

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1

Special Session No. 1 of
2007-2008

INTRODUCED BY M. WHITE, TOMLINSON, PILEGGI, ERICKSON, BOSCOLA,
RAFFERTY, MADIGAN, GORDNER, WOZNIAK, WAUGH, PUNT, O'PAKE AND
FERLO, OCTOBER 4, 2007

REFERRED TO ENERGY POLICIES, OCTOBER 4, 2007

AN ACT

1 Providing for development of alternative sources of energy.

2 The General Assembly of the Commonwealth of Pennsylvania

3 hereby enacts as follows:

4 CHAPTER 1

5 PRELIMINARY PROVISIONS

6 Section 101. Short title.

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

9 Section 102. Definitions.

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

13 "Alternative energy production project." Includes the
14 following:

15 (1) A facility that utilizes waste coal, biofuel,
16 biomass, solar power, wind energy, geothermal technologies,
17 clean coal technologies, waste energy technologies or other

1 alternative energy sources as defined in the act of November
2 30, 2004 (P.L.1672, No.213), known as the Alternative Energy
3 Portfolio Standards Act, to produce or distribute renewable
4 energy.

5 (2) A facility that manufactures or produces products
6 that provide renewable energy.

7 (3) A facility used for the research and development of
8 technology to provide alternative or renewable energy
9 sources.

10 "Authority." The Commonwealth Financing Authority
11 established under 64 Pa.C.S. Ch. 15 (relating to Commonwealth
12 Financing Authority).

13 "Business." A corporation, partnership, sole proprietorship,
14 limited liability company, business trust or other commercial
15 entity approved by the authority. The term shall include not-
16 for-profit entities.

17 "Clean energy project." A project which does any of the
18 following:

19 (1) Replaces or supplements an existing system that
20 utilizes nonrenewable energy with a system that utilizes
21 renewable energy.

22 (2) Facilitates the installation of a renewable energy
23 system in an existing building or in new construction or a
24 major renovation of a building, including a green energy
25 building.

26 (3) Installs energy efficient equipment.

27 "Department." The Department of Environmental Protection of
28 the Commonwealth.

29 "Energy conservation project." Any of the following:

30 (1) The purchase and installation of energy efficient

1 equipment.

2 (2) Energy efficient heating and cooling units.

3 "Energy efficient appliance." A clothes washer, dishwasher,
4 refrigerator, freezer, room air conditioner, ventilating fan or
5 residential light fixture which qualifies as an Energy Star
6 product under the United States Environmental Protection Agency
7 Energy Star Program.

8 "Energy efficient equipment." Equipment purchased for
9 manufacturing or processing which is designed to utilize
10 significantly less energy than the industry standard available
11 at the time of purchase as determined by the department.

12 "Energy efficient heating and cooling equipment." Heating
13 and cooling equipment designed to utilize significantly less
14 energy than the industry standards as determined by the
15 department.

16 "Fund." The Alternative Energy Development Fund.

17 "Green energy building." A building that adheres to
18 standards adopted by the Department of General Services that
19 optimize the energy performance of buildings.

20 "Pollution control technology project." The acquisition,
21 construction or installation of pollution control technology and
22 equipment that enables an electric generating unit or
23 cogeneration unit to meet any of the following requirements:

24 (1) Mercury emission reductions under 25 Pa. Code Ch.
25 123 (relating to standards for contaminants).

26 (2) The regulations adopted by the United States
27 Environmental Protection Agency known as the Clean Air
28 Mercury Rule codified at 40 CFR Pts. 60 (relating to
29 standards of performance for new stationary sources), 72
30 (relating to permits regulation) and 75 (relating to

continuous emission monitoring).

(3) Nitrogen oxides and sulfur dioxide emission reduction under 25 Pa. Code Chs. 121 (relating to general provisions), 129 (relating to standards for sources) and 145 (relating to interstate pollution transport reduction).

(4) The Clean Air Interstate Rule in 40 C.F.R. (relating to protection of environment).

"Renewable energy system." Energy generated from alternative energy sources as defined under the act of November 30, 2004 (P.L.1672, No.213), known as the Alternative Energy Portfolio Standards Act. The term shall not include a system that is defined as a demand-side management system consisting of the management of customer consumption of electricity or the demand for electricity.

"Residential energy conservation project." The purchase or installation of any of the following:

(1) Solar or solar photovoltaic panels.

(2) Energy efficient windows and doors.

(3) Geothermal heat pumps.

(4) Insulation, air-sealing and other energy saving projects approved by the department.

"Site preparation project." The construction of water and sewer lines, excavation, construction of access roads and traffic control devices.

CHAPTER 3

ISSUANCE OF BONDS

Section 301. Fund.

There is established in the State Treasury a restricted receipt account to be known as the Alternative Energy Development Fund. The fund shall include:

1 (1) Proceeds from bonds issued under sections 303 and
2 304.

3 (2) Earnings derived from the investment of the money in
4 the fund.

5 (3) Loan repayments under this act.

6 (4) Any other money appropriated to the fund.

7 Section 302. Deposit.

8 Beginning in Fiscal Year 2008-2009, and each year up to and
9 including Fiscal Year 2027-2028, the sum of \$20,000,000, or as
10 much thereof as may be necessary of the gross receipts tax
11 collected during each fiscal year under Article XI of the act of
12 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
13 1971, shall be appropriated to the State Treasurer for debt
14 service and related costs of the bond authorized under section
15 303.

16 Section 303. Borrowing authorized.

17 The authority is authorized and directed to utilize funds
18 deposited under section 302 to issue a 20-year limited
19 obligation revenue bond in an amount not exceeding in the
20 aggregate the sum of \$250,000,000.

21 Section 304. Authority.

22 Borrowing authorized under section 303 shall be carried out
23 in accordance with 64 Pa.C.S. (relating to public authorities
24 and quasi-public corporations).

25 Section 305. Purpose of bond.

26 Proceeds from the sale of bonds shall be used solely for the
27 purposes under Chapter 5.

28 Section 306. Investment.

29 Proceeds shall be deposited in the fund and invested or
30 reinvested as are other funds in the custody of the State

1 Treasurer in the manner provided by law. All earnings received
2 from investment on deposits shall be used for the same purposes
3 as the proceeds realized from the sale of bonds under this
4 chapter.

5 Section 307. Appropriation.

6 There is appropriated to the State Treasurer from the
7 proceeds realized from the sale of bonds under this chapter as
8 much money as may be necessary for all reasonable costs and
9 expenses in connection with the issue, sale and registration of
10 the bonds and costs relating to the issue, sale and
11 registration.

12 CHAPTER 5

13 ALLOCATION OF BOND PROCEEDS

14 Section 501. Allocation of funds.

15 (a) Installments.--Money in the fund established under
16 chapter 3 shall be allocated in equal annual installments over a
17 five-year period as follows:

18 (1) The amount of \$12,500,000 to the Ben Franklin
19 Technology Development Authority for allocation in accordance
20 with section 502.

21 (2) The amount of \$15,000,000 to the department for
22 grants for pollution control technology programs in
23 accordance with section 503.

24 (3) The amount of \$14,000,000 to the authority for clean
25 energy projects in accordance with section 504(c)(2).

26 (4) The amount of \$8,500,000 to the authority for energy
27 conservation projects in accordance with section 504(c)(3).

28 (b) Total allocations.--Total allocations under this section
29 shall not exceed \$250,000,000 in the aggregate.

30 Section 502. Ben Franklin Technology Development Authority.

(a) Allocation of funds.--Money from the fund allocated under section 501(a)(1) to the Ben Franklin Technology Development Authority shall be distributed as follows:

(1) Sixty percent shall be used for commercialization and acceleration of the development of emerging alternative or renewable energy technologies in this Commonwealth to include funding of the costs associated with capital investment, transitional research and other costs.

(2) Forty percent shall be used for venture capital for Pennsylvania start-up businesses to develop or expand alternative or renewable energy technologies, including private and public projects, to include funding of the costs associated with capital investments, transitional research and other costs necessary to develop commercial spin-offs and licensing agreements. A project receiving funds under this paragraph shall not receive more than \$1,500,000 during the life of the program.

(b) Guidelines.--The Ben Franklin Technology Development Authority shall publish guidelines that include eligibility requirements consistent with existing guidelines of the Ben Franklin Technology Development Authority Board, including matching fund requirements. The guidelines shall be posted on its official Internet website.

(c) Application.--An applicant for funds under this section shall submit an application including any supporting information as required by the Ben Franklin Technology Development Authority.

(d) Administrative costs.--No more than 1% of funds allocated to the Ben Franklin Technology Development Authority shall be used for administrative costs.

(e) Reporting.--The Ben Franklin Technology Development Authority shall provide an annual report to the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives. The report shall be posted and maintained on its official Internet website. The report shall include a list of all funds distributed under subsection (a), the recipients of the funds, the technology to be developed and other details relating to the project.

Section 503. Pollution control technology projects.

(a) Allocation.--Money from the fund allocated under section 501(a)(2) to the department for pollution control technology projects shall be utilized for grants to electric generating units or cogeneration units, as defined under 25 Pa. Code § 123.202 (relating to definitions), located in this Commonwealth.

(b) Distribution.--Each electric generating unit or cogeneration unit shall be eligible to receive a pro rata share of moneys allocated for pollution control technology projects based on criteria developed by the department. The department shall publish the criteria to be used in the Pennsylvania Bulletin and shall submit the criteria to the Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives for comment and review 60 days prior to accepting a grant application under this section.

Section 504. Alternative Energy Development Program.

(a) Program.--The Alternative Energy Development Program is established.

(b) Allocation of funds.--Money from the fund allocated to the authority under section 501(a)(3) and (4) shall be

1 distributed for the projects under this section.

2 (c) Determination of available funds.--The authority shall
3 annually determine the amount available for distribution under
4 this section for each of the following programs:

5 (1) Loans to businesses and loans or grants to political
6 subdivisions for clean energy projects under section
7 501(a)(3).

8 (2) Loans to businesses and loans or grants to political
9 subdivisions for energy conservation projects under section
10 501(a)(4).

11 (d) Eligibility.--In order to be eligible to receive funds
12 under this section, an applicant must provide the authority with
13 the following:

14 (1) Plans and other documents that show the type,
15 structure and character of the project.

16 (2) A general description of the type, classes and
17 number of current employees and an estimate of any future
18 employment opportunities.

19 (3) The cost of the project.

20 (4) A description of how the project will reduce the
21 Commonwealth's reliance on nonrenewable energy.

22 (e) Project review.--The authority shall review and prepare
23 an assessment of each application and determine which projects
24 will best utilize and promote the use of renewable resources and
25 promote economic development in this Commonwealth. The
26 assessment shall include the following:

27 (1) An analysis by the Department of Community and
28 Economic Development of the jobs that will be retained or
29 increased by the project or other economic advantages.

30 (2) An analysis which shall be prepared by the

department to include the following, as applicable:

(i) The manner and extent to which the project will lead to the increased use of renewable energy resources of the Commonwealth.

(ii) The manner in which the project will provide savings to Pennsylvania businesses or political subdivisions.

(iii) An analysis of the economic feasibility of the project.

(f) Distribution.--Funds shall be distributed to projects approved by the authority in accordance with this chapter.

(g) Adoption of standards.--The Department of General Services shall adopt standards for the certification of a green energy building under this act in order to optimize the energy performance of buildings in this Commonwealth. The standards shall:

(1) be consensus-based as defined by the Office of Management and Budget, Cir. No. A-199, dated February 10, 1998;

(2) require documentation of performance; and

(3) require third party, postconstruction review and verification.

(h) Reporting.--The authority shall provide an annual report to the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives by October 1, 2008, and October 1 of each year thereafter. The first report shall be due in 2008. The report shall be posted and maintained on the authority's official Internet website and shall include:

1 and rebates in accordance with this chapter.

2 Section 703. Distribution.

3 Money from the fund that is not distributed under section 501
4 shall be allocated to the department for the consumer energy
5 program as follows:

6 (1) Thirty percent of funds received under this section
7 shall be used for reimbursement or grants to homeowners for
8 the purchase of energy efficient heating and cooling units
9 and energy efficient appliances within their primary
10 residence. The following shall apply:

11 (i) A homeowner shall be eligible for up to 20% of
12 the purchase and installation price.

13 (ii) A consumer seeking a grant or reimbursement for
14 the purchase of an energy efficient appliance shall
15 certify the disposal of any existing appliance.

16 (2) Seventy percent of the funds received by the
17 department under this section shall be used for rebates to
18 individuals for residential energy conservation projects. An
19 applicant shall be eligible for up to 35% of the purchase and
20 installation price of a residential energy conservation
21 project. An applicant shall be eligible for up to 50% of the
22 purchase and installation price of solar or solar
23 photovoltaic panels manufactured in this Commonwealth.

24 Section 704. Application.

25 An individual seeking a grant, reimbursement or rebate under
26 this chapter shall submit an application and any supporting
27 information as required by the department.

28 Section 705. Guidelines.

29 The department shall publish guidelines in the Pennsylvania
30 Bulletin relating to the following:

1 clean coal technologies or other alternative energy sources
2 as defined in the act of November 30, 2004 (P.L.1672,
3 No.213), known as the Alternative Energy Portfolio Standards
4 Act, to produce or distribute renewable energy.

5 (2) A facility that manufactures or produces products
6 that provide renewable energy.

7 (3) A facility used for the research and development of
8 technology to provide alternative or renewable energy
9 sources.

10 "Alternative energy production tax credit." The credit
11 provided for under this chapter.

12 "Department." The Department of Revenue of the Commonwealth.

13 "Qualified tax liability." The liability for taxes imposed
14 under Article III, IV, V or VI of the act of March 4, 1971
15 (P.L.6, No.2), known as the Tax Reform Code of 1971. The term
16 does not include any tax withheld by an employer from an
17 employee under Article III.

18 "Taxpayer." An entity subject to tax under Article III, IV,
19 V or VI of the act of March 4, 1971 (P.L.6, No.2), known as the
20 Tax Reform Code of 1971.

21 Section 903. Eligible applicants.

22 A taxpayer who develops or constructs an alternative energy
23 production project may apply for an alternative energy
24 production tax credit as provided under this chapter. By
25 February 1 of each year, a taxpayer must submit an application
26 to the department for the amount of the investment in an
27 alternative energy production project that was made in the
28 taxable year that ended in the prior calendar year. If the
29 amount of credits exceeds the limit established under section
30 906, a taxpayer may reapply for an alternative energy production

1 tax credit in the following tax year and shall be given priority
2 for the credit by the department.

3 Section 904. Award of tax credits.

4 A taxpayer that is qualified under section 903 may receive an
5 alternative energy production tax credit for the taxable year in
6 an amount equal to 75% of the total amount of all capital,
7 operation and maintenance costs paid for alternative energy
8 technologies in the taxable year to be applied against the
9 taxpayer's qualified tax liability.

10 Section 905. Carryover and carryback of credit.

11 (a) Carryover.--If the taxpayer cannot use the entire amount
12 of the alternative energy production tax credit for the taxable
13 year in which the alternative energy production tax credit is
14 first approved, the excess may be carried over to succeeding
15 taxable years and used as a credit against the qualified tax
16 liability of the taxpayer for those taxable years. Each time
17 that the alternative energy production tax credit is carried
18 over to a succeeding taxable year, it is to be reduced by the
19 amount that was used as a credit during the immediately
20 preceding taxable year. The alternative energy production tax
21 credit provided under this chapter may be carried over and
22 applied to succeeding taxable years for no more than five
23 taxable years following the first taxable year for which the
24 taxpayer was entitled to claim the credit.

25 (b) Application.--An alternative energy production tax
26 credit approved by the department in a taxable year first shall
27 be applied against the taxpayer's qualified tax liability for
28 the current taxable year as of the date on which the credit was
29 approved before the alternative energy production tax credit is
30 applied against any tax liability under subsection (a).

1 (c) Carryback.--A taxpayer is not entitled to carry back or
2 obtain a refund of an unused alternative energy production tax
3 credit.

4 Section 906. Limitation on tax credits.

5 The total amount of credits approved by the department shall
6 not exceed \$20,000,000 in any fiscal year. If the amount of the
7 alternative energy production credits applied for in a taxable
8 year exceeds \$20,000,000, the department shall proportionally
9 award the tax credits awarded to each taxpayer.

10 Section 907. Reporting.

11 (a) General rule.--No later than September 1 of each year,
12 the department, in cooperation with the Department of Community
13 and Economic Development, shall submit a report to the General
14 Assembly summarizing the effectiveness of the tax credit
15 provided under this chapter. The report shall include the name
16 of each taxpayer utilizing the credit as of the date of the
17 report and the amount of credits approved for, utilized by or
18 sold or assigned by each taxpayer. The report may also include
19 recommendation for changes in the calculation or administration
20 of the tax credit. The report shall be submitted to the chairman
21 and minority chairman of the Appropriations Committee of the
22 Senate, the chairman and minority chairman of the Finance
23 Committee of the Senate, the chairman and minority chairman of
24 the Appropriations Committee of the House of Representatives and
25 the chairman and minority chairman of the Finance Committee of
26 the House of Representatives. The report shall include the
27 following information, which shall be separated by geographic
28 location within this Commonwealth:

29 (1) The amount of credits claimed during the fiscal
30 year.

1 (2) The number of alternative energy production projects
2 receiving a tax credit and the dollar amount of tax credits
3 granted under this chapter in the aggregate and by project.

4 (3) The types, locations and costs of projects.

5 (4) The total amount spent in this Commonwealth during
6 the fiscal year by each alternative energy production
7 project.

8 (5) The estimated benefits of the projects in creating
9 alternative energy.

10 (6) The total amount of tax revenues generated in this
11 Commonwealth from alternative energy production projects.

12 (7) The total number of jobs created during the fiscal
13 year by alternative energy production projects.

14 (b) Public information.--Notwithstanding any law providing
15 for confidentiality of tax records, the following shall be
16 public information:

17 (1) Information in the report under subsection (a) which
18 shall be posted on the department's and the Department of
19 Community and Economic Development's Internet website.

20 (2) The identity of each taxpayer utilizing a tax credit
21 under this chapter and the amount of credits approved and
22 utilized by each taxpayer which shall be made available
23 annually, beginning no later than one year after the credits
24 were granted.

25 Section 908. Termination.

26 The department shall not approve an alternative energy
27 production tax credit under this chapter for taxable years
28 ending after December 31, 2015.

29 Section 909. Regulations.

30 The department shall promulgate regulations necessary for the

1 implementation and administration of this chapter.

2 Section 910. Applicability.

3 The addition of this chapter shall apply to tax years
4 beginning after December 31, 2007.

5 CHAPTER 29

6 MISCELLANEOUS PROVISIONS

7 Section 2901. Effective date.

8 This act shall take effect in 60 days.