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SENATE BILL 6007

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State of Washington

65th Legislature

2018 Regular Session

By Senator Takko

Prefiled 12/07/17.

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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