

House Bill 2345

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Agriculture, Natural Resources and Rural Communities)

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**.

For purposes of biomass income tax credit, limits Director of State Department of Energy rulemaking authority for minimum overall thermal conversion efficiency rating to 20 percent for facility placed in service prior to January 1, 2008.

Applies to tax years beginning on or after January 1, 2010.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to minimum efficiency standards for biomass tax credits; creating new provisions; amending
3 ORS 315.141; and prescribing an effective date.

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

5 **SECTION 1.** ORS 315.141 is amended to read:

6 315.141. (1) As used in this section:

7 (a) "Agricultural producer" means a person that produces biomass in Oregon that is used, in
8 Oregon, as biofuel or to produce biofuel.

9 (b) "Biofuel" means liquid, gaseous or solid fuels, derived from biomass, that have been con-
10 verted into a processed fuel ready for use as energy by a biofuel producer's customers or for direct
11 biomass energy use at the biofuel producer's site.

12 (c) "Biofuel producer" means a person that through activities in Oregon:

13 (A) Alters the physical makeup of biomass to convert it into biofuel;

14 (B) Changes one biofuel into another type of biofuel; or

15 (C) Uses biomass in Oregon to produce energy.

16 (d) "Biomass" means organic matter that is available on a renewable or recurring basis and that
17 is derived from:

18 (A) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest
19 or rangeland ecological health and reduce uncharacteristic stand replacing wildfire risk;

20 (B) Wood material from hardwood timber described in ORS 321.267 (3);

21 (C) Agricultural residues;

22 (D) Offal and tallow from animal rendering;

23 (E) Food wastes collected as provided under ORS chapter 459 or 459A;

24 (F) Yard or wood debris collected as provided under ORS chapter 459 or 459A;

25 (G) Wastewater solids; or

26 (H) Crops grown solely to be used for energy.

27 (e) "Biomass" does not mean wood that has been treated with creosote, pentachlorophenol, in-
28 organic arsenic or other inorganic chemical compounds or waste, other than matter described in
29 paragraph (d) of this subsection.

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 (f) "Biomass collector" means a person that collects biomass in Oregon to be used, in Oregon,
2 as biofuel or to produce biofuel.

3 (2)(a) The Director of the State Department of Energy may adopt rules to define criteria, only
4 as the criteria apply to organic biomass, to determine additional characteristics of biomass for pur-
5 poses of this section.

6 **(b) Rules adopted under this subsection may not include a minimum overall thermal**
7 **conversion efficiency rating that exceeds 20 percent for a facility that converts biomass to**
8 **heat or electric energy and that was placed in service prior to January 1, 2008.**

9 (3)(a) An agricultural producer or biomass collector shall be allowed a credit against the taxes
10 that would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS
11 chapter 317 or 318 for:

12 (A) The production of biomass in Oregon that is used, in Oregon, as biofuel or to produce
13 biofuel; or

14 (B) The collection of biomass in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

15 (b) A credit under this section may be claimed in the tax year in which the credit is certified
16 under subsection (5) of this section.

17 (c) A taxpayer may be allowed a credit under this section for more than one of the roles defined
18 in subsection (1) of this section, but a biofuel producer that is not also an agricultural producer or
19 a biomass collector may not claim a credit under this section.

20 (d) Notwithstanding paragraph (a) of this subsection, a tax credit is not allowed for grain corn,
21 but a tax credit shall be allowed for other corn material.

22 (4) The amount of the credit shall equal the amount certified under subsection (5) of this section.

23 (5)(a) The State Department of Energy may establish by rule procedures and criteria for deter-
24 mining the amount of the tax credit to be certified under this section, consistent with ORS 469.790.
25 The department shall provide written certification to taxpayers that are eligible to claim the credit
26 under this section.

27 (b) The State Department of Energy may charge and collect a fee from taxpayers for certif-
28 ication of credits under this section. The fee may not exceed the cost to the department of deter-
29 mining the amount of certified cost.

30 (c) The State Department of Energy shall provide to the Department of Revenue a list, by tax
31 year, of taxpayers for which a credit is certified under this section, upon request of the Department
32 of Revenue.

33 (6) The amount of the credit claimed under this section for any tax year may not exceed the tax
34 liability of the taxpayer.

35 (7) Each agricultural producer or biomass collector shall maintain the written documentation
36 of the amount certified for tax credit under this section in its records for a period of at least five
37 years after the tax year in which the credit is claimed and provide the written documentation to the
38 Department of Revenue upon request.

39 (8) The credit shall be claimed on a form prescribed by the Department of Revenue that contains
40 the information required by the department.

41 (9) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
42 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next
43 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
44 forward and used in the second succeeding tax year, and likewise any credit not used in that second
45 succeeding tax year may be carried forward and used in the third succeeding tax year, and any

1 credit not used in that third succeeding tax year may be carried forward and used in the fourth
2 succeeding tax year, but may not be carried forward for any tax year thereafter.

3 (10) In the case of a credit allowed under this section:

4 (a) A nonresident shall be allowed the credit under this section in the proportion provided in
5 ORS 316.117.

6 (b) If a change in the status of the taxpayer from resident to nonresident or from nonresident
7 to resident occurs, the credit allowed by this section shall be determined in a manner consistent
8 with ORS 316.117.

9 (c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the
10 department terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this
11 section shall be prorated or computed in a manner consistent with ORS 314.085.

12 **SECTION 2. The amendments to ORS 315.141 by section 1 of this 2011 Act apply to tax**
13 **years beginning on or after January 1, 2010.**

14 **SECTION 3. This 2011 Act takes effect on the 91st day after the date on which the 2011**
15 **session of the Seventy-sixth Legislative Assembly adjourns sine die.**

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