

1 H.188

2 Introduced by Representatives Cheney of Norwich, Edwards of Brattleboro,

3 Weston of Burlington, Ancel of Calais, Jerman of Essex,

4 Krawczyk of Bennington, Masland of Thetford and

5 McCullough of Williston

6 Referred to Committee on

7 Date:

8 Subject: Public service; renewable energy; Vermont-based renewable energy

9 projects; property tax; sales tax

10 Statement of purpose: This bill proposes to establish permitting, taxation and

11 other incentives for Vermont-based renewable energy development projects.

12 An act relating to Vermont-based renewable energy development projects

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 30 V.S.A. § 8007 is added to read:

15 § 8007. VERMONT-BASED RENEWABLE ENERGY DEVELOPMENT

16 (a) Definitions. For purposes of this section:

17 (1) "Qualifying owner" means any of the following:

18 (A) A Vermont resident.

1 (B) A limited liability company that is organized under chapter 21 of
2 Title 11, the membership of which consists of individuals who are Vermont
3 residents.

4 (C) A nonprofit corporation organized under Title 11B, the principal
5 office of which is in Vermont.

6 (D) A cooperative, including an electric cooperative, organized under
7 chapters 7, 8, or 14 of Title 11, provided that the cooperative's principal place
8 for the transaction of its business is in Vermont.

9 (E) A municipality located in Vermont, including a municipal electric
10 department or municipal board or commission.

11 (F) A public college or university located in Vermont.

12 (G) A regional planning commission created under 24 V.S.A. chapter
13 117.

14 (2) "V-BRED" means Vermont-based renewable energy development.

15 (3) "Vermont-based renewable energy development" means the
16 construction of improvements for the generation of renewable energy that
17 meets all of the following:

18 (A) The development is and will be owned in part or entirely by at
19 least two qualifying owners, with at least 51 percent of the total financial
20 benefits over the life of the project flowing to qualifying owners.

21 (B) The development has a capacity of at least 250 kW.

1 (C) The municipality in which the development is to be located has
2 adopted a resolution in support of the development by majority of the
3 legislative body or voters.

4 (b) Benefits. A V-BRED project shall receive the following benefits:

5 (1) Any permit, certificate, or approval required for the project,
6 including a certificate of public good under section 248 of this title, shall be
7 issued no later than 12 months after the date a complete application for the
8 permit, certificate, or approval is received by the granting authority; provided,
9 however, that if any shorter period is or has been established by statute, rule,
10 procedure, or guidance document for issuance of the permit, certificate, or
11 approval, the shorter period shall apply.

12 (2) A utility shall pay to the owner of the V-BRED project the first
13 \$100,000.00 of the cost to interconnect the V-BRED project if the project will
14 interconnect to that utility's electric transmission or distribution system. Such
15 payment shall be made within 30 days of the date that construction of the
16 interconnection is completed. Any costs properly paid by a utility to a
17 V-BRED project under this subdivision shall be considered just and reasonable
18 under sections 218, 218d, 225, 226, and 227 of this title.

19 (3) To the extent not inconsistent with federal law, an interconnecting or
20 transmitting utility shall not charge a V-BRED project for the transmission of
21 the project's electricity to other utilities within the state, unless the utility can

1 demonstrate that it must actually reserve transmission system capacity for that
2 purpose.

3 (4) The clean energy development fund established under 10 V.S.A.
4 § 6523 shall give priority to the V-BRED project over any project that is not
5 V-BRED.

6 (5) An alternative education property tax rate shall be applied to the
7 V-BRED project in accordance with 32 V.S.A. § 5402d.

8 (6) The sales tax imposed under 32 V.S.A. § 9771 shall not apply to the
9 first \$500,000.00 in sales of electrical energy from a V-BRED project.

10 Sec. 2. 10 V.S.A. § 6523 is amended to read:

11 § 6523. VERMONT CLEAN ENERGY DEVELOPMENT FUND

12 * * *

13 (d) Expenditures authorized.

14 (1) This fund shall be administered by the department of public service
15 to facilitate the development and implementation of clean energy resources.

16 (2) The department shall assure an open public process in the
17 administration of the fund for the purposes established in this subchapter.

18 (3) By January 15 of each year, commencing in 2007, the department of
19 public service shall provide to the house and senate committees on natural
20 resources and energy, the senate committee on finance, and the house
21 committee on commerce a report detailing the revenues collected and the

1 expenditures made under this subchapter, together with recommended
2 principles to be followed in the allocation of funds and a proposed five-year
3 plan for future expenditures from the fund.

4 (4) Projects for funding may include the following:

5 (A) projects that will sell power in commercial quantities;

6 (B) among those projects that will sell power in commercial
7 quantities, funding priority will be given to those projects that commit to sell
8 power to Vermont utilities on favorable terms;

9 (C) projects to benefit publicly owned or leased buildings;

10 (D) renewable energy projects on farms, which may include any or
11 all costs incurred to upgrade to a three-phase line to serve a system on a farm;

12 (E) small scale renewable energy in Vermont residences and
13 businesses;

14 (F) projects under the agricultural economic development special
15 account established under 6 V.S.A. § 4710(g) to harvest biomass, convert
16 biomass to energy, or produce biofuel;

17 (G) until December 31, 2008 only, super-efficient buildings; ~~and~~

18 (H) effective projects that are not likely to be established in the
19 absence of funding under the program; and

20 (I) projects that are V-BRED under 30 V.S.A. § 8007, which shall
21 receive funding priority.

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Sec. 3. 32 V.S.A. § 5402c is amended to read:

§ 5402c. WIND-POWERED ELECTRIC GENERATING FACILITIES TAX

(a) A facility certified by the commissioner of public service as a facility which produces electrical energy for resale, generated solely from wind power, which has an installed capacity of at least five megawatts, which was placed in service after January 1, 2007, and holds a valid certificate of public good issued under 30 V.S.A. § 248, shall be assessed an alternative education property tax on its buildings and fixtures used directly and exclusively in the generation of electrical energy from wind power. However, section 5402d of this title shall govern the assessment of an education property tax on a wind-powered electric generation facility that is V-BRED under 30 V.S.A. § 8007.

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Sec. 4. 32 V.S.A. § 5402d is added to read:

§ 5402d. V-BRED PROJECT TAX

(a) A facility certified by the commissioner of public service as a facility that is V-BRED under 30 V.S.A. § 8007, that was placed in service after January 1, 2010, and that holds a valid certificate of public good issued under 30 V.S.A. § 248 shall be assessed an alternative education property tax on its

1 buildings and fixtures used directly and exclusively in the generation of
2 electrical energy.

3 (b) The tax shall be imposed at a rate per kilowatt-hours of electrical
4 energy produced by the certified facility, as determined by the public service
5 department for the six months ending April 30 and the six months ending
6 October 31 each year. The rate of the tax shall be \$0.0025.

7 (c) In no case shall the tax imposed for any six-month period be less than
8 an amount equal to the rate per kilowatt-hours imposed by this subsection
9 multiplied by the number of kilowatt-hours that would be generated if the
10 facility operated at 15 percent of the facility's average capacity factor.

11 (d) The tax imposed by this section shall be paid to the commissioner of
12 taxes by the person or entity then owning or operating the certified facility by
13 December 1 for the period ending October 31 and by June 1 for the period
14 ending April 30 for deposit into the education fund. A person or entity failing
15 to make returns or pay the tax imposed by this section within the time required
16 shall be subject to and governed by the provisions of sections 3202 and 3203
17 and subchapters 8 and 9 of chapter 151 of this title.

18 (e) Unless buildings and fixtures are taxed under this section, they shall
19 remain subject to taxation under section 5402 of this title. Buildings and
20 fixtures subject to the education property tax under this section shall not be

1 taken into account in determining the common level of appraisal for the
2 municipality.

3 Sec. 5. 32 V.S.A. § 9771 is amended to read:

4 § 9771. IMPOSITION OF SALES TAX

5 Except as otherwise provided in this chapter, there is imposed a tax on retail
6 sales in this state. The tax shall be paid at the rate of six percent of the sales
7 price charged for the following:

8 (1) Tangible personal property.

9 (2) Public utility services including gas and electricity, but excluding
10 water ~~and~~, transportation, and the first \$500,000.00 in sales of electrical energy
11 from a V-BRED project as defined under 30 V.S.A. § 8007.

12 * * *

13 Sec. 6. EFFECTIVE DATE

14 Notwithstanding 1 V.S.A. § 214, Secs. 3 and 4 of this act shall apply to
15 taxable years beginning on and after January 1, 2009.