

# HB 3672 (2011) Tax Credit Extension Bill

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This legislation is awaiting the Governor's signature, but below are highlights of the bill as passed by the legislature.

HB 3672 amends, sunsets and creates a number of tax credit programs within the Oregon Department of Energy. The bill is effective on the 91<sup>st</sup> day following adjournment of the legislative session and most changes take effect at that time, although some are retroactive.

Changes to the Residential Energy Tax Credit (RETC) and the Biomass Producer and Collector Tax Credit (BPC) are effective beginning January 1, 2012.

## **Business Energy Tax Credit (BETC)—Sunsets:**

## **Section 1**

HB 3672 sunsets the BETC program, which has been in effect since 1979. Under the new legislation:

- Applications for preliminary BETC certification received *prior to* April 15, 2011 will be processed by the department, and must receive preliminary certification *prior to* July 1, 2011.
- Renewable projects with a preliminary certification that began construction *prior to* April 15, 2011 must receive final certification based on the conditions of their preliminary certification.
- Conservation and transportation projects with a preliminary certification that began construction *prior to* April 15, 2011 must receive final certification based on the conditions of their preliminary certification and before July 1, 2014.
- Projects with preliminary certification that began construction *after* April 15, 2011 must receive final certification based on the conditions of their preliminary certification and before January 1, 2013.

The manufacturing component of the BETC is transferred to Oregon Business Development Department under HB 2523 (2011) and is not affected by this bill.

## **Renewable Energy Development—New:**

## **Sections 22-33a**

This program allows the auction of tax credits, taxpayer contributions or direct appropriation by the legislature, to provide funds to award grants to renewable energy production systems. The Oregon Department of Energy may establish criteria and standards to choose between project applicants.

A renewable energy production system means a system that uses biomass, solar, geothermal, hydroelectric, wind, landfill gas, biogas or wave, tidal or ocean thermal energy technology to produce energy.

Selected projects will enter into a performance agreement with ODOE, which will specify conditions of the award, and construction must begin within 12 months. Total grant funds for the program are limited to \$1.5 million per year, and individual awards may not exceed \$250,000 or 35 percent of project costs. Combined government incentive and grant support may not exceed 75 percent of costs. Project size is limited to 35 MW of nameplate capacity.

ODOE and the Department of Revenue will report to the legislature on the success of the auction format prior to February 15, 2012.

Sunsets Jan. 1, 2018.

### **Energy Conservation Projects—New:**

### **Sections 34-51**

This program allows tax credits for any capital investment for which the first year energy savings yields a simple payback period of greater than three years with listed exceptions. Cogeneration facilities are eligible beginning January 1, 2013. The Oregon Department of Energy may establish criteria and standards to choose between project applicants.

Total tax credits for the program are limited to \$28 million per biennium, and individual projects may receive up to 35 percent of costs or \$3.5 million in tax credits to be taken over five years. Applicants may transfer tax credits to other taxpayers in exchange for cash at a rate set by the department, known as a pass-through.

The precertification is good for three years.

Sunsets Jan. 1, 2018.

### **Transportation Projects—New:**

### **Sections 52-66**

The program allows tax credits for a public or nonprofit entity that provides transit services to members of the public and that receives state or federal funding for those services, or an alternative fuel vehicle infrastructure project.

Total tax credits for the program are limited to \$20 million per biennium; the credit may be taken in one year, or carried forward up to five succeeding years. Alternative fuel vehicle infrastructure projects may receive up to 35 percent of costs in tax credits, other eligible transportation projects may receive:

- 25 percent from July 1, 2011 and before January 1, 2013
- 20 percent from January 1, 2013 and before January 1, 2014
- 15 percent from January 1, 2014 and before January 1, 2015
- 10 percent from January 1, 2015 and before January 1, 2016

Applicants may transfer tax credits to other taxpayers in exchange for cash at a rate set by the department, known as a pass-through.

Transportation projects other than alternative fuel vehicle infrastructure sunset Jan. 1, 2016.

Alternative fuel vehicle infrastructure projects sunset Jan. 1, 2018.

### **Residential Energy Tax Credit (RETC)—Amended: Sections 67-77**

The RETC program is extended by HB 3672 to January 1, 2018, except for the alternative fuel vehicle credit (including electric vehicles) which retains its existing sunset of January 1, 2012. Amendments to the program are effective beginning January 1, 2012.

HB 3672 eliminates some appliances such as dishwashers, clothes washers, refrigerators, plus air conditioners and boilers.

Additional program changes require ODOE to adjust incentive amounts to reflect market conditions for system performance and credit amounts.

A cap of \$10 million per tax year is implemented for third party alternative energy device installations, these applicants are required to obtain certification prior to each installation, and may obtain bulk certification.

A third-party alternative energy device installation means an alternative energy device that is installed in connection with residential property and owned by a person other than the residential property owner in accordance with an agreement in effect for at least 10 years between the residential property owner and the alternative energy device owner. The agreement must cover maintenance and either the use of or the power generated by the alternative energy device.

### **Biomass Producer and Collector Tax Credit (BPC)—Amended: Sections 2-3**

HB 3672 extends the BPC program to January 1, 2018. Changes to the program are effective January 1, 2012. The credit is reduced for woody biomass and biomass from agricultural crops by the change in eligibility from \$10 per *green ton* to \$10 per *bone dry ton*. Yard debris and municipally generated food waste are excluded from the program.