

House Bill 3402

Sponsored by Representative RILEY; Representatives BUCKLEY, D EDWARDS, GREENLICK, KOTEK, WITT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Limits newly erected, constructed or installed pollution control facilities that qualify for tax credit to those facilities that meet certain standards above those required by law or are entirely voluntary and not otherwise required by law.

Applies to pollution control facilities for which erection, construction or installation begins on or after effective date of Act.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to pollution control tax credits; creating new provisions; amending ORS 468.172 and
3 468.173; prescribing an effective date; and providing for revenue raising that requires approval
4 by a three-fifths majority.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 468.172 is amended to read:

7 468.172. As used in ORS 468.173, "environmental management system" means a continual cycle
8 of planning, implementing, reviewing and improving the actions undertaken at the facility to:

9 (1) **Exceed requirements mandated by a federal law administered by the United States**
10 **Environmental Protection Agency, a state law administered by the Department of Environ-**
11 **mental Quality or a law administered by a regional air pollution authority;**

12 (2) Meet environmental obligations; and

13 (3) Improve environmental performance that meet:

14 [(1)] (a) The standards established by the International Organization for Standardization under
15 ISO 14001;

16 [(2)] (b) The standards established in the Green Permit program established under ORS 468.501
17 to 468.521; or

18 [(3)] (c) Other standards that meet criteria established by the Environmental Quality Commis-
19 sion by rule.

20 **SECTION 2.** ORS 468.173 is amended to read:

21 468.173. For purposes of ORS 315.304, the applicable percentage of the certified cost of a facility
22 shall be one of the following:

23 (1) If the facility is certified under ORS 468.155 to 468.190 (1999 Edition) or if construction or
24 installation of the facility is commenced prior to January 1, 2001, and completed prior to January
25 1, 2004, 50 percent.

26 (2) Except as provided in subsection (1) or (3) of this section, if the facility is certified pursuant
27 to application for certification filed on or after January 1, 2002, and:

28 (a) Construction or installation of the facility is commenced on or after January 1, 2001, and on
29 or before December 31, 2003, 25 percent; or

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (b) Construction or installation of the facility is commenced after December 31, 2003, and on or
 2 before December 31, 2005, 15 percent.

3 (3) If certified pursuant to application for certification filed on or after January 1, 2002, 35
 4 percent if:

5 (a) The applicant is certified under International Organization for Standardization standard ISO
 6 14001;

7 (b) A Green Permit that applies to the facility has been issued under ORS 468.501 to 468.521;

8 [(c) *The facility is a nonpoint source or is regulated as a confined animal feeding operation under*
 9 *ORS 468B.200 to 468B.230;*]

10 [(d) *The facility is used for material recovery or recycling, as those terms are defined in ORS*
 11 *459.005;*]

12 [(e) *The facility is used in an agricultural or forest products operation and is used for energy re-*
 13 *covery, as defined in ORS 459.005;*]

14 [(f) *The certified cost of the facility does not exceed \$200,000;*]

15 [(g)] (c) Construction or installation of the facility is entirely voluntary and no portion of it is
 16 required in order to comply with a federal law administered by the United States Environmental
 17 Protection Agency, a state law administered by the Department of Environmental Quality or a law
 18 administered by a regional air pollution authority; **or**

19 [(h) *The facility is, at the time of certification, located within an enterprise zone established under*
 20 *ORS 285C.050 to 285C.250 or within an area that has been designated a distressed area, as defined in*
 21 *ORS 285A.010, by the Economic and Community Development Department; or*]

22 [(i)] (d) The applicant demonstrates to the Department of Environmental Quality that the ap-
 23 plicant uses an environmental management system at the facility. In order for the department to
 24 determine that the applicant uses an environmental management system at the facility:

25 (A) The applicant must have the environmental management system used at the facility reviewed
 26 by an independent third party familiar with environmental management systems and submit a report
 27 to the department stating that the provisions of this paragraph have been met. The report shall be
 28 accompanied by supporting materials that document compliance with the provisions of this para-
 29 graph. The report shall include certification from a registered or certified environmental manage-
 30 ment auditor employed by, or under contract with, the independent third party that reviewed the
 31 environmental management system; or

32 (B) The department shall contract with an independent third party familiar with environmental
 33 management systems to review the environmental management system employed at the facility. The
 34 third party shall review the environmental management system, and, if the third party determines
 35 that the environmental management system meets the provisions of this paragraph, a registered or
 36 certified environmental management system auditor employed by, or contracted with, the third party
 37 shall certify that determination to the department. The department shall recover from the applicant
 38 the costs incurred by the department as prescribed in ORS 468.073. An applicant shall be liable for
 39 the costs of the department under this subparagraph without regard to whether the department
 40 certifies the facility as a pollution control facility. The department may not certify a facility to
 41 which this subparagraph applies until the department has received full payment from the applicant.

42 **SECTION 3. The amendments to ORS 468.172 and 468.173 by sections 1 and 2 of this 2007**
 43 **Act apply to pollution control facilities for which erection, construction or installation occurs**
 44 **on or after the effective date of this 2007 Act.**

45 **SECTION 4. This 2007 Act takes effect on the 91st day after the date on which the reg-**

1 **ular session of the Seventy-fourth Legislative Assembly adjourns sine die.**

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