

State of Arkansas  
88th General Assembly  
Regular Session, 2011

As Engrossed: H3/15/11

# A Bill

HOUSE BILL 2185

By: Representative G. Smith

## For An Act To Be Entitled

AN ACT TO AMEND THE ENERGY CONSERVATION ENDORSEMENT  
ACT OF 1977; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND THE ENERGY CONSERVATION  
ENDORSEMENT ACT OF 1977.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*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 non-residential 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 non-residential 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 non-residential business consumers at a significant competitive*



1 disadvantage relative to competitors in states such as Texas and Oklahoma.

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

4 23-3-405. Authority of Arkansas Public Service Commission – Rates and  
5 charges - Exemption.

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

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

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

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

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

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

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

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

4 (ii) The public utility company shall cease billing  
5 all of the accounts of the nonresidential rate payer for the programs and  
6 measures required by the commission under this section; and

7 (iii) The nonresidential rate payer shall not be  
8 eligible to participate in public utility company energy efficiency programs.

9 (3) An exemption under this subsection continues until it is  
10 withdrawn by the nonresidential rate payer.

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12 /s/G. Smith  
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