

DEPARTMENT OF TAXATION

2010 Fiscal Impact Statement

1. **Patron** Frank W. Wagner

3. **Committee** Senate Finance

4. **Title** Retail Sales and Use Tax; Wind Power
Tangible Personal Property

2. **Bill Number** SB 392

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide an exemption from the Retail Sales and Use Tax for certain tangible personal property used directly in generating electricity from offshore winds. The exemption would be applicable to towers, turbines, components of towers and turbines, computers, raw materials, fuel, power, energy, supplies, machinery or tools or repair parts therefore or replacements thereof used directly in generating electricity from offshore winds.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

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

8. **Fiscal implications:**

Administrative Costs Impact

TAX would incur no administrative costs in implementing this bill.

Revenue Impact

The proposed exemption would result in a revenue loss, the amount of which is unknown. The revenue loss will depend upon the number of wind farms built in Virginia and their size. On average, wind power development costs approximately \$1 million per megawatt (MW) of generating capacity installed, according to the American Wind Energy Association. Also, to take advantage of economies of scale, wind power facilities should be in excess of 20MW. Assuming an initial investment of \$20 million, the minimum revenue loss from this bill could be \$984,000 for a wind power facility.

9. **Specific agency or political subdivisions affected:**

TAX

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Public Service Corporations

Prior to September 1, 2004, an exemption from the Retail Sales and Use Tax was available to public service corporations for the purchase or lease of tangible personal property used or consumed directly in the rendition of their public service. The exemption was repealed effective September 1, 2004. In addition to losing their public service corporations exemption, to the extent they qualify for the manufacturing exemption, electric suppliers are now prohibited from claiming the manufacturing exemption, as a result of the repeal. Electric suppliers may still claim the manufacturing exemption for raw materials that are consumed in the production of electricity, including fuel.

Energy Star and WaterSense Sales Tax Holiday

The 2007 General Assembly enacted House Bill 1678 and Senate Bill 867 (*Acts of Assembly 2007*, Chapters 176 and 817), which provide for an annual four-day exemption period in which purchases of certain Energy Star qualified products with a maximum sales price of \$2,500 can be made exempt of the Retail Sales and Use Tax. The 2008 General Assembly expanded this exemption through House Bill 1229 (*Acts of Assembly 2008*, Chapter 554) to include certain WaterSense products. WaterSense qualified products are defined as “those products that have been recognized as being water efficient by the WaterSense program sponsored by the U.S. Environmental Protection Agency as indicated by a WaterSense label. An Energy Star qualified product includes any dishwasher, clothes washer, air conditioner, ceiling fan, compact fluorescent light bulb, dehumidifier, programmable thermostat, or refrigerator, the energy efficiency of which has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each such agency’s requirements under the Energy Star Program. The current Energy Star and Water Sense Sales Tax Holiday is set to expire on July 1, 2012.

Energy Efficient Products Income Tax Deduction

The 2006 General Assembly enacted Senate Bill 262 (*Acts of Assembly 2006*, Chapter 939) which established an energy policy for the Commonwealth. Senate Bill 262 provided a state personal income tax deduction available in the amount of 20% of the sales tax paid on certain energy efficient equipment or appliances, as well as qualifying fuel cells, gas heat pumps, central air conditions, advanced gas, oil or water heaters, oil fired furnaces, and programmable thermostats. The law currently permits a maximum deduction of \$500.

Other States

Arizona: Exempts gross receipts from the sale of solar energy devices from the retail classification of the transaction privilege (sales) tax when sold by registered solar energy retailers. Solar energy devices can be used for heating, cooling, lighting, or power generation, and include wind generator systems used to produce electricity. (Ariz. Rev. Stat. Ann. §42-5061(N)). There are no corresponding use tax exemptions.

Colorado: Gives localities the option of authorizing a sales tax credit or rebate to residential or commercial property owners who install renewable energy fixtures on their residential or commercial property. Renewable energy fixtures mean any fixture, product, device, system, or interacting group of devices that produce electricity from renewable resources including, but not limited to, photovoltaic systems, solar thermal systems, small wind systems, biomass systems, or geothermal systems. (Colo. Rev. Stat. § 30-11-107.3(2)(b); Colo. Rev. Stat. § 31-20-101.3(2)).

Connecticut: Exempts commercial solar equipment in solar heating and/or cooling systems and domestic hot water systems, and wind energy conversion systems used to generate electricity. (See Conn. Agencies Regs. 16a-14-102).

Idaho: Entitles purchasers of machinery and equipment used directly in generating electricity through fuel cells, low impact hydro, wind, geothermal resources, biomass, cogeneration, solar power, or landfill gas as the principal source of power to a rebate of the sales or use taxes paid on the machinery and equipment, if the purchaser uses those items to develop a facility capable of generating at least 25 kilowatts of electricity. The rebate will expire on June 30, 2011. (Idaho Code § 63-3622QQ(3); § 63-3622QQ(4)).

Illinois: Allows retailers who sell building materials that will be incorporated into a High Impact Business location can deduct receipts from such sales when calculating the state tax rate. Effective July 1, 2009, a business designated as a High Impact Business establishing a new wind power facility qualifies for this exemption. (ILCS Chapter 20, §655/5.5(a)(3)(E)).

Iowa: Exempts solar energy equipment, wind energy conversion property to be used as an electric power source, and materials used to construct, manufacture, or install such property. (IA Code Section 423.3(90), 423.3(54)).

Maine: Exempts sales of tangible personal property to a qualified community wind power generator for use directly and primarily in the generation of electricity in Maine at a community wind power generation facility. The exemption is limited to sales occurring on or before December 31, 2011. (Me. Rev. Stat. Ann. 36 §2017(1)(B)).

Maryland: Exempts geothermal equipment, solar energy equipment, and residential wind equipment. Geothermal equipment means equipment that uses solar energy to heat or cool a structure, generate electricity to be used in a structure, or provide hot water for use in a structure. Solar energy equipment means equipment that uses solar energy to heat or cool a structure, generate electricity to be used in a structure or provide hot water for use in a structure. “residential wind energy equipment” means equipment installed on

residential property that uses wind energy to generate electricity to be used in a residential structure on the property. In addition, beginning in calendar year 2011, a sales tax holiday will be offered during which solar water heaters can be purchased exempt of the sales and use tax. The holiday will begin on the Saturday immediately preceding the third Monday in February and end on the third Monday in February. (Md. Code Ann. Tax-Gen. § 11-230).

Massachusetts: Exempts sales of equipment directly related to a solar, wind-powered, or heat pump system that serves as the primary or auxiliary heat source for taxpayer's principal residence. (Mass. Gen. L. Chapter 64H §6(dd)).

Minnesota: Exempts solar energy systems and wind energy conversion systems, and the materials used to make, install, construct, repair, or replace wind energy conversion systems. (Minn. Stat. § 297A.67, Subd.29, § 297A.68, Sub.12).

New Mexico: Permits a deduction from gross receipts tax for receipts from the sale and installation of solar energy systems. (NMSA 1979 § 7-9-79.3) Also permits a deduction from the gross receipts tax on the sale of wind generation nacelles, rotors, or related equipment to the United States or New Mexico, or any governmental unit or subdivision, agency, department, or instrumentality, provided that such equipment is installed on a supporting structure. (NMSA 1978, § 7-9-54.3).

Rhode Island: Exempts certain renewable energy products, including solar photovoltaic modules and panels, solar thermal collectors, geothermal heat pumps, wind turbines, towers used to mount wind turbines, DC to AC inverters that interconnect with utility power lines and manufactured mounting racks and ballast pans for solar collector, module, or panel installation. (R.I. Gen. Laws §44-18-30(57)).

Washington: Fully exempts sales and leases of machinery and equipment used directly to generate electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, anaerobic digestion, conversion or otherwise-lost energy from exhauset or landfill gas effective July 1, 2009 through June 30, 2011. Partial exemption (75%) effective July 1, 2011 through June 30, 2013).

Wyoming: Exempts sales of equipment used to generate electricity from renewable resources. Renewable resources include wind generation, solar, biomass, landfill gas, hydro, hydrogen and geothermal energy. The exemption is limited to the acquisition of equipment used in a project to make it operational up to the point of interconnection with an existing transmission grid including wind turbines, generating equipment, control and monitoring systems, power lines, substation equipment, lighting, fencing, pipes and other equipment for locating power lines and poles. (Wyo. Stat. § 39-15-105(a)(viii)(N), 39-16-105(a)(viii)(C)).

Proposal

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therefore or replacements thereof used directly in generating electricity from offshore winds.

The effective date of this bill is not specified.

Similar Legislation

Senate Bill 174 would provide an exemption from the Retail Sales and Use Tax for solar photovoltaic systems, solar thermal systems, and wind-powered electrical generators purchased for installation in or on residential real property.

cc : Secretary of Finance

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