

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 3303

Chapter 283, Laws of 2008

60th Legislature
2008 Regular Session

POLYSILICON MANUFACTURERS--TAX CREDIT

EFFECTIVE DATE: 06/12/08

Passed by the House February 18, 2008
Yeas 0 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 12, 2008
Yeas 0 Nays 0

BRAD OWEN

President of the Senate

Approved March 31, 2008, 2:20 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 3303** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 1, 2008

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 3303

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By House Finance (originally sponsored by Representatives Grant, Walsh, Haler, and Linville)

READ FIRST TIME 02/12/08.

1 AN ACT Relating to a business and occupation tax credit for
2 qualified preproduction development expenditures for polysilicon
3 manufacturers; amending RCW 82.32.545; adding a new section to chapter
4 82.04 RCW; creating a new section; and providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW
7 to read as follows:

8 (1)(a) In computing the tax imposed under this chapter, a
9 manufacturer of polysilicon may claim a credit for its qualified
10 preproduction development expenditures occurring after January 1, 2008.

11 (b) Any credits earned under this section must be accrued and
12 carried forward and may not be used until July 1, 2009 and until a
13 polysilicon manufacturer expends five hundred million dollars on a
14 polysilicon manufacturing plant located in a county along the boundary
15 line between Washington and Oregon with a population greater than fifty
16 thousand but less than one hundred thousand. A polysilicon
17 manufacturer may not claim a credit under this section in excess of one
18 million dollars in any calendar year. Carryover credits may be used at

1 any time after June 30, 2009, and may be carried over until used.
2 Refunds may not be granted in the place of a credit.

3 (2) The credit is equal to the amount of qualified preproduction
4 development expenditures, multiplied by the rate of seven and one-half
5 percent.

6 (3) Credit earned on or after July 1, 2009, may be carried over
7 until used. The credit claimed against taxes due for each calendar
8 year must not exceed the amount of tax otherwise due under this chapter
9 for the calendar year. Refunds may not be granted in the place of a
10 credit.

11 (4) The definitions in this subsection apply throughout this
12 section unless the context clearly requires otherwise.

13 (a)(i) "Preproduction development" means: (A) Research, design,
14 and engineering activities performed in relation to the development of
15 a product or product line; (B) the design and engineering of the
16 facility in which the product or product line will be manufactured; and
17 (C) training of production employees where the training is directly
18 related to the manufacturing of the product or product line.

19 (ii) The term "preproduction development" includes the discovery of
20 technological information, the translating of technological information
21 into new or improved products, processes, techniques, formulas, or
22 inventions, and the adaptation of existing products into new products
23 or derivatives of products or models. The term does not include
24 manufacturing activities or other production-oriented activities other
25 than tool design and engineering design for the manufacturing process
26 and the training identified in (a)(i)(C) of this subsection (4). The
27 term also does not include surveys and studies, social science and
28 humanities research, market research or testing, quality control, sale
29 promotion and service, computer software developed for internal use,
30 and research in areas such as improved style, taste, and seasonal
31 design.

32 (b)(i) Except as provided in (ii) of this subsection (4)(b),
33 "qualified preproduction development" means preproduction development
34 performed in the field of polysilicon manufacturing in a county along
35 the boundary line between Washington and Oregon with a population
36 greater than fifty thousand but less than one hundred thousand.

37 (ii) "Qualified preproduction development" also includes
38 preproduction development as defined in (a)(i)(B) of this subsection

1 (4) occurring outside of this state in relation to a polysilicon
2 manufacturing facility located, or to be located, in a county along the
3 boundary line between Washington and Oregon with a population greater
4 than fifty thousand but less than one hundred thousand.

5 (c) "Qualified preproduction development expenditures" means
6 operating expenses including wages, benefits, supplies, and computer
7 expenses directly incurred in qualified preproduction development by a
8 person claiming the credit provided in this section. The term does not
9 include amounts paid to a person or to the state or any of its
10 departments or institutions, other than a public educational or
11 research institution, to conduct preproduction development in the field
12 of polysilicon manufacturing. The term also does not include capital
13 costs and overhead, such as expenses for land, structures, or
14 depreciable property. For purposes of this subsection (4)(c), capital
15 costs do not include costs incurred for the design and engineering of
16 a manufacturing facility as provided in (a)(i)(B) of this subsection
17 (4).

18 (5) In addition to all other requirements under this title, a
19 person claiming the credit under this section must report as required
20 under RCW 82.32.545 and provide such additional information as the
21 department may prescribe.

22 (6) Credit may not be claimed for expenditures for which a credit
23 is claimed under RCW 82.04.4452.

24 (7) This section expires July 1, 2024.

25 **Sec. 2.** RCW 82.32.545 and 2007 c 54 s 19 are each amended to read
26 as follows:

27 (1) The legislature finds that accountability and effectiveness are
28 important aspects of setting tax policy. In order to make policy
29 choices regarding the best use of limited state resources the
30 legislature needs information on how a tax incentive is used.

31 (2)(a) A person who reports taxes under RCW 82.04.260(11) or who
32 claims an exemption or credit under RCW 82.04.4461, 82.08.980,
33 82.12.980, 82.29A.137, 84.36.655, (~~and~~) 82.04.4463, or section 1 of
34 this act shall make an annual report to the department detailing
35 employment, wages, and employer-provided health and retirement benefits
36 per job at the manufacturing site. The report shall not include names
37 of employees. The report shall also detail employment by the total

1 number of full-time, part-time, and temporary positions. The first
2 report filed under this subsection shall include employment, wage, and
3 benefit information for the twelve-month period immediately before
4 first use of a preferential tax rate under RCW 82.04.260(11), or tax
5 exemption or credit under RCW 82.04.4461, 82.08.980, 82.12.980,
6 82.29A.137, 84.36.655, ~~((and))~~ 82.04.4463, or section 1 of this act.
7 The report is due by March 31st following any year in which a
8 preferential tax rate under RCW 82.04.260(11) is used, or tax exemption
9 or credit under RCW 82.04.4461, 82.08.980, 82.12.980, 82.29A.137,
10 84.36.655, ~~((and))~~ 82.04.4463, or section 1 of this act is taken. This
11 information is not subject to the confidentiality provisions of RCW
12 82.32.330 and may be disclosed to the public upon request.

13 (b) If a person fails to submit an annual report under (a) of this
14 subsection by the due date of the report, the department shall declare
15 the amount of taxes exempted or credited, or reduced in the case of the
16 preferential business and occupation tax rate, for that year to be
17 immediately due and payable. Excise taxes payable under this
18 subsection are subject to interest but not penalties, as provided under
19 this chapter. This information is not subject to the confidentiality
20 provisions of RCW 82.32.330 and may be disclosed to the public upon
21 request.

22 (3) By November 1, 2010, for chapter 1, Laws of 2003 2nd sp. sess.,
23 and by November 1, 2014, for section 1 of this act, and by November 1,
24 ~~((2023))~~ 2022, for chapter 1, Laws of 2003 2nd sp. sess. and section 1
25 of this act, the ~~((fiscal committees of the house of representatives~~
26 ~~and the senate, in consultation with the department,))~~ joint
27 legislative audit and review committee shall report to the legislature
28 on the effectiveness of chapter 1, Laws of 2003 2nd sp. sess. and
29 section 1 of this act in regard to keeping Washington competitive. The
30 report shall measure the effect of chapter 1, Laws of 2003 2nd sp.
31 sess. and section 1 of this act on job retention, net jobs created for
32 Washington residents, company growth, diversification of the state's
33 economy, cluster dynamics, and other factors as the committees select.
34 The reports shall include a discussion of principles to apply in
35 evaluating whether the legislature should reenact any or all of the tax
36 preferences in chapter 1, Laws of 2003 2nd sp. sess. and section 1 of
37 this act. The department shall maintain information from the annual

1 reports submitted under subsection (2) of this section necessary for
2 the committee to prepare its reports under this subsection.

3 NEW SECTION. **Sec. 3.** If a port in a county along the boundary
4 line between Washington and Oregon with a population greater than fifty
5 thousand but less than one hundred thousand and a polysilicon
6 manufacturer do not sign a memorandum of understanding to site a
7 polysilicon manufacturing plant that is expected to cost at least five
8 hundred million dollars by October 1, 2008, this act is null and void.

Passed by the House February 18, 2008.

Passed by the Senate March 12, 2008.

Approved by the Governor March 31, 2008.

Filed in Office of Secretary of State April 1, 2008.