

Senate File 2077 - Introduced

SENATE FILE _____
BY RAGAN

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to renewable energy, providing for state bank
2 acquisition of equity interests in renewable energy production
3 facilities, and providing for qualification for specified
4 production tax credits by state banks and by owners or
5 manufacturing facilities generating renewable energy for
6 on-site consumption rather than sale, and providing effective
7 and applicability dates.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
9 TLSB 5589SS 82
10 rn/rj/24

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1 1 Section 1. Section 524.802, Code 2007, is amended by
1 2 adding the following new subsection:
1 3 NEW SUBSECTION. 13A. Provide customer financing for
1 4 renewable energy production facilities eligible for production
1 5 tax credits pursuant to chapters 476B and 476C in a manner
1 6 that maximizes the availability of production tax credits to
1 7 the state bank, including structuring such financing as a
1 8 membership investment whereby the state bank as equity
1 9 investor may take a majority financial position, but not a
1 10 management position, in each such facility, subject to the
1 11 following:
1 12 a. Prior to providing financing, a creditworthiness review
1 13 shall be conducted pursuant to the state bank's standard loan
1 14 underwriting criteria.
1 15 b. The state bank shall not participate in the operation
1 16 of the facility, the production of renewable energy, or the
1 17 sale of renewable energy if such sale is contemplated by the
1 18 customer.
1 19 c. If the facility does not perform as projected in the
1 20 equity investment agreement, the state bank may either sell
1 21 its interest in the facility or pursue liquidation.
1 22 d. The state bank shall not share in any appreciation in
1 23 value of its interest in the facility or in any of the
1 24 customer's real or personal assets.
1 25 e. At the end of any applicable holding period, the state
1 26 bank shall sell at book value its ownership interest in the
1 27 facility.
1 28 Sec. 2. Section 476B.1, subsection 4, paragraph c, Code
1 29 2007, is amended to read as follows:
1 30 c. Was originally placed in service on or after July 1,
1 31 2005, but before July 1, ~~2009~~ 2012.
1 32 Sec. 3. Section 476B.2, Code 2007, is amended to read as
1 33 follows:
1 34 476B.2 GENERAL RULE.
1 35 The owner of a qualified facility shall, for each
2 1 kilowatt-hour of qualified electricity that the owner sells or
2 2 uses for on-site consumption during the ten-year period
2 3 beginning on the date the qualified facility was originally
2 4 placed in service, be allowed a wind energy production tax
2 5 credit to the extent provided in this chapter against the tax
2 6 imposed in chapter 422, divisions II, III, and V, and chapter
2 7 432.
2 8 Sec. 4. Section 476B.3, Code 2007, is amended to read as
2 9 follows:
2 10 476B.3 CREDIT AMOUNT.
2 11 The wind energy production tax credit allowed under this
2 12 chapter equals the product of one cent multiplied by the
2 13 number of kilowatt-hours of qualified electricity sold or used
2 14 for on-site consumption by the owner during the taxable year.
2 15 Sec. 5. Section 476B.5, subsection 1, paragraph e, Code

2 16 2007, is amended to read as follows:

2 17 e. ~~Except when electricity is used for on-site~~
2 18 ~~consumption, a copy of an executed power purchase agreement or~~
2 19 ~~other agreement to purchase electricity upon completion of the~~
2 20 ~~project. An executed interconnection agreement or~~
2 21 ~~transmission service agreement shall be accepted by the board~~
2 22 ~~under this paragraph if the owner of the facility has agreed~~
2 23 ~~to sell electricity from the facility directly or indirectly~~
2 24 ~~to a wholesale power pool market.~~

2 25 Sec. 6. Section 476B.5, subsection 4, Code 2007, is
2 26 amended to read as follows:

2 27 4. The maximum amount of nameplate generating capacity of
2 28 all qualified facilities the board may find eligible under
2 29 this chapter shall not exceed ~~four~~ two hundred fifty megawatts
2 30 of nameplate generating capacity.

2 31 Sec. 7. Section 476B.6, subsection 2, Code 2007, is
2 32 amended by adding the following new paragraph:

2 33 NEW PARAGRAPH. f. For a facility in which electricity is
2 34 used for on-site consumption, the requirements of paragraphs
2 35 "c" and "d" shall not be applicable.

3 1 Sec. 8. Section 476B.6, subsection 3, Code 2007, is
3 2 amended to read as follows:

3 3 3. The board shall notify the department of the amount of
3 4 kilowatt-hours generated ~~and or~~ purchased from a qualified
3 5 facility. The department shall calculate the amount of the
3 6 tax credit for which the applicant is eligible and shall issue
3 7 the tax credit certificate for that amount or notify the
3 8 applicant in writing of its refusal to do so. An applicant
3 9 whose application is denied may file an appeal with the
3 10 department within sixty days from the date of the denial
3 11 pursuant to the provisions of chapter 17A.

3 12 Sec. 9. Section 476B.7, unnumbered paragraph 2, Code 2007,
3 13 is amended to read as follows:

3 14 The tax credit shall ~~only be transferred once be freely~~
3 15 ~~transferable.~~ The transferee may use the amount of the tax
3 16 credit transferred against the taxes imposed under chapter
3 17 422, divisions II, III, and V, and chapter 432 for any tax
3 18 year the original transferor could have claimed the tax
3 19 credit. Any consideration received for the transfer of the
3 20 tax credit shall not be included as income under chapter 422,
3 21 divisions II, III, and V. Any consideration paid for the
3 22 transfer of the tax credit shall not be deducted from income
3 23 under chapter 422, divisions II, III, and V.

3 24 Sec. 10. Section 476C.1, subsection 6, paragraph b, Code
3 25 2007, is amended by adding the following new subparagraphs:

3 26 NEW SUBPARAGRAPH. (8) A state bank as defined in section
3 27 524.103.

3 28 NEW SUBPARAGRAPH. (9) A manufacturing facility located in
3 29 this state producing renewable energy solely for its own use.

3 30 Sec. 11. Section 476C.1, subsection 6, paragraph d, Code
3 31 2007, is amended to read as follows:

3 32 d. Was initially placed into service on or after July 1,
3 33 2005, and before January 1, ~~2012~~ 2014.

3 34 Sec. 12. Section 476C.2, subsection 1, Code 2007, is
3 35 amended to read as follows:

4 1 1. A producer or purchaser of renewable energy may receive
4 2 renewable energy tax credits under this chapter in an amount
4 3 equal to ~~one and one-half~~ two cents per kilowatt-hour of
4 4 electricity, or four dollars and fifty cents per million
4 5 British thermal units of heat for a commercial purpose, or
4 6 four dollars and fifty cents per million British thermal units
4 7 of methane gas or other biogas used to generate electricity,
4 8 or one dollar and forty-four cents per one thousand standard
4 9 cubic feet of hydrogen fuel generated by ~~and or~~ purchased from
4 10 an eligible renewable energy facility.

4 11 Sec. 13. Section 476C.3, subsection 1, paragraph e, Code
4 12 2007, is amended to read as follows:

4 13 e. ~~Except when renewable energy is used solely for~~
4 14 ~~on-site consumption, a copy of the power purchase agreement or~~
4 15 ~~other agreement to purchase electricity, hydrogen fuel,~~
4 16 ~~methane or other biogas, or heat for a commercial purpose~~
4 17 ~~which shall designate either the producer or purchaser of~~
4 18 ~~renewable energy as eligible to apply for the renewable energy~~
4 19 ~~tax credit.~~

4 20 Sec. 14. Section 476C.3, subsections 4 and 6, Code 2007,
4 21 are amended to read as follows:

4 22 4. The maximum amount of nameplate generating capacity of
4 23 all wind energy conversion facilities the board may find
4 24 eligible under this chapter shall not exceed ~~one hundred~~
4 25 ~~eighty three hundred sixty~~ megawatts of nameplate generating
4 26 capacity. The maximum amount of energy production capacity

4 27 equivalent of all other facilities the board may find eligible
4 28 under this chapter shall not exceed a combined output of
4 29 twenty megawatts of nameplate generating capacity and one
4 30 hundred sixty-seven billion British thermal units of heat for
4 31 a commercial purpose. Of the maximum amount of energy
4 32 production capacity equivalent of all other facilities found
4 33 eligible under this chapter, fifty-five billion British
4 34 thermal units of heat for a commercial purpose shall be
4 35 reserved for an eligible facility that is a refuse conversion
5 1 facility for processed, engineered fuel from a multicounty
5 2 solid waste management planning area. The maximum amount of
5 3 energy production capacity the board may find eligible for a
5 4 single refuse conversion facility is fifty-five billion
5 5 British thermal units of heat for a commercial purpose.

5 6 6. An owner meeting the requirements of section 476C.1,
5 7 subsection 6, paragraph "b", shall not be an owner of more
5 8 than two eligible renewable energy facilities. A person that
5 9 has an equity interest equal to or greater than fifty-one
5 10 percent in an eligible renewable energy facility shall not
5 11 have an equity interest greater than ten percent in any other
5 12 eligible renewable energy facility. This subsection shall not
5 13 be applicable to a state bank structuring the financing for
5 14 such facilities as membership investments with the state bank
5 15 as an equity investor pursuant to section 524.802, subsection
5 16 13A, or to a manufacturing facility producing renewable energy
5 17 solely for its own use.

5 18 Sec. 15. Section 476C.4, subsection 1, Code 2007, is
5 19 amended by adding the following new paragraph:

5 20 NEW PARAGRAPH. f. For a facility in which renewable
5 21 energy is used for on-site consumption, the requirements of
5 22 paragraphs "c" and "d" shall not be applicable.

5 23 Sec. 16. Section 476C.4, subsection 2, Code 2007, is
5 24 amended to read as follows:

5 25 2. The board shall notify the department of the amount of
5 26 kilowatt-hours, British thermal units of heat for a commercial
5 27 purpose, British thermal units of methane gas or other biogas
5 28 used to generate electricity, or standard cubic feet of
5 29 hydrogen fuel generated ~~and or~~ purchased from an eligible
5 30 renewable energy facility. The department shall calculate the
5 31 amount of the tax credit for which the applicant is eligible
5 32 and shall issue the tax credit certificate for that amount or
5 33 notify the applicant in writing of its refusal to do so. An
5 34 applicant whose application is denied may file an appeal with
5 35 the department within sixty days from the date of the denial
6 1 pursuant to the provisions of chapter 17A.

6 2 Sec. 17. Section 476C.6, subsection 1, unnumbered
6 3 paragraph 1, Code 2007, is amended to read as follows:

6 4 Renewable energy tax credit certificates issued under this
6 5 chapter may be transferred to any person. A tax credit
6 6 certificate shall ~~only be transferred once~~ be freely
6 7 transferable. ~~However, for purposes of this transfer~~

~~6 8 provision, a~~ A decision between a producer and purchaser of
6 9 renewable energy regarding who claims the tax credit issued
6 10 pursuant to this chapter shall not be considered a transfer
6 11 and must be set forth in the application for the tax credit
6 12 pursuant to section 476C.4. Within thirty days of transfer,
6 13 the transferee must submit the transferred tax credit
6 14 certificate to the department along with a statement
6 15 containing the transferee's name, tax identification number,
6 16 and address, and the denomination that each new certificate is
6 17 to carry and any other information required by the department.
6 18 Within thirty days of receiving the transferred tax credit
6 19 certificate and the transferee's statement, the department
6 20 shall issue one or more replacement tax credit certificates to
6 21 the transferee. Each replacement tax credit certificate must
6 22 contain the information required under section 476C.4,
6 23 subsection 3, and must have the same effective taxable year
6 24 and the same expiration date that appeared in the transferred
6 25 tax credit certificate. Tax credit certificate amounts of
6 26 less than the minimum amount established by rule shall not be
6 27 transferable. A tax credit shall not be claimed by a
6 28 transferee under this chapter until a replacement tax credit
6 29 certificate identifying the transferee as the proper holder
6 30 has been issued. The replacement tax credit certificate may
6 31 reflect a different type of tax than the type of tax noted on
6 32 the original tax credit certificate.

6 33 Sec. 18. EFFECTIVE AND APPLICABILITY DATES. This Act,
6 34 being deemed of immediate importance, takes effect upon
6 35 enactment and is retroactively applicable to taxable years
7 1 beginning on or after January 1, 2008, for tax credits issued
7 2 pursuant to this Act.

7 3 EXPLANATION

7 4 This bill provides for acquisition of equity interests in
7 5 renewable energy production facilities by state banks
7 6 financing such facilities for customers, and relates to
7 7 qualification for specified renewable energy tax credits.

7 8 The bill specifies procedures and requirements applicable
7 9 to a state bank structuring the financing of renewable energy
7 10 production facilities as a membership investment with the
7 11 state bank as an equity investor acquiring ownership in the
7 12 facility.

7 13 The bill modifies provisions applicable to qualification
7 14 for the wind energy production tax credit pursuant to Code
7 15 chapter 476B consistent with state bank ownership, and
7 16 provides that projects can qualify for the tax credit whether
7 17 the electricity is sold, as is currently the case, or utilized
7 18 for on-site consumption. The time period during which
7 19 projects placed in service may qualify for tax credits is
7 20 extended from July 1, 2009, to July 1, 2012, and the maximum
7 21 amount of nameplate generating capacity eligible for a credit
7 22 is changed from 450 megawatts to 250 megawatts.

7 23 The bill also modifies provisions applicable to
7 24 qualification for the renewable energy tax credit pursuant to
7 25 Code chapter 476C consistent with state bank ownership, and
7 26 ownership by a manufacturing facility located in this state
7 27 producing renewable energy solely for its own use. The time
7 28 period during which projects placed in service may qualify for
7 29 tax credits is extended from January 1, 2012, to January 1,
7 30 2014. The amount of renewable energy tax credit is adjusted
7 31 in the bill from 1.5 cents per kilowatt-hour of electricity to
7 32 2 cents per kilowatt-hour, and the maximum amount of nameplate
7 33 generating capacity of all wind energy conversion facilities
7 34 eligible is changed from 180 to 360 megawatts of capacity.

7 35 The bill also exempts state banks and manufacturing facilities
8 1 using energy for on-site consumption from restrictions
8 2 regarding the number of facilities which may be owned, and a
8 3 current restriction on transferability of credit certificates
8 4 on a one-time basis is changed to an unlimited number of
8 5 transfers.

8 6 The bill takes effect upon enactment and applies
8 7 retroactively to taxable years beginning on or after January
8 8 1, 2008, with respect to tax credits issued pursuant to the
8 9 bill.

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