

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1089 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 alternative energy technologies tax
11 credit.

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

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

17 ARTICLE XVIII-C

18 ALTERNATIVE ENERGY TECHNOLOGIES TAX CREDIT

19 Section 1801-C. Definitions.

20 The following words and phrases when used in this article
21 shall have the meanings given to them in this section unless the
22 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 technologies investment." An investment
13 in an alternative energy fuel operation or an alternative energy
14 technology, including the cost of constructing, installing or
15 equipping the technology in this Commonwealth.

16 "Alternative energy technologies tax credit." The credit
17 provided for under this article.

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

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

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

24 Section 1802-C. Eligible applicants.

25 A taxpayer who invests in alternative energy technologies may
26 apply for an alternative energy technologies tax credit as
27 provided under this article. By February 1 of each year, a
28 taxpayer must submit an application to the department for the
29 amount of the investment in alternative energy technologies that
30 was made in the taxable year that ended in the prior calendar

year. If the amount of credits exceeds the limit established under section 1805-C, a taxpayer may reapply for an alternative energy technologies tax credit in the following tax year and shall be given priority for the credit by the department.

Section 1803-C. Award of tax credits.

A taxpayer that is qualified under section 1802-C may receive an alternative energy technologies tax credit for the taxable year in an amount equal to 75% of the total amount of all capital, operation and maintenance costs paid for alternative energy technologies in the taxable year to be applied against the taxpayer's qualified tax liability.

Section 1804-C. Carryover and carryback of credit.

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

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

1 approved before the alternative energy technologies tax credit
2 is applied against any 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 technologies tax
5 credit.

6 Section 1805-C. Limitation on tax credits.

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

12 Section 1806-C. Termination.

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

16 Section 1807-C. Regulations.

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

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

21 Section 3. This act shall take effect immediately.