

House Bill 2775

Sponsored by COMMITTEE ON REVENUE

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**.

Limits total amount of biomass tax credit allowed for animal manure that may be claimed annually by all taxpayers. Limits availability of tax credit to animal manure processed in digester in operation by certain date.

Applies to tax years beginning on or after January 1, 2017, and before January 1, 2022.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax credits for biomass; creating new provisions; amending ORS 315.141 and section 6,
3 chapter 739, Oregon Laws 2007; 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) 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.

30 (f) "Biomass collector" means a person that collects biomass in Oregon to be used, in Oregon,

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 as biofuel or to produce biofuel.

2 (g) “Canola” means plants of the genus Brassica:

3 (A) In which seeds having a high oil content are the primary economically valuable product; and

4 (B) That have a high erucic acid content suitable for industrial uses or a low erucic acid content
5 suitable for edible oils.

6 (h) “Oilseed processor” means a person that receives agricultural oilseeds and separates them
7 into meal and oil by mechanical or chemical means.

8 (i) “Willamette Valley” means Clackamas, Linn, Marion, Multnomah, Polk, Washington and
9 Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast
10 Range.

11 (2) The Director of the State Department of Energy may adopt rules to define criteria, only as
12 the criteria apply to organic biomass, to determine additional characteristics of biomass for purposes
13 of this section.

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

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

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

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

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

25 (d) A credit under this section may be claimed only once for each unit of biomass.

26 (e) Notwithstanding paragraph (a) of this subsection, a tax credit:

27 (A) Is not allowed for canola grown, collected or produced in the Willamette Valley; and

28 (B) Is not allowed for grain corn, but a tax credit shall be allowed for other corn material.

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

30 (5)(a) The State Department of Energy may establish by rule procedures and criteria for deter-
31 mining the amount of the tax credit to be certified under this section, consistent with ORS 469B.403.
32 The department shall provide written certification to taxpayers that are eligible to claim the credit
33 under this section.

34 **(b) The total amount certified for tax credits for the processing of biomass that is animal**
35 **manure may not exceed \$5 million for all taxpayers for the tax year in which the certification**
36 **is made.**

37 [(b)] (c) The State Department of Energy may charge and collect a fee from taxpayers for cer-
38 tification of credits under this section. The fee may not exceed the cost to the department of de-
39 termining the amount of certified cost.

40 [(c)] (d) The State Department of Energy shall provide to the Department of Revenue a list, by
41 tax year, of taxpayers for which a credit is certified under this section, upon request of the De-
42 partment of Revenue.

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

45 (7) Each agricultural producer or biomass collector shall maintain the written documentation

1 of the amount certified for tax credit under this section in its records for a period of at least five
 2 years after the tax year in which the credit is claimed and provide the written documentation to the
 3 Department of Revenue upon request.

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

6 (9) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
 7 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next
 8 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
 9 forward and used in the second succeeding tax year, and likewise any credit not used in that second
 10 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
 11 credit not used in that third succeeding tax year may be carried forward and used in the fourth
 12 succeeding tax year, but may not be carried forward for any tax year thereafter.

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

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

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

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

22 **SECTION 2. The amendments to ORS 315.141 by section 1 of this 2017 Act apply to tax**
 23 **years beginning on or after January 1, 2017, and before January 1, 2022.**

24 **SECTION 3.** Section 6, chapter 739, Oregon Laws 2007, as amended by section 5, chapter 590,
 25 Oregon Laws 2007, section 18, chapter 913, Oregon Laws 2009, section 2, chapter 730, Oregon Laws
 26 2011, and section 11, chapter 29, Oregon Laws 2016, is amended to read:

27 **Sec. 6.** (1)(a) ORS 315.141, 315.144 and 469B.403 apply to tax credits for tax years beginning on
 28 or after January 1, 2007, and before January 1, 2022.

29 (b) Notwithstanding paragraph (a) of this subsection, [*credits as provided under ORS 469B.403*
 30 *(1) to (7) are not allowed for tax years beginning on or after January 1, 2018.*] **for tax years begin-**
 31 **ning on or after January 1, 2018, a credit is not allowed for types of biomass listed in ORS**
 32 **469B.403 (1) to (7), or for animal manure processed in a manure digester that was not in**
 33 **operation prior to July 1, 2016.**

34 (2) Notwithstanding subsection (1) of this section, a tax credit is not allowed for wheat grain
 35 (other than nongrain wheat material) for tax years beginning before January 1, 2009, or on or after
 36 January 1, 2018.

37 **SECTION 4. This 2017 Act takes effect on the 91st day after the date on which the 2017**
 38 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**