

House Bill 3423

Sponsored by Representative WEIDNER

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 income tax credit for investment in business that produces geothermal energy.
Applies to tax years beginning on or after January 1, 2014, and before January 1, 2020.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to a tax credit for geothermal energy businesses; creating new provisions; amending ORS
3 314.752 and 318.031; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS chapter 315.**

6 **SECTION 2. (1) As used in this section, "qualifying business" means a business operated**
7 **for the primary purpose of producing geothermal energy.**

8 **(2) A credit against taxes that are otherwise due under ORS chapter 316 or, if the tax-**
9 **payer is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer who, during**
10 **the tax year, invests in a qualifying business that expands by adding at least five net full-**
11 **time positions during the tax year. For the taxpayer to be eligible to claim the credit allowed**
12 **under this section, the added positions must be filled by employees receiving a wage that**
13 **meets or exceeds the median wage for any county in which the taxpayer is doing business**
14 **and must remain filled for at least 12 consecutive months.**

15 **(3) The amount of the credit allowed under this section shall equal 50 percent of the**
16 **amount invested but may not exceed \$2 million for the tax year.**

17 **(4) Prior to claiming the credit allowed under this section, a taxpayer is required to re-**
18 **ceive written certification of eligibility from the Oregon Business Development Department.**

19 **(5) The credit allowed under this section may not exceed the tax liability of the taxpayer**
20 **for the tax year.**

21 **(6) A nonresident shall be allowed the credit under this section. The credit shall be**
22 **computed in the same manner and be subject to the same limitations as the credit granted**
23 **to a resident. However, the credit shall be prorated using the proportion provided in ORS**
24 **316.117.**

25 **(7) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,**
26 **or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440,**
27 **the credit allowed by this section shall be prorated or computed in a manner consistent with**
28 **ORS 314.085.**

29 **(8) If a change in the status of a taxpayer from resident to nonresident or from nonres-**
30 **ident to resident occurs, the credit allowed by this section shall be determined in a manner**
31 **consistent with ORS 316.117.**

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 **(9) The Oregon Business Development Department shall adopt rules for the purposes of**
 2 **this section, including policies and procedures for certifying taxpayers as eligible for the**
 3 **credit allowed under this section as provided in subsection (4) of this section.**

4 **SECTION 3.** ORS 314.752 is amended to read:

5 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
 6 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
 7 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
 8 allowable to the shareholders of the S corporation.

9 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on
 10 income of the shareholder of an S corporation, there shall be taken into account the shareholder's
 11 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
 12 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
 13 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
 14 manner prescribed under section 1377(a) of the Internal Revenue Code.

15 (3) The character of any item included in a shareholder's pro rata share under subsection (2)
 16 of this section shall be determined as if such item were realized directly from the source from which
 17 realized by the corporation, or incurred in the same manner as incurred by the corporation.

18 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
 19 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
 20 316.117, then that provision shall apply to the nonresident shareholder.

21 (5) As used in this section, "business tax credit" means a tax credit granted to personal income
 22 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
 23 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
 24 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
 25 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
 26 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-
 27 station and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
 28 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (farmworker
 29 housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facilities), ORS
 30 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326
 31 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS
 32 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing
 33 facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-
 34 merce), ORS 315.533 (low income community jobs initiative) and ORS 317.115 (fueling stations nec-
 35 essary to operate an alternative fuel vehicle) **and section 2 of this 2013 Act (investment in**
 36 **geothermal business).**

37 **SECTION 4.** ORS 318.031 is amended to read:

38 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
 39 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
 40 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
 41 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141, 315.156, 315.204,
 42 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.507 and 315.533 **and section 2 of this 2013**
 43 **Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

44 **SECTION 5. Section 2 of this 2013 Act and the amendments to ORS 314.752 and 318.031**
 45 **by sections 3 and 4 of this 2013 Act apply to tax years beginning on or after January 1, 2014,**

1 and before January 1, 2020.

2 SECTION 6. This 2013 Act takes effect on the 91st day after the date on which the 2013
3 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.

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