
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 798 Session of
2023

INTRODUCED BY MASTRIANO, BARTOLOTTA, J. WARD, DUSH AND GEBHARD,
JUNE 28, 2023

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, JUNE 28, 2023

AN ACT

1 Providing for solar energy facilities on certain land; imposing
2 powers and duties on the Department of Agriculture; and
3 providing for a tax credit.

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 Solar Energy
8 Facility Location Act.

9 Section 2. Definitions.

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

13 "Abandoned mine." An area of land that is no longer in use
14 and is placed upon, under or above the surface of another area
15 of land by a person, used in extracting a natural resource from
16 its natural deposits in the earth by any means or method.

17 "Agricultural land." Land that is used or capable of being
18 used for a normal agricultural operation.

1 "Brownfield." A property, the expansion, redevelopment or
2 reuse of which may be complicated by the presence or potential
3 presence of a hazardous substance, pollutant or contaminant.

4 "Capped landfill." A capped facility of trash and garbage
5 disposal in which the waste is buried between layers of earth.

6 "Department." The Department of Agriculture of the
7 Commonwealth.

8 "Normal agricultural operation." As defined in section 2 of
9 the act of June 10, 1982 (P.L.454, No.133), referred to as the
10 Right-to-Farm Law.

11 "Parking facility canopy." A structure that is constructed
12 over the top of a public or private parking lot.

13 "Solar energy facility." A facility that is designed for the
14 supply of merchant power and utilizes solar energy to produce or
15 distribute energy.

16 "Warehouse." The term includes a distribution facility,
17 fulfillment center, logistics facility and similar uses.

18 "Warehouse rooftop." A roof that is located on a building or
19 group of buildings primarily used for indoor storage, transfer
20 and distribution of products and materials, but not including
21 retail uses or a truck terminal.

22 Section 3. Location of solar energy facilities.

23 A solar energy facility may not be located on agricultural
24 land with soil that is deemed Class 1 or Class 2 within the Land
25 Capability Classification System of the Natural Resource
26 Conservation Service.

27 Section 4. Soil classification certification.

28 (a) Request for determination.--The owner of agricultural
29 land that wishes to lease the land for the purposes of siting a
30 solar energy facility must submit a written request to the

1 department for a determination as to whether the land is
2 considered Class 1 or Class 2 soil. The request must be
3 submitted in such form and manner as prescribed by the
4 department.

5 (b) Review and certification by department.--

6 (1) Within 30 days of receipt of a written request
7 submitted under subsection (a), the department shall review
8 the request to determine whether the proposed solar facility
9 is located on Class 1 or Class 2 soil.

10 (2) The department shall provide notification to the
11 requester after a determination is made electronically, if
12 electronic contact information is available, and by certified
13 and registered mail.

14 Section 5. Tax credit.

15 (a) Eligibility.--The owner of a solar energy facility may
16 claim an annual tax credit against the owner's tax liability
17 under Article IV of the act of March 4, 1971 (P.L.6, No.2),
18 known as the Tax Reform Code of 1971.

19 (b) Application.--

20 (1) The owner of a solar energy facility may apply to
21 the Department of Community and Economic Development of the
22 Commonwealth for a tax credit under this section. The
23 application shall be on the form required by the Department
24 of Community and Economic Development.

25 (2) The application must be submitted to the Department
26 of Community and Economic Development by February 1 of each
27 year for the tax credit claimed during the prior calendar
28 year.

29 (c) Amount.--The tax credit shall be equal to 3¢ per
30 kilowatt, but not to exceed 30% of the project's cost of

1 electricity generated for the first 10 years of the solar energy
2 facility's operation.

3 (d) Annual limit.--The total amount of tax credits issued by
4 the Department of Community and Economic Development under this
5 section may not exceed \$5,000,000 in a fiscal year.

6 (e) Review and approval.--

7 (1) The Department of Community and Economic Development
8 shall review and approve applications meeting the
9 requirements of this article by March 20 of each year.

10 (2) The Department of Community and Economic Development
11 may require information necessary to document that a solar
12 energy facility qualifies as an eligible facility.

13 (3) In the review of an application for a tax credit
14 under this section, the Department of Community and Economic
15 Development shall consult with the Department of
16 Environmental Protection with respect to whether a solar
17 facility qualifies as an eligible facility under subsection
18 (g).

19 (4) Prior to approving an application, the applicant
20 must have:

21 (i) filed all required State tax reports and returns
22 for all applicable taxable years; and

23 (ii) paid any balance of State tax due as determined
24 by assessment or determination by the Department of
25 Revenue and not under timely appeal.

26 (5) Upon approval, the Department of Community and
27 Economic Development shall issue a certificate stating the
28 amount of tax credit granted for electricity generated in the
29 prior calendar year.

30 (f) Availability of tax credits.--Tax credits under this

1 section shall be made available by the Department of Community
2 and Economic Development on a first-come, first-served basis
3 within the limitation established under subsection (d).

4 (g) Land eligible for tax credit.--Any of the following land
5 is eligible for the tax credit:

6 (1) Land that is located on a brownfield.

7 (2) Land that consists of an abandoned mine.

8 (3) Land that consists of a capped landfill.

9 (4) Land that consists of a warehouse rooftop.

10 (5) Land that consists of a parking facility canopy.

11 Section 6. Applicability.

12 This act does not apply to:

13 (1) A solar energy facility sited or under a solar
14 energy facility agreement entered into prior to the effective
15 date of this section.

16 (2) A solar energy facility with a nameplate capacity of
17 two megawatts AC or less.

18 (3) A customer-generator as defined in section 2 of the
19 act of November 30, 2004 (P.L.1672, No.213), known as the
20 Alternative Energy Portfolio Standards Act.

21 (4) Agricultural land where Class 1 and Class 2 soils
22 make up a de minimus portion, as determined by the
23 department, of the total land parcel proposed for a solar
24 energy facility.

25 Section 7. Enforcement.

26 An action to enjoin the development or construction, or to
27 require the removal of, a solar energy facility in violation of
28 this act may be brought, in the name of the Commonwealth, by the
29 Attorney General, the department or the municipality at issue.

30 Section 8. Effective date.

1 This act shall take effect in 60 days.