

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 3619

By COMMITTEE ON FINANCE AND REVENUE

February 20

1 On page 1 of the printed A-engrossed bill, line 3, after “469.225” insert “and section 2, chapter
2 _____, Oregon Laws 2008 (Enrolled House Bill 3618)”.

3 On page 2, line 10, delete “and”.

4 In line 12, delete the period and insert “; and

5 “(f) Standards relating to the likelihood that an applicant seeking preliminary certification of a
6 renewable energy resource equipment manufacturing facility will base decisions to locate or expand
7 a facility in Oregon on the allowance of a tax credit under ORS 315.354.”.

8 In line 38, delete “or”.

9 In line 40, delete the period and insert “; or

10 “(f) The applicant is unlikely, in the estimate of the director, to base a decision to relocate or
11 expand a facility in Oregon on allowance of the tax credit, given the criteria established in rules
12 under ORS 469.197 (4).”.

13 On page 5, delete lines 17 through 45 and insert:

14 “**SECTION 5.** ORS 469.225 is amended to read:

15 “469.225. (1) Under the procedures for a contested case under ORS chapter 183, the Director of
16 the State Department of Energy may order the revocation of the certificate issued under ORS
17 469.215 if the director finds that:

18 “(a) The certification was obtained by fraud or misrepresentation; or

19 “(b) The holder of the certificate has failed [*substantially*] to construct or [*to make every rea-*
20 *sonable effort to*] operate the facility in compliance with the plans, specifications and procedures in
21 [*such*] **the** certificate.

22 “(2) As soon as the order of revocation under this section becomes final, the director shall notify
23 the Department of Revenue of [*such*] **the order of revocation.**

24 “(3) If the certificate **is issued for a facility that is not a renewable energy resource**
25 **equipment manufacturing facility and** is ordered revoked pursuant to subsection (1)(a) of this
26 section, all prior tax credits provided to the holder of the certificate by virtue of [*such*] **the** certif-
27 icate shall be forfeited and upon notification under subsection (2) of this section the Department of
28 Revenue immediately shall proceed to collect those taxes not paid by the certificate holder as a
29 result of the tax credits provided to the holder under ORS 315.354.

30 “(4) **If the certificate is issued for a renewable energy resource equipment manufacturing**
31 **facility and is ordered revoked, upon notification under subsection (2) of this section the**
32 **Department of Revenue immediately shall proceed to collect:**

33 “(a) **In the case where no portion of a certificate has been transferred under ORS 469.206,**
34 **those taxes not paid by the certificate holder as a result of the tax credits provided to the**
35 **certificate holder under ORS 315.354, from the certificate holder or a successor in interest**

1 to the business interests of the certificate holder. All prior tax credits provided to the holder
2 of the certificate by virtue of the certificate shall be forfeited.

3 “(b) In the case where all or a portion of a certificate has been transferred under ORS
4 469.206, the maximum theoretical amount of the tax credits allowable under ORS 315.354,
5 from the transferor.

6 “(5)(a) The Department of Revenue shall have the benefit of all laws of this state pertaining to
7 the collection of income and excise taxes and may proceed to collect the amounts described in
8 subsection (3) or (4) of this section from the person that obtained certification from the
9 State Department of Energy or any successor in interest to the business interests of that
10 person. No assessment of [*such taxes*] tax shall be necessary and no statute of limitation shall pre-
11 clude the collection of [*such*] taxes described in this subsection.

12 “(b) For purposes of this subsection, a lender, bankruptcy trustee or other person that
13 acquires an interest through bankruptcy or through foreclosure of a security interest is not
14 considered to be a successor in interest to the business interests of the person that obtained
15 certification from the State Department of Energy.

16 “[4] (6) If the certificate is issued for a facility that is not a renewable energy resource
17 equipment manufacturing facility and is ordered revoked pursuant to subsection (1)(b) of this
18 section, the certificate holder shall be denied any further relief under ORS 315.354 in connection
19 with [*such*] the facility from and after the date that the order of revocation becomes final.

20 “(7) Notwithstanding subsections (1) to (6) of this section, a certificate or portion of a
21 certificate held by a transferee under ORS 469.206 may not be considered revoked for pur-
22 poses of the transferee, the tax credit allowable to the transferee under ORS 315.354 may
23 not be reduced and a transferee is not liable under subsections (3) to (5) of this section.”.

24 On page 6, delete lines 1 through 4.

25 On page 8, after line 33, insert:

26 “**SECTION 9.** If House Bill 3618 becomes law, section 2, chapter _____, Oregon Laws 2008
27 (Enrolled House Bill 3618), is amended to read:

28 “**Sec. 2.** Inheritance tax returns claiming a credit under ORS 118.140 are not due, and no tax
29 is owed by those estates, prior to [*June 30,*] **September 1,** 2008. No later than July 1, 2008, the
30 Department of Revenue shall adopt by rule procedures and filing deadlines necessary to administer
31 ORS 118.140 as it applies to estates of decedents dying on or after January 1, 2007, and before the
32 effective date of [*this 2008 Act*] **chapter _____, Oregon Laws 2008 (Enrolled House Bill 3618).** The
33 department shall cancel any interest or penalty that would otherwise result from noncompliance
34 with ORS 118.140 by estates of decedents dying on or after January 1, 2007, and before the effective
35 date of [*this 2008 Act*] **chapter _____, Oregon Laws 2008 (Enrolled House Bill 3618).**”.

36 In line 34, delete “9” and insert “10”.
37 _____