
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1964 Session of
2005

INTRODUCED BY ROSS, ADOLPH, ALLEN, ARMSTRONG, BALDWIN, BASTIAN, BELFANTI, BENNINGHOFF, BOYD, CALTAGIRONE, CAPPELLI, CLYMER, COHEN, CORNELL, COSTA, CRAHALLA, DeLUCA, J. EVANS, FLEAGLE, FRANKEL, GEIST, GEORGE, GINGRICH, GOOD, GOODMAN, HARRIS, HERMAN, HERSHEY, KILLION, LaGROTTA, LEACH, MACKERETH, MAITLAND, MANDERINO, MANN, MARKOSEK, MARSICO, MUSTIO, NAILOR, PETRI, PYLE, READSHAW, REICHLEY, RUBLEY, SANTONI, SATHER, SCAVELLO, SCHRODER, SHANER, SHAPIRO, B. SMITH, SOLOBAY, STEIL, STURLA, SURRA, E. Z. TAYLOR, TIGUE, VITALI, WALKO, WATSON, WRIGHT, YUDICHAK, O'NEILL, MUNDY AND TANGRETTI, SEPTEMBER 26, 2005

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, SEPTEMBER 26, 2005

AN ACT

1 Authorizing investment tax credits for qualified alternative
2 energy enterprises.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Alternative
7 Energy Investment Act.

8 Section 2. Legislative findings.

9 The General Assembly finds and declares that:

10 (1) There is an increasing need for the development and
11 deployment of renewable and energy-efficient technologies,
12 including wind power, solar thermal electric systems,
13 biomass-based power systems, geothermal energy, biofuels,

1 hydrogen-based energy systems, electric energy systems and
2 storage, photovoltaic energy systems and other new and
3 innovative technologies deemed appropriate.

4 (2) It is the intent of this act to assist in the
5 establishment of a balanced portfolio of renewable and
6 energy-efficient technologies while adopting a strategy to
7 fulfill the Commonwealth's long-term needs and goals for both
8 energy and the environment.

9 (3) It is the intent of this act to encourage the
10 development of and support to businesses that are engaged in
11 the production of alternative fuels, alternative fuel
12 vehicles and alternative energy equipment.

13 Section 3. Definitions.

14 The following words and phrases when used in this act shall
15 have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Alternative energy resources." Either renewable energy
18 resources or Pennsylvania alternative resources.

19 "Alternative fuels." A motor vehicle fuel that, when
20 compared to conventional or reformulated gasoline, results in
21 lower emissions of oxides of nitrogen (NOx), volatile organic
22 compounds (VOC), carbon monoxide (CO), particulates or any
23 combination thereof. This term includes, but is not limited to:
24 compressed natural gas (CNG), liquefied natural gas (LNG),
25 liquid petroleum or propane gas (LPG), ethanol blended as E85,
26 methanol blended as M85, hydrogen, hythane, any combination of
27 compressed natural gas and hydrogen, electricity, coal-derived
28 liquid fuels, biofuels and other fuels determined by rule of the
29 Secretary of the United States Department of Energy under the
30 definition of "alternative fuel" in section 301 of the Energy

1 Policy Act of 1992 (Public Law 102-486, 42 U.S.C. § 13211).

2 "Bi-fuel vehicle or dual-fuel vehicle." A motor vehicle,
3 including an original equipment manufacturer (OEM) and
4 retrofitted motor vehicle, that operates on an alternative fuel
5 and gasoline or an alternative fuel and diesel fuel.

6 "Biofuels." Fuels derived from alcohols, ether, esters and
7 other chemicals made from cellulosic biomass, including, but not
8 limited to, herbaceous and woody plants and agricultural and
9 forestry residues. This term also includes a fuel derived from
10 vegetable oils or animal fats designated B100 that meets the
11 American Society of Testing and Materials Specification DG751,
12 and B20, and that is comprised of 20% biodiesel with 80% diesel
13 fuel.

14 "Coal mine methane." Methane emitting from an abandoned or
15 working coal mine.

16 "Department." The Department of Environmental Protection of
17 the Commonwealth.

18 "Fuel cells." Any electrochemical device that converts
19 chemical energy in a hydrogen-rich fuel directly into
20 electricity, heat and water without combustion.

21 "Geothermal systems." Electricity produced by extracting hot
22 water or steam from geothermal reserves in the earth's crust and
23 supplied to steam turbines that drive generators to produce
24 electricity.

25 "Hybrid vehicle." A motor vehicle that draws propulsion
26 energy from onboard sources of stored energy that are both:

27 (1) An internal combustion engine using combustible
28 fuel.

29 (2) A rechargeable energy storage system.

30 "Pennsylvania alternative resources." Energy from any of the

1 following:

2 (1) Fuel cells.

3 (2) Waste coal which shall include the combustion of
4 waste coal in facilities in which the waste coal was disposed
5 or abandoned prior to July 31, 1982, or disposed of in a
6 permitted coal refuse disposal site regardless of when
7 disposed of, and used to generate electricity or such other
8 waste coal combustion meeting alternate eligibility
9 requirements established by regulation.

10 (3) Coal mine methane.

11 "Person." An individual resident of this Commonwealth.

12 "Qualified alternative energy enterprise." A business that
13 designs, manufactures, distributes, operates, services or
14 maintains alternative or renewable energy projects or equipment.
15 This term includes a generator of electricity, producer of
16 useful thermal energy or producer of hydrogen who uses renewable
17 energy or Pennsylvania alternative energy resources and whose
18 facility is located within this Commonwealth.

19 "Qualified alternative fuel enterprise." A business that
20 designs, manufactures, distributes, operates, services or
21 maintains alternative fuel projects or equipment. This term
22 includes a business that produces an alternative fuel and whose
23 facility for the production of the alternative fuel is located
24 within this Commonwealth.

25 "Qualified alternative fuel or hybrid vehicle manufacturing
26 enterprise." A business that manufactures hybrid vehicles or
27 motor vehicles that operate on an alternative fuel.

28 "Qualified business." A partnership, association, company,
29 corporation, joint venture or other business entity qualified
30 pursuant to section 5.

1 "Qualified expense." The cost of capital equipment directly
2 related to the activities used by a qualified alternative energy
3 enterprise, qualified alternative fuel enterprise or a qualified
4 manufacturer of alternative fuel or hybrid vehicles.

5 "Qualified small business." A partnership, association,
6 company, corporation, joint venture or other business entity
7 that employs 100 or fewer persons and meets all other criteria
8 for a small business established by the Commonwealth.

9 "Renewable energy resources." Energy from any of the
10 following:

11 (1) The sun, including solar photovoltaic technologies,
12 solar thermal electric systems and solar thermal systems.

13 (2) Wind, including systems that generate electricity
14 from wind.

15 (3) Biomass, including systems that generate electricity
16 from landfill methane gas, methane gas from anaerobic
17 digestion of organic material, any solid nonhazardous,
18 cellulosic waste material that is segregated from other waste
19 materials such as waste pallets, crates and landscape or
20 right-of-way trimmings or agricultural sources, including
21 orchard tree crops, vineyards, grain, legumes, sugar and
22 other crop by-products or residues.

23 (4) Low-impact hydroelectric or other technologies that:

24 (i) Harness the incremental hydroelectric potential
25 of water impoundments provided it does not adversely
26 change existing impacts to an aquatic system.

27 (ii) Meet the certification standards established by
28 the Low Impact Hydropower Institute and American Rivers,
29 Inc.

30 (iii) Provide an adequate water flow for protection

1 of aquatic life, provide for safe and effective fish
2 passage, protect against erosion and protect cultural and
3 historic resources.

4 (5) Hydroelectric power technologies that use wave,
5 current, tidal and thermal systems.

6 (6) Geothermal systems.

7 "Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6,
8 No.2), known as the Tax Reform Code of 1971.

9 Section 4. Alternative fuel or alternative energy enterprise
10 designation.

11 (a) Establishment.--A program is established within the
12 department to provide for the designation of qualified
13 alternative fuel enterprises, qualified alternative energy
14 enterprises and qualified alternative fuel or hybrid vehicle
15 manufacturing enterprises.

16 (b) Eligibility.--

17 (1) The department shall develop criteria to establish
18 eligibility as a qualified alternative energy enterprise, a
19 qualified alternative fuel enterprise and a qualified
20 alternative fuel or hybrid vehicle manufacturing enterprise.

21 (2) A business that is qualified under this section
22 shall be entitled to the renewable energy investment tax
23 credits authorized under this act for a period not to exceed
24 15 years beginning with the effective date of this section.

25 Section 5. Qualified businesses.

26 In order to qualify each year for a renewable energy
27 investment tax credit under this act, a business must be:

28 (1) A qualified alternative energy enterprise.

29 (2) A qualified alternative fuel enterprise.

30 (3) A manufacturer of alternative fuel vehicles,

1 including, but not limited to, dedicated alternative fuel-
2 powered vehicles or hybrid vehicles.

3 Section 6. State taxes.

4 (a) General rule.--A qualified business shall receive the
5 renewable energy investment tax credits authorized under section
6 7 for the duration of the alternative fuel or alternative energy
7 enterprise designation. The credits shall expire on the date of
8 expiration required by this act.

9 (b) Administration and regulations.--

10 (1) The department shall cooperate with the Department
11 of Revenue to administer the provisions of this act,
12 promulgate appropriate rules, regulations and forms for that
13 purpose and make such determinations as may be required.

14 (2) The department shall ensure that an eligible
15 business meets the established criteria as a qualified
16 business under section 5 and to ensure that the and to ensure
17 that the costs for which a credit are being sought meet the
18 established eligibility criteria.

19 (3) The Department of Revenue shall administer, construe
20 and enforce the provisions of this section and section 7 in
21 conjunction with Articles II, III, IV and VI of the Tax
22 Reform Code of 1971.

23 Section 7. Renewable energy investment tax credit.

24 (a) General rule.--A qualified business as described in
25 section 5 shall be eligible under Articles III, IV and VI of the
26 Tax Reform Code of 1971 for a renewable energy investment tax
27 credit equal to 15% of a qualified expense.

28 (b) Applicable taxes.--The renewable energy investment tax
29 credit authorized by this section may be applied against any tax
30 due under Articles III, IV and VI of the Tax Reform Code of

1 1971.

2 (c) Authorization.--

3 (1) A qualified business entity may apply for a
4 renewable energy investment tax credit as provided in this
5 section. By September 15, a qualified business entity must
6 submit an application to the department for qualified
7 expenses incurred in the taxable year that ended in the prior
8 calendar year.

9 (2) A qualified business entity shall receive a
10 renewable energy investment tax credit for the taxable year
11 in the amount of 15% of the qualified expense of the
12 qualified business entity deemed eligible under the
13 regulations established by the department under section 6(b).

14 (3) By December 15 of the calendar year following the
15 close of the taxable year during which the qualified expense
16 was incurred, the department shall notify the qualified
17 business entity of the amount of the qualified business
18 entity's renewable energy investment tax credit approved by
19 the department.

20 (d) Carryover.--

21 (1) The amount of the renewable energy investment tax
22 credit that a qualified business entity may use against any
23 tax under Article III, IV or VI of the Tax Reform Code of
24 1971 during any year may not exceed 15% of the qualified tax
25 liability for that taxable year. If the qualified business
26 entity cannot use the entire amount of the credit for the
27 taxable year in which the credit is first approved, the
28 excess may be carried over to succeeding taxable years and
29 used as a credit against any tax under Article III, IV or VI
30 of the Tax Reform Code of 1971 of the qualified business

1 entity for those taxable years.

2 (2) Each time that the renewable energy investment tax
3 credit is carried over to a succeeding taxable year, it shall
4 be reduced by the amount that was used as a credit during the
5 immediately preceding taxable year. The credit may be carried
6 over and applied to succeeding taxable years for no more than
7 15 taxable years following the first taxable year for which
8 the qualified business entity was entitled to claim the
9 credit.

10 (3) A renewable energy investment tax credit approved by
11 the department for a qualified expense in a taxable year
12 first shall be applied against the qualified business
13 entity's tax liability for the current taxable year as of the
14 date on which the credit was approved before the credit is
15 applied against any tax liability under subsection (a).

16 (4) A qualified business entity may not carry back,
17 obtain a refund of or assign any unused renewable energy
18 investment tax credit.

19 (e) Limitation.--The total amount of all renewable energy
20 investment tax credits allowed under this act shall not exceed
21 \$15,000,000 in any one fiscal year.

22 (f) Proration of tax credits.--If the total amount of
23 renewable energy investment tax credits applied for by all
24 qualified business entities exceeds the amount allocated for
25 those credits, then the renewable energy tax credit to be
26 received by each applicant shall be prorated among all qualified
27 business entities.

28 Section 8. Annual report.

29 The department shall annually make a report to the
30 Environmental Resources and Energy Committee of the Senate and

1 the Environmental Resources and Energy Committee of the House of
2 Representatives on the activities undertaken pursuant to this
3 act. The report shall, at a minimum, include information on:

4 (1) The number and amount of renewable energy investment
5 tax credits provided.

6 (2) The types of businesses receiving the credits.

7 (3) A breakdown of the credits provided by business
8 type.

9 (4) The number, amount and purpose of the loans provided
10 to eligible entities.

11 Section 9. Effective date.

12 This act shall take effect in 60 days.