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SECOND SUBSTITUTE HOUSE BILL 2645

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State of Washington                      59th Legislature                      2006 Regular Session

By House Committee on Finance (originally sponsored by Representatives Kilmer, Crouse, P. Sullivan, Morris and Dunn; by request of Department of Community, Trade, and Economic Development)

READ FIRST TIME 02/08/06.

1            AN ACT Relating to a public utility tax credit for gas distribution  
2 businesses that invest in energy efficiency measures for certain food  
3 processing and other businesses; adding a new section to chapter 82.16  
4 RCW; creating new sections; and providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            NEW SECTION.    **Sec. 1.** The legislature finds that:

7            (1) Rising costs of natural gas are creating an economic hardship  
8 for Washington's small business and food processing industries.

9            (2) Natural gas costs are unlikely to return to historically low  
10 levels of a few years ago making investments in energy efficiency  
11 increasingly important.

12            (3) Washington investor-owned and consumer-owned natural gas  
13 utilities are uniquely well positioned to help small business and food  
14 processors improve the efficiency of natural gas use and reduce current  
15 and long-term energy costs.

16            (4) The state of Washington can assist gas utility energy  
17 efficiency efforts by providing small public utility tax credits for  
18 installation of high-efficiency equipment and processes that might not  
19 otherwise occur.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 82.16 RCW  
2 to read as follows:

3        (1) Subject to the limitations in this section, a gas distribution  
4 business may claim a credit against the tax imposed under this chapter.

5        (2) The amount of credit is equal to the amount of qualifying  
6 customer incentives and qualifying food processing incentives paid by  
7 a gas distribution business between July 1, 2006, and June 30, 2007.

8        (3) The credit may be claimed only after the qualifying customer  
9 incentives or qualifying food processing incentives are paid. The  
10 credit shall be claimed against taxes due for the same fiscal year in  
11 which the qualifying customer incentives or qualifying food processing  
12 incentives are paid. The credit for each reporting period shall not  
13 exceed the amount of tax otherwise due under this chapter for the  
14 reporting period. Credits earned for fiscal year 2007 shall not be  
15 carried forward or backward and claimed against taxes due for prior or  
16 subsequent fiscal years. Refunds may not be granted in the place of a  
17 credit. Any unused credit expires.

18        (4) The total amount of credit that may be claimed by a gas  
19 distribution business is limited to its maximum credit as determined by  
20 the department. The total amount of credit that may be claimed by all  
21 gas distribution businesses shall not exceed one million five hundred  
22 thousand dollars.

23        (5) The commission in the case of investor-owned gas distribution  
24 businesses, or the governing board in the case of consumer-owned gas  
25 distribution businesses, shall provide the department, upon request,  
26 information necessary to determine the maximum credit. By June 1,  
27 2006, the department shall publish the maximum credit allowed for each  
28 gas distribution business. The rule-making provisions of chapter 34.05  
29 RCW do not apply to the determination of the maximum credit by the  
30 department.

31        (6) Unless the context clearly requires otherwise, the definitions  
32 in this subsection apply throughout this section.

33        (a) "Base fiscal year" means the fiscal year beginning July 1,  
34 2003, for purposes of calculating the maximum credit.

35        (b) "Commission" means the Washington utilities and transportation  
36 commission.

37        (c) "Food processing business" means a person that operates a food  
38 processing plant as defined in RCW 69.07.010.

1 (d) "Incremental cost" means the difference between the higher cost  
2 of a qualifying energy efficiency measure and the cost of a same type  
3 of nonenergy efficient piece of equipment. However, the incremental  
4 cost of a service that is a qualifying energy efficiency measure is the  
5 total cost of the service.

6 (e) "Maximum credit" means the maximum amount of credit against the  
7 tax imposed by this chapter that each gas distribution business may  
8 claim for the fiscal year beginning July 1, 2006, as calculated by the  
9 department. The maximum credit is equal to the proportionate share  
10 that the in-state retail natural gas revenues received by each gas  
11 distribution business in the base fiscal year bears to the total in-  
12 state retail natural gas revenues received by all gas distribution  
13 businesses in the base fiscal year, multiplied by one million five  
14 hundred thousand dollars. Revenues from wholesale sales of natural gas  
15 or from transporting natural gas shall not be included in calculating  
16 the maximum credit.

17 (f) "Qualifying customer" means a manufacturing, industrial, or  
18 other commercial business located in this state that is a retail  
19 natural gas customer of a gas distribution business. "Qualifying  
20 customer" does not include any board, commission, institution,  
21 department, or agency of federal, state, local, or tribal governments;  
22 a business operated out of a personal residence or that has no physical  
23 location; or a nonprofit organization as defined in RCW 82.04.3651.

24 (g) "Qualifying customer incentive" means the amount paid by a gas  
25 distribution business to a qualifying customer for the purchase of a  
26 qualifying energy efficiency measure. The amount of incentive that may  
27 be paid is limited to no more than twenty-five percent of the  
28 incremental cost or fifteen thousand dollars, whichever is less.

29 (h) "Qualifying energy efficiency measure" means equipment or  
30 services that are purchased by a qualifying customer or qualifying food  
31 processing business that meet or exceed the required level of energy  
32 efficiency of natural gas consumption. "Qualifying energy efficiency  
33 measure" includes high-efficiency boilers; high-efficiency water  
34 heaters; high-efficiency furnaces; high-efficiency blanching; control  
35 equipment that improves the energy efficiency operations of HVAC  
36 equipment, boilers, or water heaters; energy efficiency equipment  
37 repair or replacement services; and boiler and furnace tune-up  
38 services. A qualifying energy efficiency measure shall be consistent

1 with the cost-effectiveness standards in the utility tariff on file  
2 with the commission in the case of investor-owned gas distribution  
3 businesses, or determined and approved by the governing board in the  
4 case of consumer-owned gas distribution businesses.

5 (i) "Qualifying food processing business" means a food processing  
6 business that purchases only natural gas transportation services from  
7 a gas distribution business.

8 (j) "Qualifying food processing incentive" means the amount paid by  
9 a gas distribution business to a qualifying food processing business  
10 for the purchase of a qualifying energy efficiency measure. The amount  
11 of incentive that may be paid is limited to no more than twenty-five  
12 percent of the incremental cost or fifteen thousand dollars, whichever  
13 is less.

14 (k) "Required level of energy efficiency" means the minimum energy  
15 efficiency standards allowable in programs offered under utility  
16 tariffs on file with the commission in the case of investor-owned gas  
17 distribution businesses, and minimum energy efficiency standards  
18 approved by the governing board in the case of consumer-owned gas  
19 distribution businesses.

20 (7) This section expires July 1, 2007.

21 NEW SECTION. **Sec. 3.** The expiration of section 2 of this act does  
22 not affect the right of a person to claim a credit under that section  
23 on or after July 1, 2007, on a return for a reporting period that  
24 includes tax liability incurred between July 1, 2006, and June 30,  
25 2007, if the return is filed by the due date or any extension granted  
26 by the department of revenue.

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