

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2342 Session of  
2010

INTRODUCED BY HORNAMAN, FABRIZIO, SONNEY, HARKINS AND J. EVANS,  
MARCH 18, 2010

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 18, 2010

AN ACT

1 Authorizing the Department of General Services to lease  
2 submerged lands in excess of 25 acres within Erie County, for  
3 the development, construction and operation of utility scale  
4 offshore wind generation facilities.

5 The General Assembly finds and declares as follows:

6 (1) That the potential for generation of electricity  
7 through development of wind energy conversion systems in Lake  
8 Erie would provide significant benefits to the Commonwealth.

9 (2) That legislation should be enacted to permit the  
10 development, construction and operation of wind energy  
11 conversion facilities in Lake Erie.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. Lands within the Lake Erie Basin.

15 (a) Authorization.--The Commonwealth owns lands within the  
16 bed of Lake Erie, all of which lands are located in Erie County.

17 (b) The Department of General Services, with the concurrence  
18 of the Department of Environmental Protection, acting on behalf  
19 of the Commonwealth, is hereby authorized to lease submerged

1 lands in excess of 25 acres within the bed of Lake Erie in Erie  
2 County for the development of utility scale systems to convert  
3 wind energy to electricity. This development may include  
4 electrical collection and transmission facilities and other  
5 related structures.

6 Section 2. Lease conditions.

7 (a) Qualifications of lessees.--A lease approved under  
8 section 1 shall be restricted to lessees who can demonstrate the  
9 expertise and capability to develop wind energy conversion  
10 projects and who have a high likelihood of community and public  
11 acceptance in Erie County.

12 (b) Waters of the Commonwealth.--A lease approved under  
13 section 1 shall insure reasonable accommodation for fishing,  
14 maritime commerce and other current and future commercial and  
15 recreational uses of the waters of the Commonwealth now held in  
16 the public trust.

17 (c) Term of lease.--A lease approved under section 1 shall  
18 be for a term of up to 49 years and may be extended, at the  
19 option of the lessee, for all or any portion of the leased  
20 premises for an additional term of up to 49 years. Any such  
21 lease shall contain a provision for termination after ten years  
22 if the lessee has not initiated construction of wind energy  
23 conversion systems.

24 (d) Improvements.--Development of the parcels authorized to  
25 be leased in this section shall be for utility scale systems to  
26 convert wind energy to electricity, including electrical  
27 collection and transmission facilities and other related  
28 structures. No construction, installation or operation of wind  
29 energy conversion facilities or other related structures on the  
30 lands subject to lease shall commence without adherence to

1 Federal and State laws and prior receipt of all applicable  
2 Federal and State permits.

3 (e) Covenants.--These conditions shall be covenants that run  
4 with the land and shall be binding upon the lessee, any  
5 sublessee and their respective successors and assigns. Should  
6 the lessee, any sublessee or any of their respective successors  
7 or assigns permit the parcels authorized to be leased under this  
8 section, or any portion thereof, to be used in a manner  
9 inconsistent with the conditions contained in this subsection,  
10 all rights and interests in the lease authorized by this act  
11 shall terminate immediately.

12 (f) Lease agreement.--Any such lease and any other documents  
13 hereby contemplated shall be approved as to form and legality by  
14 the Attorney General and the Office of General Counsel and shall  
15 be executed by the Department of General Services, with the  
16 concurrence of the Department of Environmental Protection, which  
17 approvals shall not be unreasonably withheld, in the name of the  
18 Commonwealth. The lease shall grant the lessee, and all  
19 successors, assigns and sublessees, the right to use the above-  
20 described premises, or to assign the lease or sublease or permit  
21 the sublease of the above-described premises for the purposes of  
22 development of utility scale systems to convert wind energy to  
23 electricity. The lease shall also grant the lessee, and all  
24 successors, assigns and sublessees, the right to develop,  
25 construct and operate one or more submarine electrical  
26 transmission cables from the above-described premises to the  
27 shoreline in Erie County.

28 (g) Sublease.--The Department of General Services, with the  
29 concurrence of the Department of Environmental Protection,  
30 acting on behalf of the Commonwealth, is also specifically

1 authorized to enter into one or more nondisturbance agreements  
2 with any sublessee of the premises described in this section  
3 pursuant to which the Commonwealth will agree that, if the  
4 Commonwealth succeeds to the interest of the sublessor under a  
5 sublease, it will not terminate the sublease unless the  
6 sublessee is in default.

7 (h) Consideration.--The Department of General Services shall  
8 lease the land within the bed of Lake Erie as described in  
9 subsection (b) upon such terms and conditions and for such  
10 consideration as it shall, with the concurrence of the  
11 Department of Environmental Protection, establish through the  
12 lease agreements.

13 (i) Costs and fees.--Costs and fees incidental to the lease  
14 authorized by this section shall be borne by the lessee,  
15 including the costs incurred by the Department of General  
16 Services and the Department of Environmental Protection, in the  
17 preparation, execution and review of the lease, nondisturbance  
18 agreements and related documents.

19 Section 3. Other applicable legislation.

20 Nothing herein shall affect or otherwise limit the  
21 requirements of the provisions of the act of November 26, 1978  
22 (P.L.1375, No.325), known as the Dam Safety and Encroachments  
23 Act, which may require further measures to provide for public  
24 access and use of the land and adjacent water.

25 Section 4. Sunset provision.

26 In the event that a lease authorized by this act does not  
27 occur within 24 months following the effective date of this act,  
28 the authority contained in this act shall be void.

29 Section 5. Effective date.

30 This act shall take effect immediately.