

House Bill 3227

Sponsored by Representative HOLVEY

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**.

Allows tax credit for alternative energy device to be claimed by owner or subscriber of community solar project. Applies to tax years beginning on or after January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to incentives for solar energy projects; creating new provisions; amending ORS 316.116 and
3 469B.100; and prescribing an effective date.

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

5 **SECTION 1.** ORS 316.116, as amended by section 4, chapter 29, Oregon Laws 2016, is amended
6 to read:

7 316.116. (1)(a) A resident individual shall be allowed a credit against the taxes otherwise due
8 under this chapter for costs paid or incurred for construction or installation of each of one or more
9 alternative energy devices in or at a dwelling, **or for costs paid or incurred as an owner or**
10 **subscriber for the construction and operation of a community solar project, but only to the**
11 **extent reflected as a credit under section 22 (6)(a), chapter 28, Oregon Laws 2016, on the**
12 **taxpayer's electric bill for the taxpayer's principal residence.**

13 (b) A credit against the taxes otherwise due under this chapter is not allowed for an alternative
14 energy device that does not meet or exceed all applicable federal, state and local requirements for
15 energy efficiency, including equipment codes, state and federal appliance standards, the state build-
16 ing code, specialty codes and any other standards.

17 (2)(a) For each category one alternative energy device other than an alternative fuel device or
18 an alternative energy device that uses solar radiation for domestic water heating or swimming pool
19 heating, the credit allowed under this section may not exceed the lesser of 50 percent of the cost
20 of the alternative energy device or \$1,500, and shall be computed as follows:

21 (A) For a category one alternative energy device that is not an alternative fuel device, the
22 credit shall be based upon the first year energy yield of the alternative energy device that qualifies
23 under ORS 469B.100 to 469B.118. The amount of the credit shall be the same whether for collective
24 or noncollective investment.

25 (B) For each category one alternative energy device for a dwelling, the credit shall be based
26 upon the first year energy yield in kilowatt hours per year multiplied by 60 cents per dwelling uti-
27 lizing the alternative energy device used for space heating, cooling, electrical energy or domestic
28 water heating.

29 (C) Except as provided in paragraph (c) of this subsection, for each category one alternative
30 energy device used for swimming pool, spa or hot tub heating, the credit shall be based upon the
31 first year energy yield in kilowatt hours per year multiplied by 15 cents.

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 (b) For each alternative fuel device, the credit allowed under this section may not exceed the
 2 lesser of 50 percent of the cost of the alternative fuel device or \$750.

3 (c) For each category one alternative energy device that uses solar radiation for:

4 (A) Domestic water heating, the credit allowed under this section shall be based upon 50 percent
 5 of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by \$2,
 6 whichever is lower, up to \$6,000.

7 (B) Swimming pool heating, the credit allowed under this section shall be based upon 50 percent
 8 of the cost of the device or the first year energy yield in kilowatt hours per year multiplied by 20
 9 cents, whichever is lower, up to \$2,500.

10 (d)(A) For each category two alternative energy device that is a solar electric system or fuel
 11 cell system, the credit allowed under this section may not exceed the lesser of \$3 per watt of in-
 12 stalled output or \$6,000.

13 (B) For each category two alternative energy device that is a wind electric system, the credit
 14 allowed under this section may not exceed the lesser of \$6,000 or the first year energy yield in
 15 kilowatt hours per year multiplied by \$2.

16 (3)(a) Notwithstanding subsection (2)(a), (c) or (d) of this section, the total amount of the credits
 17 allowed in any one tax year may not exceed the tax liability of the taxpayer or \$1,500 for each al-
 18 ternative energy device, whichever is less. Unused credit amounts may be carried forward as pro-
 19 vided in subsection (8) of this section, but may not be carried forward to a tax year that is more
 20 than five tax years following the first tax year for which any credit was allowed with respect to the
 21 category two alternative energy device that is the basis for the credit.

22 (b) Notwithstanding subsection (2)(d) of this section, the total amount of the credit for each de-
 23 vice allowed under subsection (2)(d) of this section may not exceed 50 percent of the total installed
 24 cost of the category two alternative energy device.

25 (4) The State Department of Energy may by rule provide for a lesser amount of incentive for
 26 each type of alternative energy device as market conditions warrant.

27 (5) To qualify for a credit under this section, all of the following are required:

28 (a) The alternative energy device must be purchased, constructed, installed and operated in ac-
 29 cordance with ORS 469B.100 to 469B.118 and a certificate issued thereunder.

30 (b) The taxpayer who is allowed the credit must be the owner or contract purchaser of the
 31 dwelling or dwellings served by the alternative energy device or the tenant of the owner or of the
 32 contract purchaser and must:

33 (A) Use the dwelling or dwellings served by the alternative energy device as a principal or
 34 secondary residence; or

35 (B) Rent or lease, under a residential rental agreement, the dwelling or dwellings to a tenant
 36 who uses the dwelling or dwellings as a principal or secondary residence.

37 (c) The credit must be claimed for the tax year in which the alternative energy device was
 38 purchased if the device is operational by April 1 of the next following tax year.

39 (6) The credit provided by this section does not affect the computation of basis under this
 40 chapter.

41 (7) The total credits allowed under this section in any one year may not exceed the tax liability
 42 of the taxpayer.

43 (8) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
 44 particular year may be carried forward and offset against the taxpayer's tax liability for the next
 45 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried

1 forward and used in the second succeeding tax year, and likewise any credit not used in that second
 2 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
 3 credit not used in that third succeeding tax year may be carried forward and used in the fourth
 4 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
 5 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
 6 thereafter.

7 (9) A nonresident shall be allowed the credit under this section in the proportion provided in
 8 ORS 316.117.

9 (10) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
 10 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-
 11 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

12 (11) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
 13 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
 14 ORS 316.117.

15 (12) Spouses in a marriage who file separate returns for a taxable year may each claim a share
 16 of the tax credit that would have been allowed on a joint return in proportion to the contribution
 17 of each. However, a spouse living in a separate principal residence may claim the tax credit in the
 18 same amount as permitted a single person.

19 (13) As used in this section, unless the context requires otherwise:

20 (a) "Collective investment" means an investment by two or more taxpayers for the acquisition,
 21 construction and installation of an alternative energy device for one or more dwellings.

22 (b) "Noncollective investment" means an investment by an individual taxpayer for the acqui-
 23 sition, construction and installation of an alternative energy device for one or more dwellings.

24 (c) "Taxpayer" includes a transferee of a verification form under ORS 469B.106 (8).

25 (14) Notwithstanding any provision of subsections (1) to (4) of this section, the sum of the credit
 26 allowed under subsection (1) of this section plus any similar credit allowed for federal income tax
 27 purposes may not exceed the cost for the acquisition, construction and installation of the alternative
 28 energy device.

29 **SECTION 2.** ORS 469B.100 is amended to read:

30 469B.100. As used in ORS 316.116 and 469B.100 to 469B.118:

31 (1) "Alternative energy device" means a category one alternative energy device or a category
 32 two alternative energy device.

33 (2) "Alternative fuel device" includes a facility for mixing, storing, compressing or dispensing
 34 fuels for alternative fuel vehicles, and any other necessary and reasonable equipment.

35 (3) "Category one alternative energy device" means:

36 (a) Any system, mechanism or series of mechanisms that uses solar radiation for space heating
 37 or cooling for one or more dwellings;

38 (b) Any system that uses solar radiation for:

39 (A) Domestic water heating; or

40 (B) Swimming pool, spa or hot tub heating and that meets the requirements set forth in ORS
 41 316.116;

42 (c) A ground source heat pump and ground loop system;

43 (d) Any wind powered device used to offset or supplement the use of electricity by performing
 44 a specific task such as pumping water;

45 (e) Equipment used in the production of alternative fuels;

1 (f) A generator powered by alternative fuels and used to produce electricity;

2 (g) An energy efficient appliance;

3 (h) An alternative fuel device; or

4 (i) A premium efficiency biomass combustion device that includes a dedicated outside com-
5 bustion air source and that meets minimum performance standards that are established by the State
6 Department of Energy.

7 (4) “Category two alternative energy device” means a fuel cell system, solar electric system or
8 wind electric system.

9 (5) “Coefficient of performance” means the ratio calculated by dividing the usable output energy
10 by the electrical input energy. Both energy values must be expressed in equivalent units.

11 **(6) “Community solar project” has the meaning given that term in section 22, chapter**
12 **28, Oregon Laws 2016.**

13 [(6)] (7) “Contractor” means a person whose trade or business consists of offering for sale an
14 alternative energy device, construction service, installation service or design service.

15 [(7)] (8) “Cost” means the actual cost of the acquisition, construction and installation of the al-
16 ternative energy device.

17 [(8)] (9) “Domestic water heating” means the heating of water used in a dwelling for bathing,
18 clothes washing, dishwashing and other related functions.

19 [(9)] (10) “Dwelling” means real or personal property ordinarily inhabited as a principal or
20 secondary residence and located within this state. “Dwelling” includes, but is not limited to, an in-
21 dividual unit within multiple unit residential housing.

22 [(10)] (11) “Energy efficient appliance” includes emerging technologies that exceed state and
23 federal appliance standards.

24 [(11)] (12) “First year energy yield” of an alternative energy device is the usable energy
25 produced or energy saved under average environmental conditions in one year.

26 [(12)] (13) “Fuel cell system” means any system, mechanism or series of mechanisms that uses
27 fuel cells or fuel cell technology to generate electrical energy for a dwelling.

28 [(13)] (14) “Placed in service” means the date an alternative energy device is ready and avail-
29 able to produce usable energy or save energy.

30 [(14)] (15) “Solar electric system” means any system, mechanism or series of mechanisms, in-
31 cluding photovoltaic systems, that uses solar radiation to generate electrical energy for a dwelling.

32 [(15)] (16) “Third-party alternative energy device installation” means an alternative energy de-
33 vice that is installed in connection with residential property and owned by a person other than the
34 residential property owner in accordance with an agreement in effect for at least 10 years between
35 the residential property owner and the alternative energy device owner. The agreement must cover
36 maintenance and either the use of or the power generated by the alternative energy device.

37 [(16)] (17) “Wind electric system” means any system, mechanism or series of mechanisms that
38 uses wind to generate electrical energy for a dwelling.

39 **SECTION 3. The amendments to ORS 316.116 and 469B.100 by sections 1 and 2 of this 2017**
40 **Act apply to tax years beginning on or after January 1, 2018.**

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