

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1062

Chapter 434, Laws of 2009

61st Legislature
2009 Regular Session

ELECTROLYTIC PROCESSING BUSINESS TAX EXEMPTION

EFFECTIVE DATE: 07/26/09

Passed by the House April 26, 2009
Yeas 91 Nays 4

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 26, 2009
Yeas 46 Nays 2

BRAD OWEN

President of the Senate

Approved May 11, 2009, 2:38 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1062** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 11, 2009

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1062

AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

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; creating a new
4 section; and providing an 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, the fiscal~~
5 ~~committees of the house of representatives and the senate, in~~
6 ~~consultation with the department, shall report to the legislature on~~
7 ~~the effectiveness of the tax incentive under RCW 82.16.0421. The~~
8 ~~report shall measure)) Pursuant to chapter 43.136 RCW, the citizen~~
9 ~~commission for performance measurement of tax preferences must schedule~~
10 ~~the electrolytic processing business tax exemption under RCW 82.16.0421~~
11 ~~for a tax preference review by the joint legislative audit and review~~
12 ~~committee. In addition to any of the factors in RCW 43.136.055(1), the~~
13 ~~committee must also study and report on the effect of the incentive on~~
14 job retention for Washington residents, and other factors as the
15 committee(~~s~~) selects. The report shall also discuss expected trends
16 or changes to electricity prices as they affect the industries that
17 benefit from the incentives.

18 NEW SECTION. **Sec. 3.** If chapter . . . , Laws of 2009 (Substitute
19 House Bill No. 1597 (H-2475/09)) is enacted, section 2, chapter . . . ,
20 Laws of 2009 (section 2 of this act) is null and void.

Passed by the House April 26, 2009.
Passed by the Senate April 26, 2009.
Approved by the Governor May 11, 2009.
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