

# House File 339 - Introduced

HOUSE FILE \_\_\_\_\_  
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BURT, WILLEMS, and KEARNS

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act providing for the establishment of small wind innovation  
2 zones, providing for the applicability of tax credits, and  
3 including effective and retroactive applicability date  
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

6 TLSB 1348HH 83

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1 1 Section 1. NEW SECTION. 476.48 SMALL WIND INNOVATION  
1 2 ZONE PROGRAM.

1 3 1. DEFINITIONS. For purposes of this section, unless the  
1 4 context otherwise requires:

1 5 a. "Electric utility" means a public utility that  
1 6 furnishes electricity to the public for compensation and which  
1 7 enters into a model interconnection agreement with the owner  
1 8 of a small wind energy system as provided in subsection 4.

1 9 b. "Small wind energy system" means a wind energy  
1 10 conversion system that collects and converts wind into energy  
1 11 to generate electricity which has a nameplate generating  
1 12 capacity of less than one hundred kilowatts.

1 13 c. "Small wind innovation zone" means a political  
1 14 subdivision of this state, including but not limited to a  
1 15 city, county, township, school district, community college,  
1 16 area education agency, institution under the control of the  
1 17 state board of regents, or any other local commission,  
1 18 association, or tribal council which adopts, or is encompassed  
1 19 within a local government which adopts, the model zoning  
1 20 ordinance as provided in subsection 3.

1 21 2. PROGRAM ESTABLISHED.

1 22 a. The utilities division shall establish and administer a  
1 23 small wind innovation zone program to optimize local,  
1 24 regional, and state benefits from wind energy and to  
1 25 facilitate and expedite interconnection of small wind energy  
1 26 systems with electric utilities throughout this state.

1 27 Pursuant to the program, the owner of a small wind energy  
1 28 system located within a small wind innovation zone desiring to  
1 29 interconnect with an electric utility shall benefit from a  
1 30 streamlined application process, may utilize a model  
1 31 interconnection agreement, and can qualify under a model  
1 32 zoning ordinance.

1 33 b. A political subdivision seeking to be designated a  
1 34 small wind innovation zone shall apply to the division upon a  
1 35 form developed by the division. The division shall approve an  
2 1 application which documents that the applicable local  
2 2 government has adopted the model zoning ordinance or is in the  
2 3 process of amending an existing zoning ordinance to comply  
2 4 with the model zoning ordinance and that an electric utility  
2 5 operating within the political subdivision has agreed to  
2 6 utilize the model interconnection agreement to contract with  
2 7 the small wind energy system owners who agree to its terms.

2 8 3. MODEL ZONING ORDINANCE. A model or standardized zoning  
2 9 ordinance for utilization within small wind innovation zones  
2 10 shall be developed by the Iowa state university extension  
2 11 service, in coordination with local government  
2 12 representatives, by September 1, 2009. The ordinance shall  
2 13 provide that a small wind energy system shall be a permitted  
2 14 use in designated zoning classifications, specify standards  
2 15 and requirements relating to the construction and location of  
2 16 small wind energy systems intended to streamline and expedite

2 17 zoning approval, and provide compliance guidelines for a small  
2 18 wind energy system. A local government adopting the model  
2 19 zoning ordinance shall establish an expedited approval process  
2 20 with regard to small wind energy systems in compliance with  
2 21 the ordinance. Local governments with preexisting zoning  
2 22 provisions or restrictions applicable to small wind energy  
2 23 system construction and operation which differ from the model  
2 24 ordinance shall amend the existing ordinance to conform with  
2 25 the model ordinance prior to the granting of division approval  
2 26 for a political subdivision to qualify as a small wind  
2 27 innovation zone.

2 28 4. MODEL INTERCONNECTION AGREEMENT. The utilities board  
2 29 shall develop a model interconnection agreement by September  
2 30 1, 2009, for utilization within a small wind innovation zone  
2 31 by the owner of a small wind energy system seeking to  
2 32 interconnect with an electric utility. The interconnection  
2 33 agreement shall ensure that the energy produced can be safely  
2 34 interconnected with the utility without causing any adverse or  
2 35 unsafe consequences and is consistent with the electric  
3 1 utility's resource needs. The board shall establish by rule  
3 2 procedures for modification of the model interconnection  
3 3 agreement upon mutually agreeable terms and conditions in  
3 4 unique or unusual circumstances, subject to board approval.

3 5 5. TAX CREDIT INCENTIVES. The owner of a small wind  
3 6 energy system operating within a small wind innovation zone  
3 7 shall qualify for the wind energy production tax credit  
3 8 pursuant to chapter 476B, subject to section 476B.5,  
3 9 subsection 4.

3 10 6. REPORTING REQUIREMENTS. The division shall prepare a  
3 11 report summarizing the number of applications received from  
3 12 political subdivisions seeking to be designated a small wind  
3 13 innovation zone, the number of applications granted, the  
3 14 number of small wind energy systems generating electricity  
3 15 within each small wind innovation zone, and the amount of wind  
3 16 energy produced, and shall submit the report to the members of  
3 17 the general assembly by January 1 annually.

3 18 Sec. 2. Section 476B.5, Code 2009, is amended by adding  
3 19 the following new subsection:

3 20 NEW SUBSECTION. 2A. Notwithstanding any provision of this  
3 21 chapter to the contrary, a small wind energy system operating  
3 22 within a small wind innovation zone as provided in section  
3 23 476.48 shall be approved as a qualified facility. The board  
3 24 shall by rule establish a streamlined application process  
3 25 applicable for small wind innovation zone applicants.

3 26 Sec. 3. Section 476B.5, subsection 4, Code 2009, is  
3 27 amended to read as follows:

3 28 4. The maximum amount of nameplate generating capacity of  
3 29 all qualified facilities the board may find eligible under  
3 30 this chapter shall not exceed four hundred fifty megawatts of  
3 31 nameplate generating capacity. Fifty percent of the maximum  
3 32 amount of nameplate generating capacity remaining unallocated  
3 33 on the effective date of this Act shall be reserved for  
3 34 issuance of tax credit certificates to small wind energy  
3 35 systems operating within a small wind innovation zone pursuant  
4 1 to section 476.48.

4 2 Sec. 4. Section 476B.6, subsection 1, Code 2009, is  
4 3 amended to read as follows:

4 4 1. a. To be eligible to receive the wind energy  
4 5 production tax credit, the owner must first receive approval  
4 6 of the board of supervisors of the county in which the  
4 7 qualified facility is located. The application for approval  
4 8 may be submitted prior to commencement of the construction of  
4 9 the qualified facility but shall be submitted no later than  
4 10 the close of the owner's first taxable year for which the  
4 11 credit is to be applied for. The application must contain the  
4 12 owner's name and address, the address of the qualified  
4 13 facility, and the dates of the owner's first and last taxable  
4 14 years for which the credit will be applied for. Within  
4 15 forty-five days of the receipt of the application for  
4 16 approval, the board of supervisors shall either approve or  
4 17 disapprove the application. After the forty-five-day limit,  
4 18 the application is deemed to be approved. This paragraph  
4 19 shall not apply to a small wind energy system operating within  
4 20 a small wind innovation zone pursuant to section 476.48.

4 21 b. Upon approval of the application, or if the owner  
4 22 operates a small wind energy system within a small wind  
4 23 innovation zone pursuant to section 476.48, the owner may  
4 24 apply for the tax credit as provided in subsection 2. In  
4 25 addition, approval of the application, or applying for the tax  
4 26 credit if the owner operates a small wind energy system within  
4 27 a small wind innovation zone, is acceptance by the applicant

4 28 for the assessment of the qualified facility for property tax  
4 29 purposes for a period of twelve years and approval by the  
4 30 board of supervisors for the payment of the property taxes  
4 31 levied on the qualified property to the state. For purposes  
4 32 of property taxation, the qualified facility shall be  
4 33 centrally assessed and shall be exempt from any replacement  
4 34 tax under section 437A.6 for the period during which the  
4 35 facility is subject to property taxation. The property taxes  
5 1 to be paid to the state are those property taxes which make up  
5 2 the consolidated tax levied on the qualified facility and  
5 3 which are due and payable in the twelve-year period beginning  
5 4 with the first fiscal year beginning on or after the end of  
5 5 the owner's first taxable year for which the credit is applied  
5 6 for. Upon approval of the application, or notification by the  
5 7 board to the county board of supervisors of a tax credit

5 8 application in the case of a small wind energy system, the  
5 9 board of supervisors shall notify the county treasurer to  
5 10 state on the tax statement which lists the taxes on the  
5 11 qualified facility that the amount of the property taxes shall  
5 12 be paid to the department. Payment of the designated property  
5 13 taxes to the department shall be in the same manner as  
5 14 required for the payment of regular property taxes and failure  
5 15 to pay designated property taxes to the department shall be  
5 16 treated the same as failure to pay property taxes to the  
5 17 county treasurer.

5 18 c. Once the owner of the qualified facility receives  
5 19 approval under paragraph "a", if required, subsequent approval  
5 20 under paragraph "a" is not required for the same qualified  
5 21 facility for subsequent taxable years.

5 22 Sec. 5. EFFECTIVE AND APPLICABILITY DATES. This Act,  
5 23 being deemed of immediate importance, takes effect upon  
5 24 enactment and applies retroactively to tax years beginning on  
5 25 or after January 1, 2009.

#### 5 26 EXPLANATION

5 27 This bill establishes a small wind innovation zone program,  
5 28 to be administered by the utilities division of the department  
5 29 of commerce, with the objective to optimize local, regional,  
5 30 and state benefits from wind energy and to facilitate and  
5 31 expedite interconnection of small wind energy systems with  
5 32 electric utilities throughout this state. Pursuant to the  
5 33 program, the bill provides that an owner of a small wind  
5 34 energy system located within a small wind innovation zone  
5 35 desiring to interconnect with an electric utility shall  
6 1 benefit from a streamlined application process, may utilize a  
6 2 model interconnection agreement, and can qualify under a model  
6 3 zoning ordinance.

6 4 The bill defines a "small wind energy system" as a wind  
6 5 energy conversion system that collects and converts wind into  
6 6 energy to generate electricity which has a nameplate  
6 7 generating capacity of less than 100 kilowatts. The bill  
6 8 defines a "small wind innovation zone" as a political  
6 9 subdivision of this state, including but not limited to a  
6 10 city, county, township, school district, community college,  
6 11 area education agency, institution under the control of the  
6 12 state board of regents, or any other local commission,  
6 13 association, or tribal council which adopts, or is encompassed  
6 14 within a local government which adopts, a model zoning  
6 15 ordinance.

6 16 The bill states that a model zoning ordinance applicable to  
6 17 small wind innovation zones shall be developed by the Iowa  
6 18 state university extension service, in coordination with local  
6 19 government representatives, by September 1, 2009. A local  
6 20 government adopting the model zoning ordinance is required to  
6 21 establish an expedited approval process with regard to small  
6 22 wind energy systems in compliance with the ordinance, or to  
6 23 modify preexisting zoning provisions or restrictions which  
6 24 differ from the model ordinance to conform with the model  
6 25 ordinance prior to the granting of board approval for a  
6 26 political subdivision to qualify as a small wind innovation  
6 27 zone.

6 28 The bill directs the Iowa utilities board to develop a  
6 29 model interconnection agreement by September 1, 2009, for  
6 30 utilization within a small wind innovation zone by the owner  
6 31 of a small wind energy system seeking to interconnect with an  
6 32 electric utility. The bill further directs the board to  
6 33 establish by rule procedures for modification of the model  
6 34 interconnection agreement upon mutually agreeable terms and  
6 35 conditions in unique or unusual circumstances, subject to  
7 1 board approval.

7 2 The bill establishes annual reporting requirements  
7 3 applicable to the division with regard to the program. The

7 4 bill also provides a tax credit incentive for small wind  
7 5 energy sytem owners by reserving 50 percent of the nameplate  
7 6 generating capacity remaining unallocated with respect to the  
7 7 wind energy production tax credit on the bill's effective date  
7 8 for issuance of tax credit certificates to small wind energy  
7 9 systems operating within a small wind innovation zone. The  
7 10 bill provides that a small wind energy system operating within  
7 11 a small wind innovation zone shall be approved as a qualified  
7 12 facility for purposes of tax credit eligibility, and that the  
7 13 board shall by rule establish a streamlined application  
7 14 process applicable for small wind innovation zone applicants.  
7 15 The bill makes other conforming changes to Code chapter 476B  
7 16 consistent with small wind energy system qualification for the  
7 17 wind energy tax credit.  
7 18 The bill takes effect upon enactment and applies  
7 19 retroactively to tax years beginning on or after January 1,  
7 20 2009.  
7 21 LSB 1348HH 83  
7 22 rn/nh/8