

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL**

**No. 1088** Session of  
2007

INTRODUCED BY BROWNE, RAFFERTY, ERICKSON, ORIE, ARMSTRONG,  
PIPPY, WONDERLING, BAKER AND WAUGH, SEPTEMBER 17, 2007

REFERRED TO FINANCE, SEPTEMBER 17, 2007

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," providing for an alternative energy tax credit.

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

13 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as  
14 the Tax Reform Code of 1971, is amended by adding an article to  
15 read:

ARTICLE XVIII-C

ALTERNATIVE ENERGY TAX CREDIT

18 Section 1801-C. Definitions.

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

1 "Alternative energy." Electrical, mechanical or thermal  
2 energy produced from a method that uses one or more of the  
3 following fuels or energy sources:

4 (1) Hydrogen.

5 (2) Biomass.

6 (3) Solar energy.

7 (4) Geothermal energy.

8 (5) Wind energy.

9 (6) Waste heat.

10 (7) Waste coal.

11 (8) Hydroelectric power.

12 "Alternative energy tax credit." The credit provided for  
13 under this article.

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

15 "Qualified tax liability." The liability for taxes imposed  
16 under Article III, IV, V or VI. The term does not include any  
17 tax withheld by an employer from an employee under Article III.

18 "Taxpayer." An entity subject to tax under Article III, IV,  
19 V or VI.

20 Section 1802-C. Eligible applicants.

21 (a) Eligibility.--Except as provided under subsection (b), a  
22 taxpayer who produces alternative energy which is sold to an  
23 unrelated entity may apply for an alternative energy tax credit  
24 as provided under this article. By February 1 of each year, a  
25 taxpayer must submit an application to the department for the  
26 alternative energy that was produced in the taxable year that  
27 ended in the prior calendar year.

28 (b) Prohibition.--A taxpayer that applies for an alternative  
29 energy technologies tax credit may not apply for an alternative  
30 energy tax credit under this article.

1 Section 1803-C. Award of tax credits.

2 A taxpayer that is qualified under section 1802-C may receive  
3 an alternative energy tax credit for the taxable year in the  
4 amount equal to \$0.01 per kWh of the alternative energy produced  
5 to be applied against the taxpayer's qualified tax liability. A  
6 taxpayer's facility that is fully constructed after the  
7 effective date of this section may receive an alternative energy  
8 tax credit based on the facility's total energy production. A  
9 taxpayer's facility that is expanded after the effective date of  
10 this section may receive an alternative energy tax credit based  
11 on the portion of the facility's total energy production that  
12 resulted due to the expansion.

13 Section 1804-C. Carryover and carryback of credit.

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

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

1 before the alternative energy tax credit is applied against any  
2 tax liability under subsection (a).

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

5 Section 1805-C. Limitation on tax credits.

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

11 Section 1806-C. Termination.

12 The department shall not approve an alternative energy tax  
13 credit under this article for taxable years ending after  
14 December 31, 2012.

15 Section 1807-C. Regulations.

16 The department shall promulgate regulations necessary for the  
17 implementation and administration of this article.

18 Section 2. The addition of Article XVIII-C of the act shall  
19 apply to tax years beginning after December 31, 2007.

20 Section 3. This act shall take effect immediately.