

EHB 1605

THE STATE SENATE
Wednesday, April 13, 2005

ENGROSSED

House Bill No. 1605

As Amended

ENGROSSED HOUSE BILL NO. 1605 - By: MILLER (Doug), COVEY, McMULLEN, NATIONS, ROUSSELOT, DORMAN, NANCE, ADKINS, TERRILL, BALKMAN, BLACKWELL, WORTHEN, HILLIARD and SHERRER of the House and WILSON, BARRINGTON, KERR, WILCOXSON, BASS, EASLEY and CAPPS of the Senate.

[revenue and taxation - amending 68 O.S., Section 2357.32B - income tax credit - manufacturers - emergency]

SECTION 1. AMENDATORY Section 1, Chapter 313, O.S.L.

2002 (68 O.S. Supp. 2004, Section 2357.32B), is amended to read as follows:

Section 2357.32B A. For tax years beginning on or after January 1, 2003, and ending on or before December 31, ~~2005~~ 2007, there shall be allowed a credit against the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes, and actually paid to and placed into the General Revenue Fund, or Section 1803 or 2355 of Title 68 of the Oklahoma Statutes this title to Oklahoma manufacturers of advanced small wind turbines. As used in this section:

1. "Oklahoma manufacturers" means manufacturers who operate facilities located in this state which have the capability to

1 manufacture small wind turbine products, including rotor blade and
2 alternator fabrication; and

3 2. "Advanced small wind turbines" means upwind, furling wind
4 turbines that meet the following requirements:

- 5 a. have a rated capacity of at least one kilowatt (1 kw)
6 but not greater than fifty kilowatts (50 kw),
- 7 b. incorporate advanced technologies such as new
8 airfoils, new generators, and new power electronics,
9 variable speed,
- 10 c. at least one unit of each model has ~~been installed for~~
11 undergone testing at the US-DOE National Wind
12 Technology Center, and
- 13 d. comply with appropriate interconnection safety
14 standards of the Institute of Electrical and
15 Electronics Engineers applicable to small wind
16 turbines.

17 B. The amount of the credit shall be based on the square
18 footage of rotor swept area of advanced small wind turbines
19 manufactured in this state. The amount of the credit shall be
20 Twenty-five Dollars (\$25.00) per square foot produced in calendar
21 year 2003, Twelve Dollars and fifty cents (\$12.50) per square foot
22 produced in calendar year 2004, and ~~Six Dollars and twenty-five~~

1 ~~cents (\$6.25)~~ Twenty-five Dollars (\$25.00) per square foot produced
2 in calendar ~~year~~ years 2005 through 2007.

3 C. The companies claiming the credit allowed by this section
4 shall agree in advance to allow their production and claims to be
5 audited by the Oklahoma Tax Commission and they must be able to show
6 that they have made economic development investments in this state
7 over the period of time for which the credit was claimed that exceed
8 the net proceeds from the amount of credit claimed.

9 D. If the amount of the credits allowed pursuant to this
10 section exceeds the amount of income taxes due or if there are no
11 state income taxes due on the income of the taxpayer, the amount of
12 the credit allowed but not used in any taxable year may be carried
13 forward as a credit against subsequent income tax liability for a
14 period not exceeding ten (10) years.

15 E. The amount of the credit allowed but not used shall be
16 freely transferable at any time during the ten (10) years following
17 the year of qualification. Any person to whom or to which a tax
18 credit is transferred shall have only such rights to claim and use
19 the credit under the terms that would have applied to the entity by
20 whom or by which the tax credit was transferred. The provisions of
21 this subsection shall not limit the ability of a tax credit
22 transferee to reduce the tax liability of the transferee regardless
23 of the actual tax liability of the tax credit transferor for the

1 relevant taxable period. The transferor originally allowed the
2 credit and the subsequent transferee shall jointly file a copy of
3 the written credit transfer agreement with the Tax Commission within
4 thirty (30) days of the transfer. The written agreement shall
5 contain the name, address and taxpayer identification number of the
6 parties to the transfer, the amount of the credit being transferred,
7 the year the credit was originally allowed to the transferor and the
8 tax year or years for which the credit may be claimed. The Tax
9 Commission may promulgate rules to permit verification of the
10 validity and timeliness of a tax credit claimed upon a tax return
11 pursuant to this subsection but shall not promulgate any rules that
12 unduly restrict or hinder the transfers of such tax credit.

13 F. For advanced small wind turbines produced in a calendar
14 year, the tax credit allowed by the provisions of this section, upon
15 election of the taxpayer, shall be treated and may be claimed as a
16 payment of tax, a prepayment of tax or a payment of estimated tax
17 for purposes of Section 624 or 628 of Title 36 of the Oklahoma
18 Statutes, and actually paid to and placed into the General Revenue
19 Fund, or Section 1803 or 2355 of Title 68 of the Oklahoma Statutes
20 this title on or after July 1 of the following calendar year.

21 SECTION 2. It being immediately necessary for the preservation
22 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.
3 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 4-5-05 - DO PASS,
4 As Amended and Coauthored.