

DEPARTMENT OF TAXATION

2009 Fiscal Impact Statement

1. **Patron** L. Louise Lucas

2. **Bill Number** SB 1141

3. **Committee** House Finance

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. **Title** Individual and Corporate Income Tax;
Renewable Energy Property Tax Credit

Second House:

☒ In Committee

☐ Substitute

☐ Enrolled

5. **Summary/Purpose:**

This bill would create an individual and corporate income tax credit for the purchase of qualifying renewable energy systems that are placed in service during the taxable year. The credit would not exceed \$2,000 for each kilowatt of a solar photovoltaic system; \$1,500 for each kilowatt of a wind-powered electrical generator; and \$1,000 for each kilowatt equivalent of a solar thermal system. This credit would be effective for taxable years beginning on and after January 1, 2009.

The aggregate of all eligible tax credits would be capped at \$2 million per taxable year, with \$1 million allocated to individual taxpayers and the remaining \$1 million allocated to corporate taxpayers.

This bill would allow the taxpayer to transfer unused allowable tax credits for use by another taxpayer.

This bill would provide that the tax credit would not become effective unless a federal stimulus bill is enacted into law prior to March 27, 2009. In addition, this bill would not be effective unless the federal legislation allows for this tax credit to be a lawful use for any supplemental appropriations provided by the legislation in an amount at least equal to the combined anticipated negative fiscal impact on revenue for Fiscal Years 2010 and 2011. The Secretary of Finance would be required to notify the Governor in writing whether these conditions have been met by April 1, 2009.

6. **Fiscal Impact Estimates are:** Final. (See Line 8.)

7. **Budget amendment necessary:** No.

8. Fiscal implications:

Department of Mines, Minerals, and Energy Administrative Costs

The Department of Mines, Minerals, and Energy would administer this tax credit with existing resources.

Department of Taxation Administrative Costs

TAX considers implementation of this bill as “routine,” and does not require additional funding.

Revenue Impact

The introduced Executive Budget incorporates the fiscal impact of this bill. The total amount of credits that could be claimed would be limited to \$2 million per year. Therefore, if this bill is not passed, then General Fund revenue would be increased by \$2 million for FY 2010 through FY 2015.

The tax credit could not become effective unless a federal stimulus bill is enacted into law prior to March 27, 2009. In addition, this tax credit would not be effective unless the federal legislation allows this credit to be a lawful use for any supplemental appropriations provided by the legislation in an amount at least equal to the combined anticipated negative fiscal impact on revenue for Fiscal Years 2010 and 2011. Therefore, if these conditions were met, this bill would reduce the amount of any available supplemental appropriations by a total of at least \$4 million.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Mines, Minerals, and Energy

10. Technical amendment necessary: No.

11. Other comments:

Proposal

This bill would create an income tax credit for individuals and corporations that purchase qualifying renewable energy systems and place them in service during the taxable year. The credit would not exceed \$2,000 for each kilowatt of a solar photovoltaic system; \$1,500 for each kilowatt of a wind-powered electrical generator; and \$1,000 for each kilowatt equivalent of a solar thermal system.

In addition, each credit would be limited to the total cost of the system or a specified dollar amount, whichever was less. For individuals, the specified dollar amounts would be \$8,000 for a solar photovoltaic system; \$6,000 for a wind-powered electrical generator; and \$4,000 for a solar thermal system. For corporations, the specified dollar amounts

would be \$20,000 for a solar photovoltaic system; \$15,000 for a wind-powered electrical generator; and \$10,000 for a solar thermal system.

The aggregate of all eligible tax credits would be capped at \$2 million per taxable year, with \$1 million allocated to individual taxpayers and the remaining \$1 million allocated to corporate taxpayers. This bill would provide that the credits would be granted on a first come, first serve basis by DMME.

Under the provisions of this bill, DMME would be required to establish guidelines and forms for the applicant. In addition, DMME would be required to review the applications for the credits and make a determination within a fourteen day period.

The credit would not be allowed to exceed the tax liability of the taxpayer. Taxpayers could carry over unused amounts of the credit for three taxable years. In addition, this bill would allow the taxpayer to transfer unused allowable tax credits for use by another taxpayer.

This bill would specify that credits attributable to a partnership, electing small business corporation, or limited liability company be allocated to the partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entity.

“Solar photovoltaic system” would mean an energy system or solar panel that collects or absorbs sunlight for conversion into electricity and that has been certified as meeting all applicable safety standards of Underwriters Laboratories. Systems that are interconnected with the utility grid would be required to comply with performance and safety standards established by the Virginia State Corporation Commission.

“Solar thermal system” would mean a solar energy system that collects or absorbs solar energy to generate hot water or air for space heating or water heating. Solar water heating systems would be required to meet the operational guidelines for an OG-300 certified solar water heating system as established by the Solar Rating and Certification Corporation. Solar space heating panels that heat air would be required to meet the operational guidelines for an OG-100 certified solar panel.

“Renewable energy property” would mean solar photovoltaic system, solar water thermal system, or wind-powered electrical generator.

“Wind-powered electrical generator” would mean an electrical generating unit that (i) has a capacity of not more than 10 kilowatts, (ii) uses wind as its total source of fuel, (iii) is intended primarily to offset all or part of the owner's electricity requirements, (iv) meets all applicable performance and quality standards specified by the DMME, and (v) for units that are interconnected with the utility grid, complies with performance and safety standards established by the Virginia State Corporation Commission.

This bill would provide that the tax credit could not become effective unless federal legislation that makes supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and state and local fiscal stabilization is enacted into law prior to March 27, 2009. In addition, this bill would not be effective unless the federal legislation allows this tax credit

to be a lawful use for such appropriations in an amount at least equal to the combined anticipated negative fiscal impact on revenue for Fiscal Years 2010 and 2011. The Secretary of Finance would be required to notify the Governor in writing whether these conditions have been met by April 1, 2009.

On February 10, 2009, the U.S. Senate passed its version of H.R. 1, the American Recovery and Reinvestment Act of 2009. The Senate's bill differs in many ways from the version of the bill passed by the U.S. House of Representatives on January 28. The two versions of the bill will have to be reconciled before Congress can pass it and send it to President Obama for his signature. In order for this bill to become effective, President Obama would have to sign a federal stimulus bill by March 27, 2009.

Other Legislation

Senate Bill 1216 would exempt from the retail sales and use tax solar photovoltaic systems, solar thermal systems, and wind-powered electrical generators purchased for installation in or on residential real property.

cc : Secretary of Finance

Date: 2/13/2009 TLG
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