

2010 Special Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: HB 3680 **STATUS:** A-Engrossed
SUBJECT: Business Energy Tax Credits
GOVERNMENT UNIT AFFECTED: Oregon Department of Energy, Public Utilities Commission,
Department of Revenue and Oregon Business Development Department
PREPARED BY: Michelle Deister
REVIEWED BY: Ken Rocco
DATE: February 8, 2010

EXPENDITURES:

See Analysis

REVENUES:

See Legislative Revenue Impact Statement

POSITIONS / FTE:

See Analysis

EFFECTIVE DATE: 91st day after sine die

INTERIM JOINT COMMITTEE ON WAYS AND MEANS: The budgetary impact of this bill was not reviewed and approved by the Interim Joint Committee on Ways and Means Committee and is not included in the omnibus budget bill to be introduced by the committee.

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

ANALYSIS: The measure: caps the total amount of Business Energy Tax Credits for projects that may receive preliminary certification at \$300 million for the 2009-11 biennium, and \$150 million for the period July 1, 2011- June 30, 2012, and specifies how preliminary certifications are to allocated for applications in excess of these amounts; clarifies timelines by which applications and preliminary certifications must be received and acted upon by the Department of Energy; specifies conditions under which tax credits may be claimed; and adds to the definition of “renewable energy resources.” The measure requires that the Department of Energy: establish a tiered system for evaluating applications for preliminary tax credit certification; give more scrutiny to projects with a greater cost; compare projects of a like size; allow for certification of less than the total project cost; consider additional criteria to be used in determining eligibility for project certification; and incorporate the additional criteria into agency rules related to the program. The bill establishes a per-project preliminary certification project cost cap of \$7 million for calendar year 2010, and a \$5 million cap on or after January 1, 2011 for wind projects with generation capacity exceeding 10 megawatts, and adds requirements of applicants for business energy tax credits. The measure clarifies provisions related to refunding a portion of application fees and re-filing, specifies information that must be included on certifications, specifies that period under which preliminary certificates are valid, and provides authority for the director of the Department of Energy to alter, condition or suspend certification in certain circumstances. The measure specifies the conditions that must be met for final certification to be issued, and clarifies when tax credits may be claimed.

The fiscal impact of this measure on the Department of Energy is indeterminate. The Department is already in the process of developing rules to increase application scrutiny and applicant accountability. The Department believes many of the changes align with rule revisions already underway, and costs of implementing the rules resulting from these statutory changes is expected to be minimal. The impact of these changes on application volume is difficult to predict, and the Department of Energy expects that the amount of time and effort required to assess applications may increase, due to new evaluation criteria and the additional information that will be required to be submitted by applicants. A request from the Department is currently pending before Ways and Means which includes two permanent full time equivalent positions in an effort to validate the accuracy of applicant project descriptions and ensure compliance with provisions of the Business Energy Tax Credit program; however, the Department had planned to request those positions regardless of the passage of this legislation, in an effort to strengthen internal controls. The positions are classified at the Program Analyst II level and would require an additional 1.34 FTE and \$180,846 in additional expenditure limitation for the remainder of the 2009-11 biennium, if approved. The amount of Department fee revenue resulting from BETC applications is also indeterminate, due to variables including application volume and the cost of projects for which credits are sought (BETC fee revenue is based on a percentage of project costs with a cap of \$35,000 per project application).

The Public Utility Commission does not anticipate that the measure will result in change to its workload related to utility rate determination, and participation in any rulemaking provisions that may be required as a result of this measure is expected to result in a minimal fiscal impact.

Oregon Business Development does not anticipate a fiscal impact related to this bill.

The Department of Revenue anticipates a minimal fiscal impact as a result of this measure.