

Effective 5/12/2015

63M-4-603 Tax credit -- Amount -- Eligibility -- Reporting.

- (1) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the office, in consultation with the Utah Energy Infrastructure Authority Board created in Section 63H-2-202, and other state agencies as necessary, shall, in accordance with the procedures described in Section 63M-4-604, certify:
 - (a) that the project meets the definition of a high cost infrastructure project under this part;
 - (b) that the high cost infrastructure project will generate infrastructure-related revenue;
 - (c) the economic life of the high cost infrastructure project; and
 - (d) that the applicant has received a certificate of good standing from the Division of Corporations and Commercial Code.
- (2)
 - (a) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the Utah Energy Infrastructure Authority Board shall evaluate the project's benefit to the state, based on whether the project:
 - (i) is likely to increase the property tax revenue for the municipality or county where the project will be located;
 - (ii) would provide new infrastructure for an area where the type of infrastructure the project would create is underdeveloped;
 - (iii) would have a positive environmental impact on the state;
 - (iv) would upgrade or improve an existing entity in order to ensure the entity's continued operation and economic viability; and
 - (v) is less likely to be completed without a tax credit issued to the applicant under this part.
 - (b) The Utah Energy Infrastructure Authority Board may recommend that the office deny an applicant a tax credit if the applicant's project does not, as determined by the Utah Energy Infrastructure Authority Board, sufficiently benefit the state based on the criteria described in Subsection (2)(a).
- (3) Subject to the procedures described in Section 63M-4-604, if an applicant meets the requirements of Subsection (1) to receive a tax credit, and the applicant's project receives a favorable recommendation from the Utah Energy Infrastructure Authority Board under Subsection (2), the office shall enter into an agreement with the applicant to authorize the tax credit in accordance with this part.
- (4) The office shall grant a tax credit to an infrastructure cost-burdened entity, for a high cost infrastructure project, under an agreement described in Subsection (3):
 - (a) for the lesser of:
 - (i) the economic life of the high cost infrastructure project;
 - (ii) 20 years; or
 - (iii) a time period, the first taxable year of which is the taxable year when the construction of the high cost infrastructure project begins and the last taxable year of which is the taxable year in which the infrastructure cost-burdened entity has recovered, through the tax credit, an amount equal to:
 - (A) 50% of the cost of the infrastructure construction associated with the high cost infrastructure project; or
 - (B) if the high cost infrastructure project is a fuel standard compliance project, 30% of the cost of the infrastructure construction associated with the high cost infrastructure project.
 - (b) except as provided in Subsections (4)(a) and (d), in a total amount equal to 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a);

- (c) for a taxable year, in an amount that does not exceed the high cost infrastructure project's infrastructure-related revenue during that taxable year; and
- (d) if the high cost infrastructure project is a fuel standard compliance project, in a total amount that is:
 - (i) determined by the Utah Energy Infrastructure Authority Board, based on:
 - (A) the applicant's likelihood of completing the high cost infrastructure project without a tax credit; and
 - (B) how soon the applicant plans to complete the high cost infrastructure project; and
 - (ii) equal to or less than 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a).
- (5) An infrastructure cost-burdened entity shall, for each taxable year:
 - (a) file a report with the office showing the high cost infrastructure project's infrastructure-related revenue during the taxable year;
 - (b) subject to Subsection (7), file a report with the office that is prepared by an independent certified public accountant that verifies the infrastructure-related revenue described in Subsection (5)(a); and
 - (c) provide the office with information required by the office to certify the economic life of the high cost infrastructure project.
- (6) An infrastructure cost-burdened entity shall retain records supporting a claim for a tax credit for the same period of time during which a person is required to keep books and records under Section 59-1-1406.
- (7) An infrastructure cost-burdened entity for which a report is prepared under Subsection (5)(b) shall pay the costs of preparing the report.
- (8) The office shall certify, for each taxable year, the infrastructure-related revenue generated by an infrastructure cost-burdened entity.

Enacted by Chapter 356, 2015 General Session