
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 121 Session of
2003

INTRODUCED BY BARD, HERSHEY, LEVDANSKY, BUNT, HERMAN, RUBLEY,
BALDWIN, CREIGHTON, CURRY, DALEY, FAIRCHILD, GEORGE, HORSEY,
LEACH, MANN, S. MILLER, MUNDY, PAYNE, ROSS, SATHER, SAYLOR,
SCHRODER, SEMMEL, STERN, TANGRETTI, THOMAS, TIGUE, WATSON,
WRIGHT AND ZUG, FEBRUARY 10, 2003

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
FEBRUARY 10, 2003

AN ACT

1 Authorizing tax credits for qualified alternative fuel
2 producers; establishing the Alternative Fuel and Energy
3 Infrastructure Improvement Fund; and making an appropriation.

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

6 Section 1. Short title.

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

9 Section 2. Legislative findings.

10 (1) The General Assembly finds that there is an
11 increasing need for the development of renewable and energy-
12 efficient technologies, including wind power, solar thermal
13 electric systems, biomass-based power systems, geothermal
14 energy, biofuels, hydrogen-based energy systems, electric
15 energy systems and storage, photovoltaic energy systems and
16 other new and innovative research-based technologies deemed

1 appropriate.

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

7 Section 3. Definitions.

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

11 "Alternative fueled hybrid vehicle." A vehicle that uses an
12 alternative fuel to produce electricity, which in turn powers an
13 electric drive motor for vehicle propulsion.

14 "Alternative fuels." A motor vehicle fuel which, when
15 compared to conventional or reformulated gasoline, will result
16 in lower emissions of oxides of nitrogen (NOx), volatile organic
17 compounds (VOC), carbon monoxide (CO), particulates or any
18 combination thereof. These include compressed natural gas (CNG),
19 liquefied natural gas (LNG), liquid petroleum or propane gas
20 (LPG), alcohols, hydrogen, hythane (H2 and CNG), electricity,
21 coal-derived liquid fuels, fuels derived from biological
22 materials, and other fuels that the Secretary of the United
23 States Department of Energy determines by rule as meeting the
24 requirements of section 301 of the Energy Policy Act of 1992
25 (Public Law 102-486, 42 U.S.C. § 13211(2)).

26 "Department." The Department of Community and Economic
27 Development of the Commonwealth.

28 "Fund." The Alternative Fuel and Energy Infrastructure
29 Improvement Fund established under section 9.

30 "Person." An individual, partnership, association, company,

1 corporation, joint venture or other business entity,
2 municipality, municipal authority or political subdivision.

3 "Qualified alternative fuel producer." Any producer of an
4 alternative fuel whose principal place of business and facility
5 for the production of an alternative fuel is located within this
6 Commonwealth.

7 "Qualified business." A partnership, association, company,
8 corporation, joint venture or other business entity qualified
9 pursuant to section 5.

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

12 Section 4. Alternative fuel or alternative energy enterprise
13 designation.

14 (a) Establishment.--There is hereby established within the
15 department a program providing for alternative fuel or
16 alternative energy enterprise designation.

17 (b) Authorization.--The department shall designate persons
18 or businesses as alternative fuel or alternative energy
19 enterprises. Persons and businesses that are qualified under
20 this act shall be entitled to all tax exemptions, deductions,
21 abatements or credits set forth in this act for a period not to
22 exceed 15 years beginning January 1, 2003, and ending on or
23 before December 31, 2017.

24 Section 5. Qualified businesses.

25 In order to qualify each year for a tax exemption, deduction,
26 abatement or credit under this act, a business shall meet any
27 one or more of the following criteria:

28 (1) The business is a qualified alternative fuel
29 producer as defined in section 3.

30 (2) The business is actively engaged in the business of

1 generating electricity from alternative energy sources. This
2 shall include the design, manufacture, distribution,
3 operation, servicing or maintenance of alternative energy
4 projects or equipment. The business shall receive
5 certification from the department that it is designated as
6 such and is actively engaged in the alternative energy
7 generation business.

8 (3) The business has invested in pollution control
9 equipment approved by the United States Environmental
10 Protection Agency.

11 (4) The business is a manufacturer of alternative fuel
12 vehicles, including, but not limited to, alternative fueled
13 hybrid vehicles as defined in section 3.

14 (5) The business is actively engaged in the production
15 of alternative fuels, the manufacturing of equipment,
16 products or techniques utilizing alternative fuels or the
17 production of energy-efficient equipment, products or
18 techniques used in the generation of electricity from
19 renewable resources, including, but not limited to, wind
20 power, solar thermal electric systems, biomass-based power
21 systems, geothermal energy, biofuels, hydrogen-based energy
22 systems, electric energy systems and storage and photovoltaic
23 energy systems.

24 Section 6. State taxes.

25 (a) General rule.--A qualified business shall receive the
26 exemptions, deductions, abatements or credits as provided in
27 sections 7 and 8 for the duration of the alternative fuel or
28 alternative energy enterprise designation. Exemptions,
29 deductions, abatements or credits shall expire on the date of
30 expiration of the alternative fuel or alternative energy

1 enterprise designation.

2 (b) Construction.--The Department of Revenue shall
3 administer, construe and enforce the provisions of this section
4 and sections 7 and 8 in conjunction with Articles II, III, IV,
5 VI, VII, IX and XV of the Tax Reform Code of 1971.

6 Section 7. Sales and use tax exemption.

7 (a) Exemption.--Sales at retail of services or tangible
8 personal property, other than motor vehicles, to a qualified
9 business for the exclusive use, consumption and utilization of
10 the tangible personal property or service by the qualified
11 business at its business facility are exempt from the sales and
12 use tax imposed under Article II of the Tax Reform Code of 1971.

13 (b) Electric generation.--Electricity generated by a
14 qualified business at its facility installed after January 1,
15 1999, and sold at retail shall be exempt from the sales and use
16 tax imposed under Article II of the Tax Reform Code of 1971.

17 Section 8. Investment tax credit.

18 (a) Credit.--Any person investing in a qualified business as
19 described in section 5 shall receive a tax credit pursuant to
20 subsection (c) if the department annually approves the written
21 proposal of such person. The proposal shall set forth the
22 investment to be made, including the amount and the qualified
23 business invested in and what the investment is specifically
24 anticipated to be used for, including, but not limited to, the
25 purchase of land, equipment or facilities.

26 (b) Decision in writing.--The decision of the department to
27 approve or disapprove a proposal pursuant to subsection (a)
28 shall be in writing, and, if it approves the proposal, it shall
29 state the maximum credit allowable to the business firm. A copy
30 of the decision of the department shall be transmitted to the

1 Governor and to the Department of Revenue.

2 (c) Grant of investment tax credit.--

3 (1) The Department of Revenue shall grant a tax credit
4 against any tax due under the Tax Reform Code of 1971 in an
5 amount equal to the total amount invested during the taxable
6 year by the person approved under subsection (a).

7 (2) The tax credit shall equal 1.5 cents for each
8 kilowatt hour of electricity generated and shall not be based
9 upon the amount invested. The investment tax credit provided
10 herein is intended to be in addition to and not a replacement
11 of any Federal production tax credit now existing or
12 hereafter enacted, and the department and the Department of
13 Revenue shall adopt such regulations and take such action as
14 necessary and appropriate to effectuate this intent.

15 (3) No tax credit shall be granted to any bank, bank and
16 trust company, insurance company, trust company, national
17 bank, savings association, mutual savings bank or building
18 and loan association for activities that are a part of its
19 normal course of business. Any tax credit not used in the
20 period the investment was made may be carried over for the
21 next five succeeding calendar or fiscal years until the full
22 credit has been allowed. The total amount of all tax credits
23 allowed pursuant to this act shall not exceed \$30,000,000 in
24 any one fiscal year.

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

30 Section 9. Alternative Fuel and Energy Infrastructure

1 Improvement Fund.

2 (a) Establishment.--There is hereby established a separate
3 fund in the State Treasury to be known as the Alternative Fuel
4 and Energy Infrastructure Improvement Fund. The fund shall be
5 administered by the department. In addition to appropriations
6 approved by the General Assembly, the fund shall include those
7 cost savings realized by the Commonwealth as the result of
8 guaranteed energy savings contracts entered into by Commonwealth
9 agencies as provided for in 62 Pa.C.S. Ch. 37 Subch. E (relating
10 to guaranteed energy savings contracts).

11 (b) Use.--The fund may be used to provide grants to assist a
12 qualified business or a person intending to establish a
13 qualified business with infrastructure improvements, such as
14 access roads or transmission, production facilities,
15 distribution or interconnection facilities, pollution control
16 equipment or for any other purpose approved by the department.
17 The department shall promulgate regulations for the issuance of
18 grants.

19 (c) Proposals.--Any qualified business or person intending
20 to establish a qualified business wishing to obtain a grant
21 shall submit a written proposal for such grant. The department
22 shall promulgate regulations for the submittal and contents of
23 proposals.

24 (d) Decision in writing.--The decision of the department to
25 approve or disapprove a proposal pursuant to subsection (c)
26 shall be in writing, and, if the department approves the
27 proposal, it shall state the maximum amount of the grant. A copy
28 of the decision of the department shall be transmitted to the
29 Governor.

30 (e) Appropriation.--Appropriations to the fund shall not

1 lapse. Sufficient appropriations shall be made annually in order
2 to maintain a minimum balance of \$10,000,000. Should annual
3 grant activity exceed the funds available, the General Assembly
4 may supplement the fund to restore it to the full annual
5 appropriation.

6 Section 10. Appropriation.

7 The sum of \$10,000,000 is hereby appropriated to the
8 Department of Community and Economic Development for deposit
9 into the Alternative Fuel and Energy Infrastructure Improvement
10 Fund.

11 Section 11. Effective date.

12 This act shall take effect in 60 days.