Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Technology & Economic Development Committee

HB 1381

Brief Description: Concerning encouraging job retention and creation in rural economies through the transparent and accountable extension of aluminum smelter tax preferences.

Sponsors: Representatives Buys, Lytton, Van Werven, Blake, Wilcox, Condotta, Nealey and Morris.

Brief Summary of Bill

- Extends the reduced business and occupation (B&O) tax rate for aluminum smelter manufacturing and wholesaling until January 1, 2022.
- Extends the B&O tax credit for property taxes paid on an aluminum smelter through 2022 property taxes.
- Extends the credit against retail sales and use tax liability for the state portion of sales and use taxes paid by an aluminum smelter on property and labor and services associated with the property, until January 1, 2022.
- Extends the exemption for an aluminum smelter from paying the brokered natural gas use tax on gas delivered to it through a pipeline until January 1, 2022.
- Establishes performance metrics for the tax preference, based on indicia of industry employment, electricity prices, and aluminum prices.
- Makes immediately due and payable, if an aluminum smelter closes, the tax preference amounts saved for the current and prior two calendar years from the date of closure.

Hearing Date: 2/3/15

Staff: Jasmine Vasavada (786-7301).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Aluminum Smelters.

In 2004 the aluminum manufacturing industry, an electricity-intensive industry, received a package of incentives designed to keep it operating during a time when electricity costs were high and aluminum prices were falling. The incentives were originally scheduled to expire on January 1, 2007, but have been renewed multiple times, and are now scheduled to expire in 2017. Tax incentives for the aluminum smelter industry include business and occupation (B&O) tax credits and rate reductions, sales and use tax credits, and a brokered natural gas use tax exemption.

Business and Occupations Tax Credits and Rate Reductions.

The B&O tax is Washington's major business tax. The tax is imposed on the gross receipts of business activities conducted within the state. Revenues are deposited to the state general fund. Until January 1, 2017, manufacturers of aluminum are subject to a B&O rate reduced from 0.484 percent to 0.2904 percent.

An aluminum smelter that is a direct service industrial customer (DSI) may take a credit against B&O tax liability for property taxes levied through 2016. A DSI is an industrial customer that contracts with the Bonneville Power Administration (BPA) for the purchase of power for direct consumption. Only industrial customers with contracts to purchase power from BPA on December 5, 1980 (the date of the federal Pacific Northwest Electric Power Planning and Conservation Act) may purchase directly from BPA rather than a utility. Of the two DSIs remaining in the state, one is an aluminum smelter.

Sales and Use Tax Credits.

Until January 1, 2017, aluminum smelters may take a credit against retail sales and use tax liability for the amount of the state portion of sales and use taxes paid on tangible property and labor and services associated with the property.

Public Utility Tax and Brokered Natural Gas.

Public and privately-owned utilities are subject to the state Public Utility Tax (PUT). The PUT is applied to the gross receipts of the business. If the supplier of natural or manufactured gas that is consumed within the state is not subject to the state PUT, the natural or manufactured gas that is consumed within the state is subject to the state brokered natural gas use tax. "Brokered natural gas" (BNG) means natural gas purchased by a consumer from a source out of the state and delivered to the consumer in this state. Use taxes for BNG are imposed at the location where the gas is burned by the taxpayer or stored in a facility of the taxpayer for later consumption. Revenues are deposited to the state general fund. An aluminum smelter is exempt from paying the brokered natural gas use tax on gas delivered to it through a pipeline until January 1, 2017.

Joint Legislative Audit and Review Committee.

The Citizen Commission for Performance Measurement of Tax Preferences (Commission) was established in 2006 as a seven-member Commission that includes, as a non-voting member, the Chair of the Joint Legislative Audit and Review Committee (JLARC). The Commission develops a schedule to review nearly all tax preferences at least once every 10 years. The Commission also schedules preferences with expiration dates for reviews 2 years before the tax preference expires. Tax preference reviews are conducted by the JLARC according to the schedule established by the Commission. For each tax preference, the JLARC provides recommendations to continue, modify, schedule for future review, or terminate the preference. The Commission reviews and comments on the JLARC report. The Commission has selected the four aluminum industry tax preferences for a performance review by JLARC staff in 2015.

Summary of Bill:

Tax incentives for the aluminum industry set to expire in 2017 are extended for 5 years.

The B&O tax credit for the amount of property taxes paid by a direct service industrial customer for property reasonably necessary for the purposes of an aluminum smelter is extended through 2022 property taxes.

The following tax incentives are extended until January 1, 2022:

- The reduced B&O rate from 0.484 percent to 0.2904 percent for manufacturers of aluminum;
- The sales and use tax credit against the state portion of the tax for personal property, construction materials, and labor and services performed on buildings and property at an aluminum smelter;
- The exemption from the brokered natural gas use tax on gas delivered through a pipeline.

If an aluminum smelter ceases operations, the tax preference amounts saved for the current and prior two calendar years from the date of closure become immediately due and payable. The Department of Revenue (DOR) may adopt rules for the administration and enforcement of the tax preference.

A tax preference performance statement provides that the goal of the incentives is to promote and preserve employment within the state's aluminum manufacturing industry. In addition to filling out an annual report, aluminum smelters must complete an annual survey. The survey includes the amount of tax preference claimed. The survey also includes employment, wage, and benefit information for each of the facilities in Washington at which the exemption is claimed, but such information is treated as confidential taxpayer information. The DOR must provide the annual report and annual survey information to the Joint Legislative Audit and Review Committee (JLARC).

The Joint Legislative Audit and Review Committee is directed to measure the effectiveness of the exemptions by evaluating changes in certain performance metrics. These metrics state that the effectiveness of the exemption will be measured based on:

- changes in statewide employment and wages for the largest aluminum manufacturing firm in Washington;
- changes in price of aluminum on the London metal exchange;
- firm-wide changes in alumina price index and spot pricing as a percent of third-party shipments for the largest aluminum manufacturing firm operating in Washington; and
- changes in Bonneville Power Administration contracted power prices of the largest aluminum manufacturing firm operating in Washington.

Appropriation: None.

Fiscal Note: Received.

Effective Date: The bill takes effect August 1, 2015.