

CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2518**

Chapter 240, Laws of 2004

58th Legislature  
2004 Regular Session

PUBLIC UTILITY TAX EXEMPTION--ELECTROLYTIC PROCESSING

EFFECTIVE DATE: 6/10/04

Passed by the House March 11, 2004  
Yeas 92 Nays 4

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate March 11, 2004  
Yeas 48 Nays 1

BRAD OWEN

**President of the Senate**

Approved March 31, 2004.

GARY F. LOCKE

**Governor of the State of Washington**

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2518** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

**Chief Clerk**

FILED

March 31, 2004 - 2:34 p.m.

**Secretary of State  
State of Washington**

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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2518

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AS AMENDED BY THE SENATE

Passed Legislature - 2004 Regular Session

State of Washington                      58th Legislature                      2004 Regular Session

By            House Committee on Finance (originally sponsored by  
Representatives Kirby, Conway, Morris, Holmquist and Hinkle)

READ FIRST TIME 02/10/04.

1            AN ACT Relating to exempting from the state public utility tax the  
2 sales of electricity to an electrolytic processing business; adding a  
3 new section to chapter 82.16 RCW; adding a new section to chapter 82.32  
4 RCW; and providing an expiration date.

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

6            NEW SECTION.    **Sec. 1.** A new section is added to chapter 82.16 RCW  
7 to read 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 the effective date of this  
17 section.

18            (b) "Sodium chlorate electrolytic processing business" means a  
19 person who is engaged in a business that uses more than ten average

1 megawatts of electricity per month in a sodium chlorate electrolytic  
2 process to split the electrochemical bonds of sodium chloride and water  
3 to make sodium chlorate and hydrogen. A "sodium chlorate electrolytic  
4 processing business" does not include direct service industrial  
5 customers or their subsidiaries that contract for the purchase of power  
6 from the Bonneville power administration as of the effective date of  
7 this section.

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

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

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

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

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

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

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

34 (b) This section expires June 30, 2011.

35 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.32 RCW  
36 to read as follows:

1 (1) For the purposes of this section, "electrolytic processing  
2 business tax exemption" means the exemption and preferential tax rate  
3 under section 1 of this act.

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

9 (3) The goals of the electrolytic processing business tax exemption  
10 are:

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

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

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

37 (b) If a person fails to submit an annual report under (a) of this  
38 subsection by the due date of the report, the department shall declare

1 the amount of taxes exempted for that year to be immediately due and  
2 payable. Public utility taxes payable under this subsection are  
3 subject to interest but not penalties, as provided under this chapter.  
4 This information is not subject to the confidentiality provisions of  
5 RCW 82.32.330 and may be disclosed to the public upon request.

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

Passed by the House March 11, 2004.

Passed by the Senate March 11, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.