws of 2018 (section 2 of this act). This performance
9 statement is only intended to be used for subsequent evaluation of
10 the tax preference. It is not intended to create a private right of
11 action by any party or be used to determine eligibility for
12 preferential tax treatment.

13 (2) The legislature categorizes this tax preference as one
14 intended to create or retain jobs and improve industry
15 competitiveness as indicated in RCW 82.32.808(2) (b) and (c).

16 (3) It is the legislature's specific public policy objective to
17 maintain the industry competitiveness of electrolytic processing
18 businesses in Washington created under the existing tax exemption in
19 RCW 82.16.0421 and thereby enable such businesses to continue to
20 provide family-wage jobs in our state. The legislature recognizes
21 that since 2004 when the public utility tax exemption in RCW

1 82.16.0421 was initially enacted, electrolytic processing businesses
2 receiving the exemption have demonstrated the ability to successfully
3 apply their tax savings towards maintaining competitiveness, while
4 still providing family-wage jobs. It is the legislature's intent to
5 extend the expiration date of the existing public utility tax
6 exemption under RCW 82.16.0421 for chlor-alkali electrolytic
7 processing businesses and sodium chlorate electrolytic processing
8 businesses in order to:

9 (a) Maintain industry competitiveness for such electrolytic
10 processing businesses, who rely on electricity as a primary
11 manufacturing input. The legislature recognizes that these businesses
12 face uncertain electric energy costs and that offsetting tax
13 advantages are available to competing firms outside of Washington;
14 and

15 (b) Support manufacturing and a skilled workforce by retaining
16 existing family-wage jobs and creating new family-wage jobs in
17 Washington by enabling electrolytic processing businesses to maintain
18 production of chlor-alkali and sodium chlorate at a level that
19 preserves the jobs that were on the payroll of electrolytic
20 processing businesses as of the effective date of this section.

21 (4) To measure the effectiveness of the tax preference provided
22 in section 2, chapter . . ., Laws of 2018 (section 2 of this act) in
23 achieving the specific public policy objective described in
24 subsection (3) of this section, the joint legislative audit and
25 review committee must review the impact of the preference on
26 electricity costs and whether electrolytic processing businesses in
27 the state receive tax treatment similar to the treatment of competing
28 firms in other states. The review must also include an analysis of
29 the number of employees in family-wage jobs employed in electrolytic
30 processing in the state.

31 (5) The legislature intends to extend the expiration date of the
32 tax exemption in RCW 82.16.0421, if the joint legislative audit and
33 review committee finds that:

34 (a) Electricity costs are reduced and that Washington
35 electrolytic processing businesses receive similar tax treatment as
36 provided in other states; or

37 (b) Family-wage jobs in electrolytic processing businesses have
38 been preserved compared to the levels for such jobs as of the
39 effective date of this section.

1 (6) The joint legislative audit and review committee must make
2 recommendations on how the tax preference can be improved to
3 accomplish the legislative objectives, if the joint legislative audit
4 and review committee finds that:

5 (a) Electricity costs have not been reduced or that similar tax
6 treatment as provided in other states has not been maintained; or

7 (b) The number of electrolytic processing business family-wage
8 jobs in Washington has been maintained at less than the levels as of
9 the effective date of this section.

10 (7) For the purposes of measuring the performance of the tax
11 preference in section 2, chapter . . ., Laws of 2018 (section 2 of
12 this act), "family-wage jobs" means jobs paying a wage equal to at
13 least the average manufacturing wage in the county in which the jobs
14 are located.

15 (8) In order to obtain the data necessary to perform the review
16 in subsection (4) of this section, the joint legislative audit and
17 review committee may refer to data provided to the department of
18 revenue and the employment security department.

19 **Sec. 2.** RCW 82.16.0421 and 2017 c 135 s 34 are each amended to
20 read as follows:

21 (1) The definitions in this subsection apply throughout this
22 section unless the context clearly requires otherwise.

23 (a) "Chlor-alkali electrolytic processing business" means a
24 person who is engaged in a business that uses more than ten average
25 megawatts of electricity per month in a chlor-alkali electrolytic
26 process to split the electrochemical bonds of sodium chloride and
27 water to make chlorine and sodium hydroxide. A "chlor-alkali
28 electrolytic processing business" does not include direct service
29 industrial customers or their subsidiaries that contract for the
30 purchase of power from the Bonneville power administration as of June
31 10, 2004.

32 (b) "Sodium chlorate electrolytic processing business" means a
33 person who is engaged in a business that uses more than ten average
34 megawatts of electricity per month in a sodium chlorate electrolytic
35 process to split the electrochemical bonds of sodium chloride and
36 water to make sodium chlorate and hydrogen. A "sodium chlorate
37 electrolytic processing business" does not include direct service
38 industrial customers or their subsidiaries that contract for the

1 purchase of power from the Bonneville power administration as of June
2 10, 2004.

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

9 (a) The electricity to be used in the electrolytic process is
10 separately metered from the electricity used for general operations
11 of the business;

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

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

21 (3) The exemption provided for in this section does not apply to
22 amounts received from the remarketing or resale of electricity
23 originally obtained by contract for the electrolytic process.

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

29 (5) A person receiving the benefit of the exemption provided in
30 this section must file a complete annual tax performance report with
31 the department under RCW 82.32.534.

32 (6)(a) This section does not apply to sales of electricity made
33 after December 31, (~~(2018)~~) 2028.

34 (b) This section expires (~~(June 30, 2019)~~) July 1, 2029.

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