

1 S.197

2 Introduced by Senator Lyons

3 Referred to Committee on

4 Date:

5 Subject: Public service; taxation; property taxes; renewable energy tax credit;

6 SPEED standard offer

7 Statement of purpose: This bill proposes to support the credit-worthiness of
8 the facilitator for the public service board's standard offer program by
9 clarifying that the obligations of a purchaser under a standard offer contract are
10 obligations of the electric utilities; to establish a standardized statewide
11 property tax assessment for renewable energy projects; to allow the Vermont
12 renewable energy tax credit to be taken in conjunction with federal stimulus
13 grants; to allow the Vermont renewable energy tax credit to be taken by banks
14 against the bank franchise tax; and to allow for the Vermont renewable energy
15 tax credit to be transferred to a third party.

16 An act relating to Vermont renewable energy property tax assessments and
17 tax credit portability

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

1 Sec. 1. 30 V.S.A. § 8005 is amended to read:

2 § 8005. SUSTAINABLY PRICED ENERGY ENTERPRISE

3 DEVELOPMENT (SPEED) PROGRAM

4 * * *

5 (m) Obligations of the purchaser under a standard offer contract executed
6 under this section shall be obligations of the Vermont retail electricity
7 providers in accordance with their pro rata share under subdivision (g)(2) of
8 this section. The state shall not be liable to a plant owner or retail electricity
9 provider with respect to any matter related to SPEED, including costs
10 associated with a standard offer contract under this section or any damages
11 arising from breach of such a contract, the flow of power between a plant and
12 the electric grid, or the interconnection of a plant to that grid.

13 * * *

14 Sec. 2. 32 V.S.A. § 5402c is amended to read:

15 § 5402c. ~~WIND-POWERED~~ RENEWABLE ENERGY ELECTRIC

16 GENERATING FACILITIES TAX

17 (a) A facility certified by the commissioner of public service as a facility
18 which produces electrical energy for resale, generated solely from ~~wind power~~
19 a renewable energy source, as defined in 30 V.S.A. § 8002, which has an
20 installed capacity of at least five megawatts, which was placed in service after
21 January 1, 2007, and which holds a valid certificate of public good issued

1 under 30 V.S.A. § 248, shall be assessed an alternative education property tax
2 on its buildings and fixtures used directly and exclusively in the generation of
3 electrical energy from ~~wind power~~ renewable energy sources.

4 (b) The tax shall be imposed at a rate per kWh of electrical energy
5 produced by the certified facility, as determined by the public service
6 department for the six months ending April 30 and the six months ending
7 October 31 each year. The rate of the tax shall be \$0.003.

8 * * *

9 Sec. 3. 32 V.S.A. § 5822(d) is amended to read:

10 (d)(1) A taxpayer shall be entitled to a credit against the tax imposed under
11 this section of 24 percent of each of the credits allowed against the taxpayer's
12 federal income tax for the taxable year as follows: elderly and permanently
13 totally disabled credit, investment tax credit attributable to the
14 Vermont-property portion of the investment, and child care and dependent care
15 credits. A taxpayer shall also be entitled to a credit against the tax imposed
16 under this section of 76 percent of the Vermont-property portion of the
17 business solar energy investment tax credit component of the federal
18 investment tax credit allowed against the taxpayer's federal income tax for the
19 taxable year under Section 48 of the Internal Revenue Code; ~~provided,~~
20 ~~however, that a taxpayer who receives any grants or similar funding from the~~
21 ~~clean energy development fund created under 10 V.S.A. § 6523 is not eligible~~

1 ~~to claim the business solar energy tax credit for that project; and provided~~
2 ~~further, that, for investments made on or after October 1, 2009, the tax credit~~
3 ~~will only apply to project costs not covered by any grants or similar funding~~
4 ~~from any public or private program that assists in providing capital investment~~
5 ~~for a renewable energy project. Any unused business solar energy investment~~
6 tax credit under this section may be carried forward for no more than five years
7 following the first year in which the credit is claimed.

8 (2) All or any portion of tax credit earned in accordance with this
9 subsection may be transferred, sold, or assigned to another taxpayer. Any tax
10 credit that is transferred, sold, or assigned and taken against taxes imposed by
11 this part and parts 4 and 5 of this subtitle shall not be refundable. An owner or
12 transferee desiring to make a transfer, sale, or assignment shall submit to the
13 commissioner a statement which describes the amount of tax credit for which
14 the transfer, sale, or assignment of tax credit is eligible. The owner or
15 transferee shall provide to the commissioner information as the commissioner
16 may require for the proper allocation of the credit. The commissioner shall
17 provide to the taxpayer a certificate of eligibility to transfer, sell, or assign the
18 tax credit. The commissioner shall not issue a certificate to a taxpayer that has
19 an outstanding tax obligation with the state for any prior taxable year. A tax
20 credit shall not be transferred, sold, or assigned without a certificate.

1 Sec. 4. 32 V.S.A. § 5836(k) is added to read:

2 (k) A corporation subject to the tax imposed by this section may offset the
3 tax with any earned renewable energy tax credit provided for under subsection
4 5822(d) of this title.

5 Sec. 5. 32 V.S.A. § 5930z(a) is amended to read:

6 (a)(1) A taxpayer of this state shall be eligible for a credit against the tax
7 imposed under section 5832 of this title in an amount equal to 100 percent of
8 the Vermont-property portion of the business solar energy investment tax
9 credit component of the federal investment tax credit allowed against the
10 taxpayer's federal income tax for the taxable year under Section 48 of the
11 Internal Revenue Code; ~~provided, however, that a taxpayer who receives any~~
12 ~~grants or similar funding from the clean energy development fund created~~
13 ~~under 10 V.S.A. § 6523 is not eligible to claim the business solar energy tax~~
14 ~~credit for that project; and provided further, that for investments made on or~~
15 ~~after October 1, 2009, the tax credit will only apply to project costs not~~
16 ~~covered by any grants or similar funding from any public or private program~~
17 ~~that assists in providing capital investment for a renewable energy project.~~

18 (2) All or any portion of tax credit earned in accordance with this
19 section may be transferred, sold, or assigned to another taxpayer. Any tax
20 credit that is transferred, sold, or assigned and taken against taxes imposed by
21 this part and parts 4 and 5 of this subtitle shall not be refundable. An owner or

1 transferee desiring to make a transfer, sale, or assignment shall submit to the
2 commissioner a statement which describes the amount of tax credit for which
3 the transfer, sale, or assignment of tax credit is eligible. The owner or
4 transferee shall provide to the commissioner information as the commissioner
5 may require for the proper allocation of the credit. The commissioner shall
6 provide to the taxpayer a certificate of eligibility to transfer, sell, or assign the
7 tax credit. The commissioner shall not issue a certificate to a taxpayer that has
8 an outstanding tax obligation with the state for any prior taxable year. A tax
9 credit shall not be transferred, sold, or assigned without a certificate.

10 Sec. 6. EFFECTIVE DATES

11 This act shall take effect upon passage; however, Secs. 2, 3, 4, and 5 shall
12 apply to taxable years beginning on or after January 1, 2009.