

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1078 Session of
2001

INTRODUCED BY BARD, TULLI, HERSHEY, WOJNAROSKI, BASTIAN, RUBLEY,
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STEELMAN, STEIL, SURRA, E. Z. TAYLOR, TRELLO, VITALI, WALKO,
WANSACZ, WATSON, YOUNGBLOOD AND YUDICHAK, MARCH 20, 2001

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MARCH 20, 2001

AN ACT

1 Providing for wind energy enterprise designation to foster the
2 development of wind energy generation sites; providing tax
3 exemptions, providing tax credits, establishing the Wind
4 Energy Infrastructure Improvement Fund; and prescribing
5 powers and duties of certain State departments.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Wind Energy
10 Enterprise Act.

11 Section 2. Definitions.

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

15 "Department." The Department of Community and Economic
16 Development of the Commonwealth.

1 "Fund." The Wind Energy Infrastructure Improvement Fund
2 established pursuant to section 8.

3 "Person." An individual, partnership, association, company,
4 corporation, joint venture or other business entity,
5 municipality, municipal authority or political subdivision.

6 "Qualified business." A partnership, association, company,
7 corporation, joint venture or other business entity qualified
8 pursuant to section 4.

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

11 Section 3. Wind energy enterprise designation.

12 (a) Establishment.--There is hereby established within the
13 department a program providing for wind energy enterprise
14 designation.

15 (b) Authorization.--The department shall designate persons
16 or businesses as wind energy enterprises. Persons and businesses
17 that are qualified under this act shall be entitled to all tax
18 exemptions, deductions, abatements or credits set forth in this
19 act for a period not to exceed 15 years beginning January 1,
20 2002, and ending on or before December 31, 2016.

21 Section 4. Qualified businesses.

22 In order to qualify each year for a tax exemption, deduction,
23 abatement or credit under this act, a business shall actively
24 produce electric power from wind energy for sale. The qualified
25 business shall receive certification from the department that
26 the business is designated as such and is actively producing
27 electric power from wind energy for sale. The business shall
28 obtain annual renewal of the certification from the department
29 to continue to qualify under this section.

30 Section 5. State taxes.

1 (a) General rule.--A qualified business shall receive the
2 exemptions, deductions, abatements or credits as provided in
3 sections 6 and 7 for the duration of the wind energy enterprise
4 designation. Exemptions, deductions, abatements or credits shall
5 expire on the date of expiration of the wind energy enterprise
6 designation.

7 (b) Construction.--The Department of Revenue shall
8 administer, construe and enforce the provisions of this section
9 and sections 6 and 7 in conjunction with Articles II, III, IV,
10 V, VI, VII, VII-A, IX and XV of the Tax Reform Code of 1971.
11 Section 6. Sales and use tax exemption.

12 (a) Exemption.--Sales at retail of services or tangible
13 personal property, other than motor vehicles, to a qualified
14 business for the exclusive use, consumption and utilization of
15 the tangible personal property or service by the qualified
16 business at its facility producing electric power from wind
17 energy are exempt from the sales and use tax imposed under
18 Article II of the Tax Reform Code of 1971.

19 (b) Electric generation.--Electricity generated by a
20 qualified business at its facility installed after January 1,
21 1999, and sold for resale shall be exempt from the sales and use
22 tax imposed under Article II of the Tax Reform Code of 1971.
23 Section 7. Investment tax credit.

24 (a) Credit.--Any person investing in a qualified business as
25 described in section 4(a) shall receive a tax credit pursuant to
26 subsection (c) if the department annually approves the written
27 proposal of such person. The proposal shall set forth the
28 investment to be made, including the amount and the qualified
29 business invested in and what the investment is specifically
30 anticipated to be used for, including, but not limited to, the

1 purchase of land, equipment or facilities.

2 (b) Decision in writing.--The decision of the department to
3 approve or disapprove a proposal pursuant to subsection (a)
4 shall be in writing, and if it approves the proposal, it shall
5 state the maximum credit allowable to the business firm. A copy
6 of the decision of the department shall be transmitted to the
7 Governor and to the Department of Revenue.

8 (c) Grant of investment tax credit.--The Department of
9 Revenue shall grant a tax credit against any tax due under the
10 Tax Reform Code of 1971 in an amount equal to the total amount
11 invested during the taxable year by the person approved pursuant
12 to subsection (a). No tax credit shall be granted to any bank,
13 bank and trust company, insurance company, trust company,
14 national bank, savings association, mutual savings bank or
15 building and loan association for activities that are a part of
16 its normal course of business. Any tax credit not used in the
17 period the investment was made may be carried over for the next
18 five succeeding calendar or fiscal years until the full credit
19 has been allowed. The total amount of all tax credits allowed
20 pursuant to this act shall not exceed \$18,000,000 in any one
21 fiscal year.

22 (d) Regulations.--The department is hereby authorized to
23 promulgate rules and regulations for the approval or disapproval
24 of such proposals and provide a listing of all applications
25 received and their disposition in each fiscal year to the
26 General Assembly by October 1 of the following fiscal year.

27 Section 8. Wind Energy Infrastructure Improvement Fund.

28 (a) Establishment.--There is hereby established a separate
29 fund in the State Treasury to be known as the Wind Energy
30 Infrastructure Improvement Fund. The fund shall be administered

1 by the department.

2 (b) Use.--The fund may be used to provide grants to assist a
3 qualified business or a person intending to establish a
4 qualified business with infrastructure improvements to an
5 existing or proposed wind energy generation site or facility.
6 The department shall promulgate regulations for the issuance of
7 grants.

8 (c) Grants.--Any qualified business or person intending to
9 establish a qualified business wishing to obtain a grant shall
10 submit a written proposal for such grant. The department shall
11 promulgate regulations for the submittal and contents of
12 proposals.

13 (d) Decision in writing.--The decision of the department to
14 approve or disapprove a proposal pursuant to subsection (c)
15 shall be in writing, and, if it approves the proposal, it shall
16 state the maximum amount of the proposal. A copy of the decision
17 of the department shall be transmitted to the Governor.

18 (e) Appropriation.--The sum of \$10,000,000, or as much
19 thereof as may be necessary, is hereby appropriated to the
20 Department of Community and Economic Development for deposit
21 into the Wind Energy Infrastructure Improvement Fund.
22 Appropriations to the fund shall not lapse. Sufficient
23 appropriations shall be made annually in order to maintain a
24 minimum balance of \$10,000,000. Should annual grant activity
25 exceed the funds available, the General Assembly may supplement
26 the fund to restore it to the full annual appropriation.

27 Section 9. Effective date.

28 This act shall take effect in 60 days.