

DEPARTMENT OF TAXATION

2009 Fiscal Impact Statement

1. **Patron** J. Chapman Petersen

3. **Committee** Senate Finance

4. **Title** Income Tax: Commercial Clean Energy
Production Tax Credit

2. **Bill Number** SB 1124

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would create an income tax credit for any taxpayer owning a “commercial clean energy production facility” in the amount of (i) 0.06 cents per kWh of electricity that is generated using solar photovoltaic technology, and (ii) 0.03 cents per kWh of electricity that is generated using wind power. The electricity must be generated at the commercial clean energy production facility and be sold in the taxable year to an electric utility in the Commonwealth. The credit would not be allowed to exceed the tax liability of the taxpayer. Taxpayers could carry over unused amounts of the credit for five taxable years.

This bill would require the State Corporation Commission to complete a rulemaking proceeding by December 1, 2009, to establish procedures for administering the tax credit and eligibility criteria.

This bill would be effective for taxable years beginning on or after January 1, 2010.

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

8. **Budget amendment necessary:** No.

9. **Fiscal implications:**

Administrative Impact

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as “routine,” and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not “routine.” Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

Revenue Impact

The revenue impact of this bill is unknown. Currently, there is no electricity generated in Virginia by either solar photovoltaic technology or wind power according to the federal Energy Information Administration.

9. Specific agency or political subdivisions affected:

Department of Taxation
State Corporation Commission

10. Technical amendment necessary: No.

11. Other comments:

Federal Production Tax Credit

The federal Renewable Electricity Production Tax Credit (PTC) is a per-kWh tax credit for electricity generated by qualified energy resources and sold by the taxpayer to an unrelated person during the taxable year. The PTC was originally enacted in 1992 but has been renewed and expanded numerous times, most recently in October 2008.

The table below outlines the current credit amounts as they apply to different facilities.

Resource Type	Credit Amount
Wind	2.1¢/kWh
Closed-loop Biomass	2.1¢/kWh
Open-loop Biomass	1.0¢/kWh
Geothermal Energy	2.1¢/kWh
Landfill Gas	1.0¢/kWh
Municipal Solid Waste	1.0¢/kWh
Qualified Hydroelectric	1.0¢/kWh
Marine and Hydrokinetic (150 kW or larger)*	1.0¢/kWh

Other States

TAX has identified four other states with similar tax credits.

Florida

Florida provides a corporate income tax credit equal to 0.01 cent for each additional kWh of electricity produced from renewable energy sources at a new or expanded facility in the state.

Iowa

Iowa offers a production tax credit of 0.01 cent per kWh for energy sold by eligible wind energy facilities. The maximum total amount of wind generating capacity eligible for the tax credits is 450 megawatts (MW). The tax credit may be applied toward the state's personal income tax, business income tax, or financial institutions tax.

New Mexico

New Mexico provides a "renewable energy production tax credit" equal to 0.01 cent per kWh of the first 400 thousand megawatt-hours of electricity produced by a qualified energy generator in the taxable year using a wind- or biomass-derived qualified energy resource. In addition, the state offers a credit equal to from 0.015 to 0.04 cents per kWh for the first 200,000 megawatt-hours of electricity produced using solar-powered qualified energy generators.

Utah

Utah offers a state income tax credit for c wind, biomass, or geothermal energy systems that produce electricity and have a generating capacity greater than 600 kilowatts are eligible for a production tax credit of 0.35 cents per kWh of electricity produced.

Proposal

This bill would create an income tax credit for any taxpayer owning a "commercial clean energy production facility" in the amount of (i) 0.06 cents per kWh of electricity that is generated using solar photovoltaic technology, and (ii) .0.03 cents per kWh of electricity that is generated using wind power. The electricity must be generated at the commercial clean energy production facility and be sold in the taxable year to an electric utility in the Commonwealth. The credit would not be allowed to exceed the tax liability of the taxpayer. Taxpayers could carry over unused amounts of the credit for five taxable years.

This bill would require the State Corporation Commission to complete a rulemaking proceeding by December 1, 2009, to establish procedures for administering the tax credit and eligibility criteria.

"Commercial clean energy production facility" would mean a nonresidential facility located within the Commonwealth at which electricity is generated through the use of solar photovoltaic technology or wind power and that complies with criteria established by the State Corporation Commission.

Any credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) would be allocated to the individual partners, members, or

shareholders, respectively, in proportion to their ownership or interest in such business entities.

This bill would be effective for taxable years beginning on or after January 1, 2010.

Similar Legislation

House Bill 2094 and Senate Bill 1141 would create an individual and corporate income tax credit for qualifying renewable energy property placed in service during the taxable year. The credit would not exceed \$2,000 for each kilowatt of photovoltaic property; \$1,500 for each kilowatt of wind-powered electrical generators; and \$1,000 for each kilowatt equivalent of solar water heating property.

Senate Bill 1231 would create an individual income tax credit equal to 5%, not to exceed \$2,500, for purchases of qualifying energy-efficient equipment to be used for heating, cooling, and providing electricity to the residence in which the individual lives for more than half of each year.

cc : Secretary of Finance

Date: 1/24/2009 TLG
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