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SENATE BILL 5206

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State of Washington

61st Legislature

2009 Regular Session

By Senators Hatfield, Holmquist, Sheldon, and Zarelli

Read first time 01/16/09. Referred to Committee on Economic Development, Trade & Innovation.

1 AN ACT Relating to modifying the electrolytic processing business  
2 tax exemption; and amending RCW 82.16.0421 and 82.32.560.

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

4 **Sec. 1.** RCW 82.16.0421 and 2004 c 240 s 1 are each amended to read  
5 as follows:

6 (1) For the purposes of this section:

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

15 (b) "Sodium chlorate electrolytic processing business" means a  
16 person who is engaged in a business that uses more than ten average  
17 megawatts of electricity per month in a sodium chlorate electrolytic  
18 process to split the electrochemical bonds of sodium chloride and water  
19 to make sodium chlorate and hydrogen. A "sodium chlorate electrolytic

1 processing business" does not include direct service industrial  
2 customers or their subsidiaries that contract for the purchase of power  
3 from the Bonneville power administration as of June 10, 2004.

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

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

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

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

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

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

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

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

31 **Sec. 2.** RCW 82.32.560 and 2004 c 240 s 2 are each amended to read  
32 as follows:

33 (1) For the purposes of this section, "electrolytic processing  
34 business tax exemption" means the exemption and preferential tax rate  
35 under RCW 82.16.0421.

36 (2) The legislature finds that accountability and effectiveness are  
37 important aspects of setting tax policy. In order to make policy

1 choices regarding the best use of limited state resources, the  
2 legislature needs information to evaluate whether the stated goals of  
3 legislation were achieved.

4 (3) The goals of the electrolytic processing business tax exemption  
5 are:

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

10 (b) To allow the electrolytic processing industries to continue  
11 production in this state (~~((through 2011))~~) so that the industries will  
12 remain competitive and be positioned to preserve and create new jobs  
13 (~~((when the anticipated reduction of energy costs occur))~~).

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

32 (b) If a person fails to submit an annual report under (a) of this  
33 subsection by the due date of the report, the department (~~((shall))~~) must  
34 declare the amount of taxes exempted for that year to be immediately  
35 due and payable. Public utility taxes payable under this subsection  
36 are subject to interest but not penalties, as provided under this  
37 chapter. This information is not subject to the confidentiality

1 provisions of RCW 82.32.330 and may be disclosed to the public upon  
2 request.

3 (5) (~~By December 1, 2007, and by December 1, 2010, the fiscal~~  
4 ~~committees of the house of representatives and the senate, in~~  
5 ~~consultation with the department, shall report to the legislature on~~  
6 ~~the effectiveness of the tax incentive under RCW 82.16.0421. The~~  
7 ~~report shall measure~~) Pursuant to chapter 43.136 RCW, the citizen  
8 commission for performance measurement of tax preferences shall  
9 schedule the electrolytic processing business tax exemption under RCW  
10 82.16.0421 for a tax preference review by the joint legislative audit  
11 and review committee. In addition to any of the factors in RCW  
12 43.136.055(1), the committee must also study and report on the effect  
13 of the incentive on job retention for Washington residents, and other  
14 factors as the committees select. The report (~~shall~~) must also  
15 discuss expected trends or changes to electricity prices as they affect  
16 the industries that benefit from the incentives.

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