

MAR 3 0 2006
WAYS & MEANS CALENDAR

HOUSE FILE 2788
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2682)

(SUCCESSOR TO HF 2489)

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

A BILL FOR

1 An Act relating to the renewable energy tax credit program
2 including providing for the extension of certain eligibility
3 deadlines and operational requirements for eligible
4 facilities.

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

HF 2788

TLSB 6206HZ 81
kk/je/5

1 Section 1. Section 476C.1, subsection 6, paragraph d, Code
2 Supplement 2005, is amended to read as follows:

3 d. Was initially placed into service on or after July 1,
4 2005, and before January 1, ~~2011~~ 2012.

5 Sec. 2. Section 476C.3, subsections 2 and 3, Code
6 Supplement 2005, are amended to read as follows:

7 2. The board shall review the application and supporting
8 information and shall make a preliminary determination
9 regarding whether the facility is an eligible renewable energy
10 facility. The board shall notify the applicant of the
11 approval or denial of the application within thirty days of
12 receipt of the application and information required. If the
13 board fails to notify the applicant of the approval or denial
14 within thirty days, the application shall be deemed denied
15 unless the application is placed on a waiting list as
16 described in subsection 6. An applicant who receives a
17 determination denying an application may file an appeal with
18 the board within thirty days from the date of the denial
19 pursuant to the provisions of chapter 17A. In the absence of
20 a timely appeal, the preliminary determination shall be final.
21 If the application is incomplete, the board may grant an
22 extension of time for the provision of additional information.

23 3. A facility that is not operational within eighteen
24 months after issuance of an approval for the facility by the
25 board shall cease to be an eligible renewable energy facility.
26 However, a wind energy conversion facility that is approved as
27 eligible under this section but is not operational within
28 eighteen months due to the unavailability of necessary
29 equipment shall be granted an additional twelve months to
30 become operational. A facility that is granted and thereafter
31 loses approval may reapply to the board for a new
32 determination.

33 Sec. 3. Section 476C.3, Code Supplement 2005, is amended
34 by adding the following new subsections:

35 NEW SUBSECTION. 6. The board shall maintain a waiting

1 list of facilities that may have been found eligible under
2 this section but for the maximum capacity restrictions of
3 subsection 4. The priority of the waiting list shall be
4 maintained in the order the applications were received by the
5 board. The board shall remove from the waiting list any
6 facility that has subsequently been found ineligible under
7 this chapter. If additional capacity becomes available within
8 the capacity restrictions of subsection 4, the board shall
9 grant approval to facilities according to the priority of the
10 waiting list before granting approval to new applications.

11 NEW SUBSECTION. 7. In addition to any other requirements
12 under this chapter, within twelve months after receiving
13 approval by the board as an eligible facility, the owner of
14 the facility shall provide the board with a copy of an
15 executed power purchase agreement or other agreement
16 demonstrating a financial capability and commitment to bring
17 the project to completion and to purchase electricity,
18 hydrogen fuel, methane or other biogas, or heat for a
19 commercial purpose, which agreement is binding on the parties
20 to the agreement and which designates either the producer or
21 purchaser of renewable energy as eligible to apply for the
22 renewable energy tax credit. The board shall deny eligibility
23 to any facility whose owner fails to comply with this
24 subsection. The board shall adopt rules to describe the
25 agreements that are acceptable under this subsection.

26 Sec. 4. Section 476C.5, Code Supplement 2005, is amended
27 to read as follows:

28 476C.5 CERTIFICATE ISSUANCE PERIOD.

29 A producer or purchaser of renewable energy may receive
30 renewable energy tax credit certificates for a ten-year period
31 for each eligible renewable energy facility under this
32 chapter. The ten-year period for issuance of the tax credit
33 certificates begins with the date the purchaser of renewable
34 energy first purchases electricity, hydrogen fuel, methane gas
35 or other biogas used to generate electricity, or heat for

1 commercial purposes from the eligible renewable energy
2 facility for which a tax credit is issued under this chapter.
3 Renewable energy tax credit certificates shall not be issued
4 for renewable energy purchased after December 31, ~~2020~~ 2021.

5 Sec. 5. ADMINISTRATIVE RULES. The utilities board may
6 adopt administrative rules under section 17A.4, subsection 2,
7 and section 17A.5, subsection 2, paragraph "b", to implement
8 the provisions of this Act amending section 476C.3, and the
9 rules shall become effective immediately upon filing or on a
10 later effective date specified in the rules, unless the
11 effective date is delayed by the administrative rules review
12 committee. Any rules adopted in accordance with this section
13 shall not take effect before the rules are reviewed by the
14 administrative rules review committee. The delay authority
15 provided to the administrative rules review committee under
16 section 17A.4, subsection 6, and section 17A.8, subsection 9,
17 shall be applicable to a delay imposed under this section,
18 notwithstanding a provision in those sections making them
19 inapplicable to section 17A.5, subsection 2, paragraph "b".
20 Any rules adopted in accordance with the provisions of this
21 section shall also be published as notice of intended action
22 as provided in section 17A.4.

23 Sec. 6. TEMPORARY PROVISION. A facility that has been
24 approved as eligible by the board under section 476C.3 prior
25 to the effective date of this Act shall have until July 1,
26 2007, to provide the board with a copy of an executed power
27 purchase agreement or other agreement required under section
28 476C.3, subsection 7.

29

EXPLANATION

30 This bill relates to the renewable energy tax program. The
31 bill extends the eligibility deadline for placement into
32 service of a renewable energy facility by one year to January
33 1, 2012. The bill provides that the board may place an
34 application for a determination of whether a facility is an
35 eligible renewable energy facility on a waiting list if the

1 facility may have been found eligible but for the maximum
2 capacity requirements. The bill requires an owner of an
3 approved facility to provide the utilities board, within 12
4 months after receiving approval, with a copy of an executed
5 power purchase agreement or other agreement that demonstrates
6 a financial commitment to bring the project to completion and
7 that is binding on the parties to the agreement.

8 Under current law, if an eligible facility is not
9 operational within 18 months, the facility is no longer
10 considered eligible. The bill extends this operational
11 deadline by an additional 12 months if the eligible facility
12 is a wind energy conversion facility and cannot be operational
13 within 18 months due to the unavailability of necessary
14 equipment.

15 Under current law, a renewable energy tax credit
16 certificate cannot be issued for any renewable energy
17 purchased after December 31, 2020. The bill extends the
18 renewable energy tax credit certificate issuance period by one
19 year to December 31, 2021.

20 The bill provides for the adoption of rules by the
21 utilities board relating to the agreements that are acceptable
22 when applying for a determination of eligibility of a
23 renewable energy facility. The bill provides that the rules
24 adopted shall be effective upon enactment unless delayed by
25 the administrative rules review committee.

26 The bill provides that a facility that has been approved as
27 an eligible facility by the board prior to the effective date
28 of the bill shall have until July 1, 2007, to provide the
29 board with an executed power purchase agreement or other
30 agreement showing financial capability and commitment.

31
32
33
34
35