

Hall of the House of Representatives
88th General Assembly - Regular Session, 2011
Amendment Form

Subtitle of House Bill No. 2185

TO AMEND THE ENERGY CONSERVATION ENDORSEMENT ACT OF 1977.

Amendment No. 2 to House Bill No. 2185

Amend House Bill No. 2185 as engrossed, H3/15/11 (version: 03/15/2011 01:21:39 PM)

Add Senator G. Jeffress as a cosponsor of the bill

AND

Delete everything following the enacting clause and substitute the following:

"SECTION 1. NOT TO BE CODIFIED. Legislative intent. The General Assembly finds that:

(1) Nonresidential large business consumers of electricity and natural gas know best which energy-efficient investments to make in their businesses and should be allowed to choose how their available capital resources are best invested to save energy in their facilities;

(2) Energy efficiency measures implemented by nonresidential large business consumers of electricity and natural gas provide the same kinds of system benefits for their utility suppliers and other customers as are provided by a mandatory utility-managed energy efficiency program;

(3) A mandatory requirement that nonresidential large business consumers of electricity and natural gas pay for their utility supplier energy efficiency programs ensures that some large business consumers will be forced to pay for programs that directly compete with their own energy efficiency investment capital; and

(4) States adjoining Arkansas have implemented simple energy efficiency program opt-out mechanisms for their business consumers, putting Arkansas nonresidential business consumers at a significant competitive disadvantage relative to competitors in states such as Texas and Oklahoma.

SECTION 2. Arkansas Code § 23-3-405 is amended to read as follows:

23-3-405. Authority of Arkansas Public Service Commission – Rates and charges -- Exemption.

(a)(1) The Arkansas Public Service Commission is authorized to propose, develop, solicit, approve, require, implement, and monitor measures by utility companies which cause the companies to incur costs of service and investments which conserve, as well as distribute, electrical energy and existing supplies of natural gas, oil, and other fuels.



(2) After proper notice and hearings, the programs and measures may be approved and ordered into effect by the commission if it determines they will be beneficial to the ratepayers of such public utilities and to the utilities themselves.

(3) In such instances, the commission shall declare that the cost of such conservation measures is a proper cost of providing utility service. At the time any such programs or measures are approved and ordered into effect, the commission shall also order that the affected public utility company be allowed to increase its rates or charges as necessary to recover any costs incurred by the public utility company as a result of its engaging in any such program or measure.

(b) Nothing in this subchapter shall be construed as limiting or cutting down the authority of the commission to order, require, promote, or engage in other energy conserving ~~actions~~ programs or measures.

(c)(1) A nonresidential rate payer of a public utility company having a minimum peak electrical demand of one megawatt (1 MW) or an annual natural gas usage of seventy thousand million British Thermal Units (70,000 MMBTU) at a single facility may provide a certification of exemption to the commission no later than March 1 of any year stating that they have implemented or will implement a measure or have made or will make an investment designed to provide energy savings for the nonresidential rate payer.

(2) To qualify for an exemption under subdivision (c)(1) of this section, a nonresidential rate payer of a public utility company meeting the requirements of subdivision (c)(1) of this section shall have its primary operations in this state classified within sectors 31 through 33 of the North American Industry Classification System as in effect on January 1, 2007.

(3) The certification of exemption shall state that the measure implemented or to be implemented or the investment made or to be made has provided or is expected to provide energy savings for the nonresidential rate payer in an amount equal to or greater than the energy efficiency goals or standards established by the commission at the time of the issuance of the certification of exemption.

(4)(A) Upon receipt of the certification of exemption under this subsection, the commission shall notify the public utility company of the exemption.

(B) Beginning on June 1 following notification of the exemption:

(i) The nonresidential rate payer shall not be required to participate in the programs or measures required by the commission under this section;

(ii) The public utility company shall cease billing all of the accounts of the nonresidential rate payer for any costs in rates and charges approved by the commission under subdivision (a)(3) of this section; and

(iii) The nonresidential rate payer shall not be eligible to participate in any programs or measures offered by the public utility company under this section.

(5)(A) An exemption under this subsection continues until it is withdrawn by the nonresidential rate payer.

(B) A nonresidential rate payer seeking to withdraw its certificate of exemption shall notify the commission by March 1 of any year.

(C) Upon notification of the withdrawal of a certificate of exemption, the commission shall notify the public utility company of the withdrawal.

(D) Beginning on June 1 following notice of the withdrawal of the certificate of exemption:

(i) The public utility company shall begin billing the accounts of the nonresidential rate payer for any costs in rates and charges approved by the commission under subdivision (a)(3) of this section; and

(ii) The nonresidential rate payer shall be eligible to participate in any programs or measures offered by the public utility company under this section."

The Amendment was read _____

By: Representative G. Smith
MBM/BGS - 03/21/11 05:09
MBM367

Chief Clerk