

ASSEMBLY, No. 3564

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

SYNOPSIS

Allows tax credits for development of qualified wind energy facilities in certain portfield sites.

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.34:1B-209.4) is amended to
8 read as 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.48:3-
12 87.1 et al.) but prior to its submission of documentation pursuant to
13 subsection c. of this section, in a qualified wind energy facility
14 located within an eligible wind energy zone, pursuant to the
15 restrictions and requirements of this section. To be eligible for any
16 tax credits authorized under this section, a business shall
17 demonstrate to the authority, at the time of application, that the
18 State's financial support of the proposed capital investment in a
19 qualified wind energy facility will yield a net positive benefit to the
20 State. The value of all credits approved by the authority pursuant to
21 this section may be up to \$100,000,000, except as may be increased
22 by the authority if the chief executive officer of the authority judges
23 certain qualified offshore wind projects to be meritorious. Credits
24 provided pursuant to this section shall not be applicable to the cap
25 on the credits provided in section 3 of P.L.2007, c.346 (C.34:1B-
26 209).

27 (2) (a) A business, other than a tenant eligible pursuant to
28 subparagraph (b) of this paragraph, shall make or acquire capital
29 investments totaling not less than \$50,000,000 in a qualified wind
30 energy facility, at which the business, including tenants at the
31 qualified wind energy facility, shall employ at least 300 new, full-
32 time employees, to be eligible for a credit under this section. A
33 business that acquires a qualified wind energy facility after the
34 effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) shall also be
35 deemed to have acquired the capital investment made or acquired
36 by the seller.

37 (b) A business that is a tenant in the qualified wind energy
38 facility, the owner of which has made or acquired capital
39 investments in the facility totaling more than \$50,000,000, shall
40 occupy a leased area of the qualified wind energy facility that
41 represents at least \$17,500,000 of the capital investment in the
42 qualified wind energy facility at which at least 300 new, full-time
43 employees in the aggregate are employed, to be eligible for a credit
44 under this section. The amount of capital investment in a facility
45 that a leased area represents shall be equal to that percentage of the

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 owner's total capital investment in the facility that the percentage of
2 net leasable area leased by the tenant is of the total net leasable area
3 of the qualified business facility. Capital investments made by a
4 tenant shall be deemed to be included in the calculation of the
5 capital investment made or acquired by the owner, but only to the
6 extent necessary to meet the owner's minimum capital investment of
7 \$50,000,000. Capital investments made by a tenant and not
8 allocated to meet the owner's minimum capital investment threshold
9 of \$50,000,000 shall be added to the amount of capital investment
10 represented by the tenant's leased area in the qualified wind energy
11 facility.

12 (c) The calculation of the number of new, full-time employees
13 required pursuant to subparagraphs (a) and (b) of this paragraph
14 may include the number of new, full-time positions resulting from
15 an equipment supply coordination agreement with equipment
16 manufacturers, suppliers, installers and operators associated with
17 the supply chain required to support the qualified wind energy
18 facility.

19 For the purposes of this paragraph, "full time employee" shall
20 not include an employee who is a resident of another state and
21 whose income is not subject to the "New Jersey Gross Income Tax
22 Act," N.J.S.54A:1-1 et seq., unless that state has entered into a
23 reciprocity agreement with the State of New Jersey, provided that
24 any employee whose work is provided pursuant to a collective
25 bargaining agreement with a business in the wind energy zone may
26 be included.

27 (3) A business shall not be allowed a tax credit pursuant to this
28 section if the business receives a business employment incentive
29 grant pursuant to the "Business Employment Incentive Program
30 Act," P.L.1996, c.26 (C.34:1B-124 et al.), relating to the same
31 capital and employees that qualify the business for this credit, or if
32 the business receives assistance pursuant to the "Business Retention
33 and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et
34 seq.). A business that is allowed a tax credit under this section shall
35 not be eligible for incentives authorized pursuant to the "Municipal
36 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
37 (C.52:27BBB-1 et al.).

38 (4) Full-time employment for an accounting or privilege period
39 shall be determined as the average of the monthly full-time
40 employment for the period.

41 b. A business shall apply for the credit by July 1, 2024, and a
42 business shall submit its documentation for approval of its credit
43 amount by July 1, 2027.

44 c. The credit allowed pursuant to this section shall be
45 administered in accordance with the provisions of subsection c. of
46 section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of
47 P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to
48 "qualified business facility" shall be deemed to refer to "qualified

1 wind energy facility," as that term is defined in subsection f. of this
2 section.

3 d. The amount of the credit allowed pursuant to this section
4 shall, except as otherwise provided, be equal to the capital
5 investment made by the business, or the capital investment
6 represented by the business's leased area, and shall be taken over a
7 10-year period, at the rate of one-tenth of the total amount of the
8 business's credit for each tax accounting or privilege period of the
9 business, beginning with the tax period in which the business is first
10 approved by the authority as having met the investment capital and
11 employment qualifications, subject to any disqualification as
12 determined by annual review by the authority. In conducting its
13 annual review, the authority may require a business to submit any
14 information determined by the authority to be necessary and
15 relevant to its review. The credit amount for any tax period ending
16 after the date 18 years after the effective date of P.L.2007, c.346
17 (C.34:1B-207 et seq.) during which the documentation of a
18 business's credit amount remains unapproved shall be forfeited,
19 although credit amounts for the remainder of the years of the 10-
20 year credit period shall remain available. The amount of the credit
21 allowed for a tax period to a business that is a tenant in a qualified
22 wind energy facility shall not exceed the business's total lease
23 payments for occupancy of the qualified wind energy facility for the
24 tax period.

25 e. The authority shall adopt rules and regulations pursuant to
26 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
27 seq.) as are necessary to implement this section, including, but not
28 limited to: examples of and the determination of capital investment;
29 the nature of businesses and employment positions constituting and
30 participating in an equipment supply coordination agreement; a
31 determination of the types of businesses that may be eligible and
32 expenses that may constitute capital improvements; the
33 promulgation of procedures and forms necessary to apply for a
34 credit; and provisions for applicants to be charged an initial
35 application fee, and ongoing service fees, to cover the
36 administrative costs related to the credit.

37 The rules and regulations established by the authority pursuant to
38 this subsection shall be effective immediately upon filing with the
39 Office of Administrative Law and shall be effective for a period not
40 to exceed 12 months and may, thereafter, be amended, adopted or
41 readopted in accordance with the provisions of the "Administrative
42 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

43 f. As used in this section: the terms "authority," "business,"
44 and "capital investment" shall have the same meanings as defined in
45 section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007,
46 c.346 (C.34:1B-208), except that all references therein to "qualified
47 business facility" shall be deemed to refer to "qualified wind energy
48 facility" as defined in this subsection.

1 In addition, as used in this section:

2 "Equipment supply coordination agreement" means an agreement
3 between a business and equipment manufacturer, supplier, installer,
4 and operator that supports a qualified offshore wind project, or
5 other wind energy project as determined by the authority, and that
6 indicates the number of new, full-time jobs to be created by the
7 agreement participants towards the employment requirement as set
8 forth in paragraph (2) of subsection a. of this section.

9 "Qualified offshore wind project" shall have the same meaning
10 as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

11 "Qualified wind energy facility" means any building, complex of
12 buildings, or structural components of buildings, including water
13 access infrastructure, and all machinery and equipment used in the
14 manufacturing, assembly, development or administration of
15 component parts that support the development and operation of a
16 qualified offshore wind project, or other wind energy project as
17 determined by the authority, and that are located in a wind energy
18 zone.

19 "Wind energy zone" means property located (1) in the South
20 Jersey Port District established pursuant to "The South Jersey Port
21 Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.), or (2) in the
22 project area of the "Portfields Initiative," designated as a portfield
23 site by the Port Authority of New York and New Jersey and the
24 New Jersey Economic Development Authority, and within a county
25 of the second class with at least 600,000 residents.
26 (cf: P.L.2018, c.17, s.7)

27
28 2. This act shall take effect immediately.
29
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31 STATEMENT

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33 This bill would amend P.L.2010, c.57, known as the "Offshore
34 Wind Economic Development Act," to expand the definition of
35 "wind energy zone" to include property located in the project area
36 of the "Portfields Initiative," designated as a portfield site by the
37 Port Authority of New York and New Jersey and the New Jersey
38 Economic Development Authority (EDA), and within a county of
39 the second class with at least 600,000 residents. This change would
40 allow EDA to provide tax credits for qualified wind energy
41 facilities located in this area.