



Bethany Boyd

Bill Analysis
Legislative Service Commission

S.B. 335

126th General Assembly
(As Introduced)

Sen. Schuring

BILL SUMMARY

- Creates a tax credit against kilowatt-hour tax liability for an "eligible business" that invested at least \$100 million in property in Ohio and either uses more than 400 million kilowatt hours of electricity and self-assesses the kilowatt-hour tax, or is an automobile or automobile parts manufacturer that self-assesses that tax.
- Requires the eligible business to reinvest an amount equal to the amount of the tax credit in its Ohio business operations.

CONTENT AND OPERATION

Kilowatt-hour tax credit

Credit eligibility

(R.C. 5727.80 and 5727.96(A) and (B)(1))

The bill creates a tax credit against the kilowatt-hour tax for an "eligible business," beginning July 1, 2006. The type of business that is eligible to apply for the tax credit must satisfy either or both of the following for the filing period with respect to which the credit is claimed:

(1) The business used more than 400 million kilowatt hours of electricity in the aggregate at one or more locations in Ohio for which the business was permitted to file a return as a self-assessing purchaser, which is a commercial or industrial purchaser of electricity that consumes large quantities of electricity (over 45 million kilowatt hours in a year) and pays the kilowatt-hour tax directly to the Tax Commissioner, rather than to the electric distribution company from which its electricity was distributed.

(2) The business was a self-assessing purchaser that was engaged in the manufacturing of automobiles or "automobile parts" for installation and use in motor vehicles, had manufacturing facilities in Ohio, and, in the case of a manufacturer of automobile parts,¹ had a least 25% of its net United States sales of Ohio-produced products sold to equip manufacturers of passenger cars, trucks, and tractor trailers.

In addition, to be an "eligible business" under the bill, the business must have invested at least \$100 million in the aggregate in real and tangible personal property in Ohio, including any construction in progress at the time the business filed an application for the tax credit. The bill provides that the amount of an eligible business' investment in real and tangible personal property located in Ohio must be determined by reference to the cost of those assets included in financial statements prepared under United States generally accepted accounting principles. If the eligible business does not prepare financial statements under those accounting principles, the amount of investment must be determined by reference to the cost of those assets included in the eligible business' financial statements prepared for purposes of credit, financing, or other external reporting purposes.

Credit amount; rules; reinvestment requirement

(R.C. 5727.88 and 5727.96(B)(2) to (D))

The amount of the tax credit is 100% of the self-assessed kilowatt-hour tax the eligible business paid in the previous filing period as a self-assessing purchaser (in effect, a refund of that tax). An eligible business that is allowed a credit under the bill must reinvest an amount equal to the credit amount in its business operations in Ohio.

An eligible business must file an application with the Tax Commissioner for the credit, and must claim the credit for the filing period determined by and in the manner prescribed by rule of the Commissioner. The Commissioner may adopt such rules as are necessary to administer the credit, and also must adopt rules that establish the method for determining whether a business satisfies the eligible business criteria.

The Tax Commissioner may require the eligible business to furnish information to support its claim for a credit under the bill, and no credit will be allowed unless the information is provided.

¹ *The bill defines "automobile parts" as any tangible goods that are in a solid state at the time they become part of an automobile, including steel, glass, plastic, and rubber, and component parts made of those substances, but does not include oils, fuels, fluids, and other liquefied products used in automobiles.*

The credit must be paid out of moneys credited to the General Revenue Fund from the Kilowatt-Hour Tax Receipts Fund under the existing kilowatt-hour tax law.

Penalties

(R.C. 5727.99(D))

Whoever violates the bill's tax credit provision or the rules adopted by the Tax Commissioner under that provision is guilty of a misdemeanor of the first degree on the first offense, and a felony of the fourth degree on each subsequent offense.

HISTORY

ACTION	DATE
Introduced	05-18-06

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