
MEMORANDUM

Legislative Fiscal Office
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To: Members of the Ways and Means Subcommittee on Natural Resources

From: Michelle Deister, Legislative Fiscal Office
(503) 986-1817

Date: June 11, 2013

Subject: HB 5012 – Relating to financial administration of the State
Department of Energy
Recommendation for Reconsideration

HB 5012 is back for for reconsideration by the Joint Ways and Means Subcommittee on Natural Resources. After the Work Session on June 5, 2013, the Department noticed that the decimal point for the pass through fee – in line 12 of the bill – was misplaced. The fee amount should be “0.25% of the tax credit.” The attached memo explains the implications if this mistake is not corrected.

HB 5012 ratifies fees that were established in the interim for services related to evaluation and processing of tax credit “pass-throughs” related to the Business Energy Tax Credit (BETC) Program established during the interim. The measure has an emergency clause and is effective on passage. The measure previously had public hearings in the Natural Resources Subcommittee in conjunction with the Department of Energy’s budget bill, HB 5011.

Amendment

The attached amendment corrects the fee amount, and incorporates the -2 amendment which provided for a fee for each tax certificate transferred.

Motion : Move the -3 amendment.

Measure as Modified

The measure, as amended, is recommended to be moved to the full Committee on Joint Ways and Means.

Motion: Move HB 5012 to the full committee with a “do pass” recommendation, as amended.

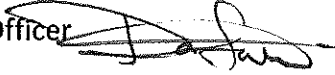
Assignment of Carriers

Full: _____
2nd Chamber: _____



MEMORANDUM

To: Honorable Richard Devin, Co-Chair Joint Committee on Ways and Means
Honorable Peter Buckley, Co-Chair Joint Committee on Ways and Means

From: Dawn Farr, Chief Financial Officer 

Date: June 6, 2012

Subject: HB 5012 Drafting Error

The Oregon Department of Energy work session for our budget and fee bills, HB 5011 and HB 5012, was held yesterday in the Ways and Means Subcommittee for Natural Resources. HB 5011 and HB 5012, amended by the -2, passed out of committee with a "do pass" recommendation.

The department discovered today that a drafting error occurred in HB 5012 and it was not resolved with the adoption of the -2 amendment. The error is located with the "pass-through fee with department assistance;" the amount is not reflected accurately. HB 5012 currently reads that the fee is "a minimum of \$100 to a maximum of \$25,000 \$0.025 % of tax credit." In place of the \$0.025%, the amount should be "0.25% of tax credit."

HB 5012 is the fee ratification bill for Business Energy Tax Credit fees established during the interim, following the formal rulemaking process. The fees in the bill were reviewed and approved by the Department of Administrative Services, and are reflected in current rules (OAR 330-090-0150). HB 5012 seeks legislative ratification for the fees established during the interim. The fees are set at a level to recover costs associated with pass-through and transfer activities related only to the Business Energy Tax Credit. Materials presented to the Ways and Means Subcommittee on Natural Resources during the agency presentation and LFO Recommendations reflected the values presented in the attached copy of the current rules. HB 5012 should have been drafted to reflect what was established in rule.

HB 5012, without further amendment, will reduce revenues by approximately \$130,000. The agency has collected these fees and assumes some risk of having to refund approximately \$74,000 in fees for pass-through services. The bill as drafted will result in reduced service and support in the execution of pass-through services. The reduced level of support could impact project owners receiving certification that require assistance and guidance to transfer or sell credits. There could be a financial impact on governments and non-profit entities, who may seek these services from brokers at a higher cost.



The Department of Energy requests the amendment of HB 5012 to reflect the correct percentage for the Department of Energy's pass-through fee with department assistance.

Thank you for working with the department to resolve this issue. Please contact me if I can provide you with any additional assistance.

Attachments: HB 5012 with -2 Amendment
OAR 330-090-015 (4)

Cc: Honorable Chris Edwards, Co-Chair of Ways and Means Subcommittee on Natural Resources
Honorable Ben Unger, Co-Chair of Ways and Means Subcommittee on Natural Resources
Ken Rocco, Legislative Fiscal Officer
Michelle Deister, Senior Legislative Analyst, Legislative Fiscal Office
Margi Hoffman, Energy Policy Advisor for Governor Kitzhaber
Lisa Schwartz, Director, Department of Energy
Tamara Brickman, Office of the Chief Financial Officer

HB 5012-3
(LC 9012)
6/11/13 (TR/ps)

**PROPOSED AMENDMENTS TO
HOUSE BILL 5012**

- 1 In line 12 of the printed bill, delete “0.025%” and insert “0.25%”.
2 Delete line 18 and insert:
3 “(3) Tax credit transfer fee \$ 200, plus
4 \$100 per tax
5 certificate”.
6 _____

Joint Committee on Ways and Means

Carrier – House: Rep.
Carrier – Senate: Sen.

Revenue:

Fiscal:

Action:

Vote:

House

Yeas:

Nays:

Exc:

Senate

Yeas:

Nays:

Exc:

Prepared By: Michelle Deister, Legislative Fiscal Office

Meeting Date: [Full Committee Meeting Date]

WHAT THE MEASURE DOES: HB 5012 ratifies fees established during the interim for services related to evaluation and matching requests for passing through Business Energy Tax Credit certificates to eligible recipients.

ISSUES DISCUSSED:

- Reconsideration because of an error discovered in the printed bill after it was moved from subcommittee.

EFFECT OF COMMITTEE AMENDMENT: The -3 amendment corrects the amount of the pass through fee for the business energy tax credit, from “0.025%” to “0.25%” of the tax credit, and incorporates the -2 changes to House Bill 5012, which allowed a tax credit transfer fee of \$200 plus \$100 per tax certificate.

BACKGROUND: House Bill 5012 was reconsidered by the Joint Ways and Means Subcommittee on Natural Resources due to an error in the body of the printed bill.

HB 3672 (2011) accelerated the sunset of the Business Energy Tax Credit (BETC) program, changed the Residential Energy Tax Credit program by adding a third-party solar component, modified the Biomass Producer and Collector Tax Credit, and established three new limited tax credit and grant programs. HB 4079 (2012) made additional changes to the new programs, which are dramatically different from the BETC program. As a result, the Department oversees a more complex program that includes caps for various incentives that must be tracked against applications. Specifically related to the fees in HB 5012, the volume of BETC tax credits is greater than anticipated, as project owners seek to close out their projects and sell their tax credits in anticipation of the program’s 2014 sunset date.