

1 State of Arkansas
2 88th General Assembly
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4

As Engrossed: H3/15/11 H3/23/11

A Bill

HOUSE BILL 2185

5 By: Representative G. Smith
6 By: Senator G. Jeffress
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ENERGY CONSERVATION ENDORSEMENT
10 ACT OF 1977; AND FOR OTHER PURPOSES.
11

Subtitle

14 TO AMEND THE ENERGY CONSERVATION
15 ENDORSEMENT ACT OF 1977.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 *SECTION 1. NOT TO BE CODIFIED. Legislative intent. The General*
21 *Assembly finds that:*

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

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

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

35 *(4) States adjoining Arkansas have implemented simple energy*
36 *efficiency program opt-out mechanisms for their business consumers, putting*



1 Arkansas nonresidential business consumers at a significant competitive
2 disadvantage relative to competitors in states such as Texas and Oklahoma.

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

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

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

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

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

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

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

33 (2) To qualify for an exemption under subdivision (c)(1) of this
34 section, a nonresidential rate payer of a public utility company meeting the
35 requirements of subdivision (c)(1) of this section shall have its primary
36 operations in this state classified within sectors 31 through 33 of the North

1 American Industry Classification System as in effect on January 1, 2007.

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

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

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

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

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

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

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

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

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

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

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

36 (ii) The nonresidential rate payer shall be eligible

1 to participate in any programs or measures offered by the public utility
2 company under this section.

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/s/G. Smith