PRINTER'S NO. 782

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 696 Session of 2007

INTRODUCED BY ROSS, ADOLPH, BASTIAN, BELFANTI, BENNINGHOFF, BENNINGTON, BOYD, CALTAGIRONE, CAPPELLI, CARROLL, CUTLER, DENLINGER, DePASQUALE, EVERETT, FABRIZIO, GEIST, GEORGE, GINGRICH, GOODMAN, GRELL, HERSHEY, KILLION, KING, KORTZ, MAHONEY, MAJOR, MANDERINO, MANN, MOYER, MUNDY, MUSTIO, NAILOR, M. O'BRIEN, PAYNE, PEIFER, PETRI, READSHAW, REED, REICHLEY, RUBLEY, SANTONI, SAYLOR, SCAVELLO, SCHRODER, STEIL, STERN, STURLA, SURRA, THOMAS, WANSACZ, WATSON, WHEATLEY, YUDICHAK, SIPTROTH AND FRANKEL, MARCH 9, 2007

REFERRED TO COMMITTEE ON FINANCE, MARCH 9, 2007

AN ACT

Authorizing investment tax credits for qualified alternative energy enterprises.

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

Section 1. Short title.

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

Section 2. Legislative findings.

The General Assembly finds and declares that:

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

storage, photovoltaic energy systems and other new and innovative technologies deemed appropriate.

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

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

Section 3. Definitions.

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

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

"Alternative fuels." A motor vehicle fuel that, when compared to conventional or reformulated gasoline, results in lower emissions of oxides of nitrogen (NOx), volatile organic compounds (VOC), carbon monoxide (CO), particulates or any combination thereof. This term includes, but is not limited to: compressed natural gas (CNG), liquefied natural gas (LNG), liquid petroleum or propane gas (LPG), ethanol blended as E85, methanol blended as M85, hydrogen, hythane, any combination of compressed natural gas and hydrogen, electricity, coal-derived liquid fuels, biofuels and other fuels determined by rule of the Secretary of the United States Department of Energy under the definition of "alternative fuel" in section 301 of the Energy Policy Act of 1992 (Public Law 102-486, 42 U.S.C. § 13211).

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

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

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

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

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

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

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

(1) An internal combustion engine using combustible fuel.

(2) A rechargeable energy storage system.

"Pennsylvania alternative resources." Energy from any of the following:

(1) Fuel cells.

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

(3) Coal mine methane.

"Person." An individual resident of this Commonwealth.

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

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

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

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

"Qualified expense." The cost of capital equipment directly

related to the activities used by a qualified alternative energy enterprise, qualified alternative fuel enterprise or a qualified manufacturer of alternative fuel or hybrid vehicles.

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

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

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

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

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

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

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

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

(iii) Provide an adequate water flow for protection of aquatic life, provide for safe and effective fish

passage, protect against erosion and protect cultural and historic resources.

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

(6) Geothermal systems.

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

Section 4. Alternative fuel or alternative energy enterprise designation.

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

(b) Eligibility.--

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

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

Section 5. Qualified businesses.

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

(1) A qualified alternative energy enterprise.

(2) A qualified alternative fuel enterprise.

(3) A manufacturer of alternative fuel vehicles, including, but not limited to, dedicated alternative fuel-

powered vehicles or hybrid vehicles.

Section 6. State taxes.

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

(b) Administration and regulations.--

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

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

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

Section 7. Renewable energy investment tax credit.

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

(b) Applicable taxes.--The renewable energy investment tax credit authorized by this section may be applied against any tax due under Articles III, IV and VI of the Tax Reform Code of 1971.

(c) Authorization.--

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

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

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

(d) Carryover.--

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

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

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

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

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

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

Section 8. Annual report.

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

Representatives on the activities undertaken pursuant to this act. The report shall, at a minimum, include information on:

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

(2) The types of businesses receiving the credits.

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

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

Section 9. Effective date.

This act shall take effect in 60 days.