

# SENATE, No. 2231

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED AUGUST 23, 2010

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Salem, Cumberland and Gloucester)**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Essex, Morris, Somerset and Union)**

**SYNOPSIS**

Allows tax credits for development of qualified wind energy facilities in port district of Port Authority of New York and New Jersey.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning wind energy zones, and amending P.L.2010,  
2 c.57.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 6 of P.L.2010, c.57 (C. ) is amended to read as  
8 follows:

9 6. a. (1) A business, upon application to and approval from the  
10 authority, shall be allowed a credit of 100 percent of its capital  
11 investment, made after the effective date of P.L.2010, c.57 (C. )  
12 but prior to its submission of documentation pursuant to subsection  
13 c. of this section, in a qualified wind energy facility located within  
14 an eligible wind energy zone, pursuant to the restrictions and  
15 requirements of this section. To be eligible for any tax credits  
16 authorized under this section, a business shall demonstrate to the  
17 authority, at the time of application, that the State's financial  
18 support of the proposed capital investment in a qualified wind  
19 energy facility will yield a net positive benefit to the State. The  
20 value of all credits approved by the authority pursuant to this  
21 section may be up to \$100,000,000, except as may be increased by  
22 the authority as set forth below; provided, however, that the  
23 combined value of all credits approved by the authority pursuant to  
24 P.L.2007, c.346 (C.34:1B-207 et seq.), P.L.2009, c.90 (C.52:27D-  
25 489a et al.), and P.L.2010, c.57 (C. ) shall not exceed  
26 \$1,500,000,000. The authority shall monitor application and  
27 allocation activity under P.L.2007, c.346 after taking into account  
28 the allocation under P.L.2007, c.346 and if sufficient credits are  
29 available to those qualified business facilities for which  
30 applications have been filed or for which applications are  
31 reasonably anticipated, and if the chief executive officer judges  
32 certain qualified offshore wind projects to be meritorious, the  
33 aforementioned cap may, in the discretion of the chief executive  
34 officer, be exceeded for allocation to qualified wind energy  
35 facilities in such amounts as the chief executive officer deems  
36 reasonable, justified and appropriate.

37 (2) (a) A business, other than a tenant eligible pursuant to  
38 subparagraph (b) of this paragraph, shall make or acquire capital  
39 investments totaling not less than \$50,000,000 in a qualified wind  
40 energy facility, at which the business, including tenants at the  
41 qualified wind energy facility, shall employ at least 300 new, full-  
42 time employees, to be eligible for a credit under this section. A  
43 business that acquires a qualified wind energy facility after the  
44 effective date of P.L.2010, c.57 (C. ) shall also be deemed to  
45 have acquired the capital investment made or acquired by the seller.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (b) A business that is a tenant in the qualified wind energy  
2 facility, the owner of which has made or acquired capital  
3 investments in the facility totaling more than \$50,000,000, shall  
4 occupy a leased area of the qualified wind energy facility that  
5 represents at least \$17,500,000 of the capital investment in the  
6 qualified wind energy facility at which at least 300 new, full-time  
7 employees in the aggregate are employed, to be eligible for a credit  
8 under this section. The amount of capital investment in a facility  
9 that a leased area represents shall be equal to that percentage of the  
10 owner's total capital investment in the facility that the percentage of  
11 net leasable area leased by the tenant is of the total net leasable area  
12 of the qualified business facility. Capital investments made by a  
13 tenant shall be deemed to be included in the calculation of the  
14 capital investment made or acquired by the owner, but only to the  
15 extent necessary to meet the owner's minimum capital investment  
16 of \$50,000,000. Capital investments made by a tenant and not  
17 allocated to meet the owner's minimum capital investment  
18 threshold of \$50,000,000 shall be added to the amount of capital  
19 investment represented by the tenant's leased area in the qualified  
20 wind energy facility.

21 (c) The calculation of the number of new, full-time employees  
22 required pursuant to subparagraphs (a) and (b) of this paragraph  
23 may include the number of new, full-time positions resulting from  
24 an equipment supply coordination agreement with equipment  
25 manufacturers, suppliers, installers and operators associated with  
26 the supply chain required to support the qualified wind energy  
27 facility.

28 For the purposes of this paragraph, "full time employee" shall  
29 not include an employee who is a resident of another state and  
30 whose income is not subject to the "New Jersey Gross Income Tax  
31 Act," N.J.S.54A:1-1 et seq., unless that state has entered into a  
32 reciprocity agreement with the State of New Jersey, provided that  
33 any employee whose work is provided pursuant to a collective  
34 bargaining agreement with the port district in the wind energy zone  
35 may be included.

36 (3) A business shall not be allowed a tax credit pursuant to this  
37 section if the business participates in a business employment  
38 incentive grant relating to the same capital and employees that  
39 qualify the business for this credit, or if the business receives  
40 assistance pursuant to the "Business Retention and Relocation  
41 Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.). A business  
42 that is allowed a tax credit under this section shall not be eligible  
43 for incentives authorized pursuant to the "Municipal Rehabilitation  
44 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et  
45 al.).

46 (4) Full-time employment for an accounting or privilege period  
47 shall be determined as the average of the monthly full-time  
48 employment for the period.

1       b. A business shall apply for the credit within five years after  
2 the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.), and a  
3 business shall submit its documentation for approval of its credit  
4 amount within eight years after the effective date of P.L.2007,  
5 c.346.

6       c. The credit allowed pursuant to this section shall be  
7 administered in accordance with the provisions of subsection c. of  
8 section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of  
9 P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to  
10 “qualified business facility” shall be deemed to refer to “qualified  
11 wind energy facility,” as that term is defined in subsection f. of this  
12 section.

13       d. The amount of the credit allowed pursuant to this section  
14 shall, except as otherwise provided, be equal to the capital  
15 investment made by the business, or the capital investment  
16 represented by the business' leased area, and shall be taken over a  
17 10-year period, at the rate of one-tenth of the total amount of the  
18 business' credit for each tax accounting or privilege period of the  
19 business, beginning with the tax period in which the business is first  
20 approved by the authority as having met the investment capital and  
21 employment qualifications, subject to any disqualification as  
22 determined by annual review by the authority. In conducting its  
23 annual review, the authority may require a business to submit any  
24 information determined by the authority to be necessary and  
25 relevant to its review. The credit amount for any tax period ending  
26 after the date eight years after the effective date of P.L.2007, c.346  
27 (C.34:1B-207 et seq.) during which the documentation of a  
28 business' credit amount remains unapproved shall be forfeited,  
29 although credit amounts for the remainder of the years of the 10-  
30 year credit period shall remain available. The amount of the credit  
31 allowed for a tax period to a business that is a tenant in a qualified  
32 wind energy facility shall not exceed the business' total lease  
33 payments for occupancy of the qualified wind energy facility for the  
34 tax period.

35       e. The authority shall adopt rules in accordance with the  
36 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
37 seq.) as are necessary to implement this section, including but not  
38 limited to: examples of and the determination of capital investment;  
39 nature of businesses and employment positions constituting and  
40 participating in an equipment supply coordination agreement;  
41 determination of the types of businesses that may be eligible and  
42 expenses that may constitute capital improvements; promulgation of  
43 procedures and forms necessary to apply for a credit; and provisions  
44 for applicants to be charged an initial application fee, and ongoing  
45 service fees, to cover the administrative costs related to the credit.

46       The rules established by the authority pursuant to this subsection  
47 shall be effective immediately upon filing with the Office of  
48 Administrative Law and shall be effective for a period not to exceed

1 12 months and may, thereafter, be amended, adopted or readopted  
2 in accordance with the provisions of the “Administrative Procedure  
3 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

4 f. As used in this section: the terms “authority,” “business,”  
5 and “capital investment” shall have the same meanings as defined in  
6 section 2 of the “Urban Transit Hub Tax Credit Act,” P.L.2007,  
7 c.236 (C.34:1B-208), except that all references therein to “qualified  
8 business facility” shall be deemed to refer to “qualified wind energy  
9 facility” as defined in this subsection.

10 In addition, as used in this section:

11 “Equipment supply coordination agreement” means an  
12 agreement between a business and equipment manufacturer,  
13 supplier, installer, and operator that supports a qualified offshore  
14 wind project, or other wind energy project as determined by the  
15 authority, and that indicates the number of new, full-time jobs to be  
16 created by the agreement participants towards the employment  
17 requirement as set forth in paragraph (2) of subsection a. of this  
18 section.

19 “Qualified offshore wind project” means the same as the term is  
20 defined in section 3 of P.L.1999, c.23 (C.48:3-49 et al.).

21 “Qualified wind energy facility” means any building, complex of  
22 buildings, or structural components of buildings, including water  
23 access infrastructure, and all machinery and equipment used in the  
24 manufacturing, assembly, development or administration of  
25 component parts that support the development and operation of a  
26 qualified offshore wind project, or other wind energy project as  
27 determined by the authority, and that are located in a wind energy  
28 zone.

29 “Wind energy zone” means property located in New Jersey  
30 within the port district of the Port Authority of New York and New  
31 Jersey or the South Jersey Port District established pursuant to “The  
32 South Jersey Port Corporation Act,” P.L.1968, c.60 (C.12:11A-1 et  
33 seq.).

34 (cf: P.L.2010, c.57, s.6)

35

36 2. This act shall take effect immediately.

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#### STATEMENT

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41 This bill would amend the law (P.L.2010, c.57) concerning the  
42 development of offshore wind projects to add the port district of the  
43 Port Authority of New York and New Jersey to the definition of  
44 "wind energy zones." This change would allow tax credits for the  
45 development of qualified wind energy facilities in the port district.