

BILL SUMMARY
2nd Session of the 52nd Legislature

Bill No.: HB 2686
Version: Committee Substitute
Author: Morrisette
Date: 1/26/2010

Impact: Impact dependent upon the amount of revenue generated by the check-off and license plate programs versus the cost of the tax incentives instituted 2 years later

No fiscal impact to the Corporation Commission until 2013, then \$10,000 in annual staffing costs

Bill Summary

Research Analyst: Dante Giancola

The committee substitute of HB2686 creates the “Eastern Red Cedar Initiative Act of 2010” and the “Renewable Energy Standards Act.”

The Eastern Red Cedar Initiative Act of 2010 creates the Eastern Red Cedar (ERC) registry and Registry Board. The ERC Registry Board’s duties include:

- Providing for the administration of the ERC Registry;
- Promoting the harvesting of ERC trees;
- Maintaining harvesting records;
- Developing new uses and markets for ERC trees and products;
- Promoting marketing, research and education efforts concerning ERC trees;
- Assisting communities located in any county in the state to organize and establish community-owned ERC projects; and
- Working with the Oklahoma Tax Commission to develop recommendations for tax incentives that will not unduly burden state resources;

This measure allows trees harvested from state lands to be made available to all registered harvesters and manufacturers at no cost in compliance with organized plans for removal. A permit for such removal must be obtained by the harvester/manufacturer from the Registry Board.

The sales of products derived from the processing of ERC trees in Oklahoma are tax exempt. Also, tax relief shall be provided to all Oklahoma state residents who are board registered and employed as harvesters or manufacturers as follows: for a period of five years from the date of registration with the board a 100% tax free profit realized from harvested trees and marketed products; a 100% tax deduction for all monies invested in harvesting equipment, construction of plants and other costs related to harvesting, fuel production, research, and marketing. All out-of-state non-resident board registered members who locate plants in Oklahoma or harvest trees for profit within the state shall receive 50% of the same tax incentives. T

This measure also creates a ‘Remove the Eastern Red Cedar License Plate,’ and a revolving fund in the State Treasury for the ERC Registry Board. Donations to this revolving fund are tax deductible.

Finally, contingent upon availability of resources, the Board may expand the ERC Registry, harvesting program and marketing, research and education efforts for ERC to the Western Juniper Tree. Also contingent upon availability of resources, the Oklahoma Department of Agriculture, Food, and Forestry shall provide guidance, support, resources, and information to implement this act.

The Renewable Energy Standards Act requires the Corporation Commission to establish by rule a portfolio requirement for all affected utilities to generate or purchase electricity generated from renewable energy resources or purchase renewable energy credits. For the purposes of calculating the capacity from renewable energy credit purchases, the affected utility shall use its actual capacity factor from its owned renewable generation from the immediately previous calendar year. Renewable energy credits may only be used to meet a portion of portfolio requirements for the years 2013 and 2017, unless otherwise allowed by the Commission. The portfolio requirements shall apply to all power sold to Oklahoma retail consumers whether the power is self-generated or purchased from another source in or outside of the state.

Fiscal Summary

Fiscal Analyst: Mark Nichols

The committee substitute for HB 2686 creates the Eastern Red Cedar Initiative Act of 2010. It creates the Eastern Red Cedar Registry Board, with administrative duties performed by the Department of Agriculture, as permitted by funding and agency resources. The purpose of the board is to create a registry of eastern red cedars in the state and promote the harvesting of red cedars. Contingent upon funding, the board is authorized to expand the registry to the Western Juniper tree as well. The measure creates the “Eastern Red Cedar Revolving Fund” and provides for a check-off program on state income tax returns.

The measure also directs the Tax Commission to create a Remove the Eastern Red Cedar license plate and provides that \$23 of the license plate fee be deposited in the Eastern Red Cedar Revolving Fund. The measure further provides that starting January 1, 2013, sales of products derived from the processing of red cedars be exempt from taxes levied by the Oklahoma Sales Tax Code, with the exemption terminating June 30, 2017 for for-profit entities. The exemption does not terminate for community-owned Red Cedar projects. There is also created a 100% tax exemption for residents for up to 5 years on the sale of red cedar trees or products derived from said trees for individuals or corporations registered with the board. Further, beginning January 1, 2013, there is a 100% tax exemption for residents for up to 5 years for any investment by an individual or corporation registered with the board who invests in harvesting equipment or the building of a manufacturing facilities used in the processing of red cedars, including fuel, marketing expenses, research costs or any other business expense related to the sale of red cedars or products derived from red cedars. These exemptions do not terminate for community-owned Red Cedar projects.

The measure adds fuels derived from red cedars to the definition of biofuels as defined in the Oklahoma Bioenergy Center Act.

Finally, the measure creates the “Renewable Energy Standards Act” and directs the Corporation Commission to establish, by rule, a portfolio requirement for utilities to generate or purchase electricity generated from renewable energy resources or to purchase renewable energy credits. The Commission is to allow these utilities to recover reasonable costs incurred to meet this requirement. The Commission shall, by rule, determine enforcement and reporting requirements and set administrative penalties for noncompliance. Finally, the Commission shall administer a certification process for other renewable energy resources.

Fiscal Analysis

The fiscal impact for the 2nd committee substitute is difficult to measure. The check-off and license plate provisions begin to generate revenue immediately, while the sales and income tax exemptions wouldn't take effect until fiscal year 2013. This will allow time for funding to accumulate in the Eastern Red Cedar Revolving Fund, and thus offset some or all of the costs associated with the tax incentives.

The Corporation Commission states that the provisions of the Renewable Energy Standards Act will cost the agency an estimated \$10,000 in agency staffing time annually, starting in 2013.

Long Term Fiscal Considerations

The removal and processing of red cedars would ease the infestation of these trees in certain parts of the state, and Oklahoma State University estimates economic losses of \$447 million by 2013, if these trees continue to increase at the current rate.

Fiscal Analysis Reviewed By:

Janice Buchanan

House Fiscal Director