

House Bill 2980

Sponsored by Representatives BAILEY, CANNON, READ, Senator DINGFELDER; Representatives BARTON, BENTZ, C EDWARDS, D EDWARDS, GARRETT, GILLIAM, HUFFMAN, JENSON, STIEGLER

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**.

Creates personal and business tax credits for water conservation devices and systems.
Applies to tax years beginning January 1, 2010.
Sunsets tax credits January 2, 2018.

A BILL FOR AN ACT

1
2 Relating to water conservation.

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

4 **SECTION 1. Sections 2 to 8 of this 2009 Act are added to and made a part of ORS chapter**
5 **537.**

6 **SECTION 2. Definitions. As used in sections 2 to 8 of this 2009 Act:**

7 (1) **"Contractor" means a person who installs water conservation devices or systems for**
8 **compensation.**

9 (2) **"Placed in service" means the date a water conservation device or system is ready**
10 **and available to reduce the use of water.**

11 (3) **"Water conservation device or system" means a device or system that operates to**
12 **reduce use of water.**

13 **SECTION 3. Water conservation certificate for devices and systems. (1) The Water Re-**
14 **sources Department shall issue a water conservation certificate for a water conservation**
15 **device or system if the department finds that the device or system meets the standards**
16 **adopted under section 4 of this 2009 Act.**

17 (2) **An application for certification of a water conservation device or system must be**
18 **made in writing on a form provided by the department and must contain:**

19 (a) **A specific description of the device or system, including the materials and processes**
20 **used in the device or system, and the installation, maintenance and operating procedures for**
21 **the device or system;**

22 (b) **The approximate cost of purchasing the device or system; and**

23 (c) **The approximate cost of installing the device or system.**

24 (3) **The department may impose any conditions or requirements for the manner in which**
25 **a water conservation device or system is installed, maintained or operated as a condition of**
26 **certifying a device or system under this section.**

27 (4) **The department shall issue a certification number to each water conservation device**
28 **or system certified under this section.**

29 **SECTION 4. Performance standards for devices and systems. The Water Resources De-**
30 **partment shall develop performance standards to determine the eligibility of water conser-**

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 vation devices and systems for certification under section 3 of this 2009 Act. The department
 2 shall review the performance standards at least once every two years.

3 **SECTION 5. Contractor certification.** (1) The Water Resources Department shall certify
 4 contractors that install water conservation devices or systems.

5 (2) An application for a contractor certification under this section must be made in
 6 writing on a form provided by the department and must contain:

7 (a) A statement that the contractor has any license, bonding, insurance and permit that
 8 is required for the installation of water conservation devices or systems;

9 (b) The addresses of three installations of water conservation devices or systems done
 10 by the contractor that may be inspected by the department; and

11 (c) Any other information that the department determines is necessary.

12 (3) The department shall issue a certification number to each contractor certified under
 13 this section.

14 **SECTION 6. Revocation of contractor certificate.** (1) The Water Resources Department
 15 may revoke a contractor certification issued under section 5 of this 2009 Act if the depart-
 16 ment finds:

17 (a) The contractor certification was obtained by fraud or misrepresentation;

18 (b) The contractor's performance in installing water conservation devices or systems
 19 does not meet industry standards; or

20 (c) The contractor has misrepresented to a customer the efficiency of a water conser-
 21 vation device or system, or the availability or amount of the tax credits provided by section
 22 10 or 14 of this 2009 Act.

23 (2) The revocation of a contractor certification under this section does not affect the
 24 ability of a taxpayer to claim a tax credit for installation costs paid to the contractor by the
 25 taxpayer.

26 (3) If the department revokes a contractor certification under this section because the
 27 contractor's performance in installing one or more water conservation devices or systems
 28 did not meet industry standards, the department shall assess a penalty against the contrac-
 29 tor in an amount equal to the taxes not paid by the taxpayers as a result of the tax credit
 30 under section 10 or 14 of this 2009 Act that are attributable to those installations.
 31 Notwithstanding ORS 314.835, the Department of Revenue may disclose information to the
 32 Water Resources Department from income tax returns or reports to the extent the disclo-
 33 sure is necessary to allow imposition and collection of penalties from contractors under this
 34 subsection.

35 **SECTION 7. Eligibility for tax credit.** (1) A person may claim a tax credit under section
 36 10 or 14 of this 2009 Act for the cost of purchasing a water conservation device or system
 37 only if the device or system has been certified by the Water Resources Department under
 38 section 3 of this 2009 Act. A person may claim a tax credit under section 10 or 14 of this 2009
 39 Act for the cost of installing a water conservation device or system only if the device or
 40 system has been installed by a contractor certified by the department under section 5 of this
 41 2009 Act.

42 (2) In order to obtain information necessary to verify eligibility for, and the amount of,
 43 a tax credit under section 10 or 14 of this 2009 Act, the department may inspect a water
 44 conservation device or system for which the credit is claimed. The inspection may be made
 45 only with the consent of the owner of the building in which the water conservation device

1 or system is installed. Failure to consent to the inspection is grounds for the forfeiture of
 2 the tax credit allowed under section 10 or 14 of this 2009 Act.

3 **SECTION 8. Rules.** The Water Resources Department shall adopt all rules necessary for
 4 implementation of sections 2 to 8 of this 2009 Act and for determining eligibility and verifi-
 5 cation of water conservation devices and systems for purposes of the tax credits allowed
 6 under sections 10 and 14 of this 2009 Act.

7 **SECTION 9.** Sections 10 to 12 of this 2009 Act are added to and made a part of ORS
 8 chapter 316.

9 **SECTION 10. Individual tax credit.** (1) A resident individual is allowed a credit against
 10 the taxes otherwise due under this chapter for costs paid or incurred by the individual for
 11 purchase and installation of a water conservation device or system.

12 (2) The credit allowed under this section is equal to _____ percent of the cost of pur-
 13 chasing and installing the water conservation device or system. The credit for each taxpayer
 14 in any taxable year may not exceed \$_____, and the sum of the credit allowed under this
 15 section plus any similar credit allowed for federal income tax purposes may not exceed the
 16 cost to the taxpayer for the purchase and installation of the water conservation device or
 17 system.

18 (3) To qualify for the credit allowed under this section, the water conservation device or
 19 system must be certified under section 3 of this 2009 Act, and installed, maintained and op-
 20 erated in conformity with any conditions or restrictions imposed under section 3 of this 2009
 21 Act.

22 (4) The credit allowed under this section must be claimed for the tax year in which the
 23 water conservation device or system was purchased if the device or system is placed in ser-
 24 vice on or before April 1 of the following tax year.

25 (5) The credit allowed under this section does not affect the computation of basis under
 26 this chapter.

27 (6) The credit allowed under this section in any one year may not exceed the tax liability
 28 of the taxpayer.

29 (7) Any tax credit otherwise allowable under this section that is not used by the taxpayer
 30 in a year may be carried forward and offset against the taxpayer's tax liability for the next
 31 tax year. Any credit remaining unused in the next tax year may be carried forward and used
 32 in the second succeeding tax year, and likewise any credit not used in that second succeeding
 33 tax year may be carried forward and used in the third succeeding tax year, and any credit
 34 not used in that third succeeding tax year may be carried forward and used in the fourth
 35 succeeding tax year, and any credit not used in that fourth succeeding tax year may be
 36 carried forward and used in the fifth succeeding tax year, but may not be carried forward
 37 for any tax year thereafter.

38 (8) A nonresident is allowed the credit under this section in the proportion provided in
 39 ORS 316.117.

40 (9) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or
 41 if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the
 42 credit allowed under this section shall be prorated or computed in a manner consistent with
 43 ORS 314.085.

44 (10) If a change in the status of a taxpayer from resident to nonresident or from non-
 45 resident to resident occurs, the credit allowed under this section shall be determined in a

1 manner consistent with ORS 316.117.

2 (11) A husband and wife who file separate returns for a taxable year may each claim a
 3 share of the tax credit allowed under this section that would have been allowed on a joint
 4 return in proportion to the contribution of each. However, a husband or wife living in a
 5 separate principal residence may claim the tax credit in the same amount as permitted a
 6 single person.

7 **SECTION 11. Verification of purchase and installation.** (1) To claim a tax credit under
 8 section 10 of this 2009 Act, the verification form described in this section must be submitted
 9 with the taxpayer's tax return for the year the water conservation device or system is placed
 10 in service, as defined in section 2 of this 2009 Act, or with the taxpayer's tax return for the
 11 year the device or system is purchased if the device or system is placed in service, as defined
 12 in section 2 of this 2009 Act, on or before April 1 of the following year.

13 (2) A verification of the purchase or installation of a water conservation device or system
 14 must be made in writing on a form provided by the Department of Revenue. The verification
 15 must contain:

- 16 (a) The location of the device or system;
- 17 (b) A description of the device or system;
- 18 (c) The certification number issued for the device or system under section 3 of this 2009
 19 Act;
- 20 (d) If the taxpayer claims the credit for installation of the device or system, the certif-
 21 ication number issued under section 5 of this 2009 Act to the contractor that installed the
 22 device or system;
- 23 (e) If the device or system was not installed by a certified contractor, evidence that the
 24 taxpayer obtained all building permits required for installation of the device or system;
- 25 (f) The date the device or system was purchased;
- 26 (g) The date the device or system was placed in service, as defined in section 2 of this
 27 2009 Act; and
- 28 (h) Any other information that the Department of Revenue determines is necessary.

29 (3) A verification form under this section may be transferred to the first purchaser of a
 30 building and used by that purchaser to claim the credit allowed by section 10 of this 2009 Act.
 31 If a purchaser claims the credit under this subsection, the purchaser must so note on the
 32 return filed by the purchaser.

33 **SECTION 12. Forfeiture of tax credit.** (1) Upon the Department of Revenue's own motion,
 34 or upon request of the Water Resources Department, the Department of Revenue may ini-
 35 tiate proceedings for the forfeiture of a tax credit allowed under section 10 of this 2009 Act
 36 if:

- 37 (a) The verification submitted under section 11 of this 2009 Act was fraudulent because
 38 of a misrepresentation by the taxpayer;
- 39 (b) The water conservation device or system was not installed, maintained or operated
 40 in substantial compliance with any conditions or requirements imposed as a condition of is-
 41 suance of the certification of the device or system under section 3 of this 2009 Act; or
- 42 (c) The taxpayer fails to consent to an inspection of the installed water conservation
 43 device or system by the Water Resources Department after written request by the depart-
 44 ment.

45 (2) If the tax credit allowed under section 10 of this 2009 Act is forfeited under this sec-

1 tion, the Department of Revenue shall proceed to collect the taxes not paid by the taxpayer
 2 as a result of the allowance of the tax credit.

3 **SECTION 13.** Section 14 of this 2009 Act is added to and made a part of ORS chapter 317.

4 **SECTION 14. Business tax credit.** (1) A business tax credit is allowed against the taxes
 5 otherwise due under this chapter based upon costs paid or incurred by a taxpayer for the
 6 purchase and installation of a water conservation device or system.

7 (2) The credit allowed under this section is equal to _____ percent of the cost of pur-
 8 chasing and installing the water conservation device or system. The credit for each taxpayer
 9 in any taxable year may not exceed \$_____.

10 (3) To qualify for the credit allowed under this section, the water conservation device or
 11 system must be certified under section 3 of this 2009 Act, and installed, maintained and op-
 12 erated in conformity with any conditions or restrictions imposed under section 3 of this 2009
 13 Act.

14 (4) The credit allowed under this section must be claimed for the tax year in which the
 15 water conservation device or system was purchased if the device or system is placed in ser-
 16 vice, as defined in section 2 of this 2009 Act, on or before April 1 of the following tax year.

17 (5) The credit allowed under this section does not affect the computation of basis under
 18 this chapter. The credit allowed under this section does not affect the computation of, or
 19 prevent the claiming of, any depreciation deduction for the water conservation device or
 20 system.

21 (6) The credit allowed under this section in any one year may not exceed the tax liability
 22 of the taxpayer.

23 (7) Any tax credit otherwise allowable under this section that is not used by the taxpayer
 24 in a year may be carried forward and offset against the taxpayer's tax liability for the next
 25 tax year. Any credit remaining unused in the next tax year may be carried forward and used
 26 in the second succeeding tax year, and likewise any credit not used in that second succeeding
 27 tax year may be carried forward and used in the third succeeding tax year, and any credit
 28 not used in that third succeeding tax year may be carried forward and used in the fourth
 29 succeeding tax year, and any credit not used in that fourth succeeding tax year may be
 30 carried forward and used in the fifth succeeding tax year, but may not be carried forward
 31 for any tax year thereafter.

32 (8) A tax credit allowed under this section may be claimed by submitting a verification
 33 form as described in section 11 of this 2009 Act with the taxpayer's tax return for the year
 34 the water conservation device or system is placed in service, as defined in section 2 of this
 35 2009 Act, or with the taxpayer's tax return for the following tax year.

36 (9) A verification form as described in section 11 of this 2009 Act may be transferred and
 37 used in the manner provided by section 11 (3) of this 2009 Act.

38 (10) A credit under this section may be forfeited as described in section 12 of this 2009
 39 Act.

40 **SECTION 15.** Sections 10 and 14 of this 2009 Act apply to tax years beginning on or after
 41 January 1, 2010.

42 **SECTION 16.** A taxpayer may not claim a tax credit under section 10 or 14 of this 2009
 43 Act for any water conservation device or system placed in service, as defined by section 2
 44 of this 2009 Act, on or after January 2, 2018.

45 **SECTION 17.** Sections 2 to 8 of this 2009 Act are repealed January 2, 2018.

1 **SECTION 18.** The section captions used in this 2009 Act are provided only for the con-
2 venience of the reader and do not become part of the statutory law of this state or express
3 any legislative intent in the enactment of this 2009 Act.

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