



February 17, 2010

**ENGROSSED
HOUSE BILL No. 1261**

DIGEST OF HB 1261 (Updated February 15, 2010 1:13 pm - DI 52)

Citations Affected: IC 8-1; IC 15-11.

Synopsis: Renewable energy. In the list of organic matter considered organic waste biomass for purposes of utility generation and clean coal technology financial incentives, adds animal byproducts and algae and deletes organic waste from clean construction and demolition. Provides that for purposes of biomass infrastructure financial incentives, "biomass" has the meaning set forth in the chapter on agricultural biomass infrastructure grants. Changes the name of the E85 fueling station grant fund to the agricultural biomass infrastructure grant fund. Authorizes the department of agriculture to award grants from the agricultural biomass infrastructure grant fund for certain infrastructure used for the production or distribution of biofuels (fuels produced from biomass). Adds certain definitions. Makes changes to the definition of a qualified investment. Provides that grants for biofuels projects may be awarded for infrastructure expenses incurred after December 31, 2010. Provides that the amount of a grant for certain infrastructure used for the production or distribution of biofuels may not exceed the lesser of: (1) 50% of the recipient's qualified investment; or (2) \$100,000. Makes related changes.

Effective: January 1, 2011.

Friend, Pearson

(SENATE SPONSORS — STUTZMAN, HEAD, DEIG, LEWIS, ERRINGTON,
RANDOLPH)

January 12, 2010, read first time and referred to Committee on Agriculture and Rural Development.

January 26, 2010, reported — Do Pass.

February 1, 2010, read second time, amended, ordered engrossed.

February 2, 2010, engrossed. Read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 8, 2010, read first time and referred to Committee on Energy and Environmental Affairs.

February 16, 2010, amended, reported favorably — Do Pass.

EH 1261—LS 6744/DI 116+



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February 17, 2010

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

ENGROSSED HOUSE BILL No. 1261



A BILL FOR AN ACT to amend the Indiana Code concerning renewable energy.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-1-8.8-1.4 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 3 JANUARY 1, 2011]: **Sec. 1.4. For purposes of biomass**
- 4 **infrastructure financial incentives under this chapter, "biomass"**
- 5 **has the meaning set forth in IC 15-11-11-0.7.**
- 6 SECTION 2. IC 8-1-8.8-10, AS AMENDED BY P.L.151-2009,
- 7 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JANUARY 1, 2011]: **Sec. 10. (a) Except as provided in section 1.4**
- 9 **of this chapter,** as used in this chapter "renewable energy resources"
- 10 means alternative sources of renewable energy, including the
- 11 following:
- 12 (1) Energy from wind.
- 13 (2) Solar energy.
- 14 (3) Photovoltaic cells and panels.
- 15 (4) Dedicated crops grown for energy production.
- 16 (5) Organic waste biomass, including any of the following organic
- 17 matter that is available on a renewable basis:

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- 1 (A) Agricultural crops.
- 2 (B) Agricultural wastes and residues.
- 3 (C) Wood and wood wastes, including the following:
- 4 (i) Wood residues.
- 5 (ii) Forest thinnings.
- 6 (iii) Mill residue wood.
- 7 ~~(iv) Waste from clean construction and demolition.~~
- 8 (D) Animal wastes.
- 9 **(E) Animal byproducts.**
- 10 ~~(F) Aquatic plants.~~
- 11 **(G) Algae.**
- 12 (6) Hydropower from existing dams.
- 13 (7) Fuel cells.
- 14 (8) Energy from waste to energy facilities.
- 15 (9) Energy storage systems.
- 16 (b) Except for energy described in subsection (a)(8), the term does
- 17 not include energy from the incinerations, burning, or heating of any of
- 18 the following:
- 19 (1) Tires.
- 20 (2) General household, institutional, commercial, industrial
- 21 lunchroom, office, or landscape waste.
- 22 (c) The term excludes treated or painted lumber.
- 23 SECTION 3. IC 15-11-2-3, AS AMENDED BY P.L.71-2009,
- 24 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 25 JANUARY 1, 2011]: Sec. 3. The department shall do the following:
- 26 (1) Provide administrative and staff support for the following:
- 27 (A) The state fair board for purposes of carrying out the
- 28 director's duties under IC 15-13-5.
- 29 (B) The Indiana corn marketing council for purposes of
- 30 administering the duties of the director under IC 15-15-12.
- 31 (C) The Indiana organic peer review panel under IC 15-15-8.
- 32 (D) The Indiana dairy industry development board for
- 33 purposes of administering the duties of the director under
- 34 IC 15-18-5.
- 35 (E) The Indiana land resources council under IC 15-12-5.
- 36 (F) The Indiana grain buyers and warehouse licensing agency
- 37 under IC 26-3-7.
- 38 (G) The Indiana grain indemnity corporation under IC 26-4-3.
- 39 (H) The division.
- 40 (I) ~~The E85 fueling station~~ **agricultural biomass**
- 41 **infrastructure** grant program under IC 15-11-11.
- 42 (2) Administer the election of state fair board members under

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- 1 IC 15-13-5.
- 2 (3) Administer state programs and laws promoting agricultural
- 3 trade.
- 4 (4) Administer state livestock or agriculture marketing grant
- 5 programs.
- 6 (5) Administer economic development efforts for agriculture by
- 7 doing the following:
- 8 (A) Promoting value added agricultural resources.
- 9 (B) Marketing Indiana agriculture to businesses
- 10 internationally.
- 11 (C) Assisting Indiana agricultural businesses with developing
- 12 partnerships with the Indiana economic development
- 13 corporation.
- 14 (D) Soliciting private funding for selective economic
- 15 development and trade initiatives.
- 16 (E) Providing for the orderly economic development and
- 17 growth of Indiana's agricultural economy.
- 18 (F) Facilitating the use of biomass and algae production
- 19 systems to generate renewable energy.

20 SECTION 4. IC 15-11-11-0.3 IS ADDED TO THE INDIANA
 21 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 22 [EFFECTIVE JANUARY 1, 2011]: **Sec. 0.3. As used in this chapter,**
 23 **"biofuels" means biomass converted into liquid or gaseous fuels.**

24 SECTION 5. IC 15-11-11-0.7 IS ADDED TO THE INDIANA
 25 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JANUARY 1, 2011]: **Sec. 0.7. As used in this chapter,**
 27 **"biomass" means agriculturally based sources of renewable**
 28 **energy, including the following:**

- 29 (1) **Agricultural crops.**
- 30 (2) **Agricultural wastes and residues.**
- 31 (3) **Wood and wood byproducts, including the following:**
- 32 (A) **Wood residue.**
- 33 (B) **Forest thinning.**
- 34 (C) **Mill residue wood.**
- 35 (4) **Animal wastes.**
- 36 (5) **Animal byproducts.**
- 37 (6) **Aquatic plants.**
- 38 (7) **Algae.**

39 SECTION 6. IC 15-11-11-3, AS ADDED BY P.L.2-2008,
 40 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JANUARY 1, 2011]: **Sec. 3. As used in this chapter, "location" refers**
 42 **to one (1) or more parcels of land that:**

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- 1 (1) have a common access to a public highway; and
- 2 (2) are or would appear to the reasonable ~~person~~ **individual**
- 3 making an observation from a public highway to be part of the
- 4 same business.

5 SECTION 7. IC 15-11-11-4.3 IS ADDED TO THE INDIANA
 6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JANUARY 1, 2011]: **Sec. 4.3. As used in this chapter,**
 8 **"person" means:**

- 9 (1) **an individual;**
- 10 (2) **an agricultural producer;**
- 11 (3) **a partnership;**
- 12 (4) **a corporation;**
- 13 (5) **a limited liability company; or**
- 14 (6) **an unincorporated association.**

15 SECTION 8. IC 15-11-11-4.7 IS ADDED TO THE INDIANA
 16 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE JANUARY 1, 2011]: **Sec. 4.7. As used in this chapter,**
 18 **"project" refers to the production or distribution of biofuels**
 19 **through the use of a renewable energy system infrastructure.**

20 SECTION 9. IC 15-11-11-5, AS ADDED BY P.L.2-2008,
 21 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JANUARY 1, 2011]: **Sec. 5. As used in this chapter, "qualified**
 23 **investment" refers to an ordinary and usual expense that is incurred:**

- 24 (1) after June 30, 2007, to do either of the following:
- 25 (†) (A) Purchase any part of a renewable fuel compatible
- 26 fueling station for the purpose of:
- 27 (⚡) (i) installing the new renewable fuel compatible fuel
- 28 station at a location on which a fueling station is not located;
- 29 or
- 30 (⚡) (ii) converting an existing fueling station that is not a
- 31 renewable fuel compatible fueling station into a fueling
- 32 station that is a renewable fuel compatible fueling station.
- 33 (‡) (B) Refit any part of a fueling station that is not renewable
- 34 fuel compatible as a renewable fuel compatible fueling station,
- 35 including the costs of cleaning storage tanks and piping to
- 36 remove petroleum sludge and other contaminants; **or**
- 37 (2) after **December 31, 2010, for the installation of a**
- 38 **renewable energy system infrastructure that uses commercial**
- 39 **technologies to produce or distribute biofuels. It does not**
- 40 **include a cost or expense for:**
- 41 (A) **research and development;**
- 42 (B) **land acquisition;**

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- 1 **(C) agricultural tillage equipment;**
- 2 **(D) salaries; or**
- 3 **(E) other noninfrastructure purposes determined ineligible**
- 4 **by the department.**

5 SECTION 10. IC 15-11-11-7, AS ADDED BY P.L.91-2008,
 6 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JANUARY 1, 2011]: Sec. 7. (a) Subject to subsection (c), the
 8 department may award a grant under this chapter to a person or unit
 9 that:

- 10 (1) makes a qualified investment and
- 11 ~~(2)~~ places the qualified investment in service in Indiana for the
- 12 dispensing of E85 base fuel into the fuel tanks of motor vehicles;
- 13 **or**
- 14 **(2) places a qualified investment in service in Indiana for the**
- 15 **production or distribution of biofuels.**

16 (b) A recipient of a grant awarded under this chapter must comply
 17 with any guidelines developed by the department and the office of
 18 energy and defense development.

19 (c) The department may not award more than one (1) grant under
 20 this chapter for a:

- 21 **(1) renewable fuel compatible fueling station at a location; or**
- 22 **(2) project.**

23 SECTION 11. IC 15-11-11-8, AS ADDED BY P.L.91-2008,
 24 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JANUARY 1, 2011]: Sec. 8. (a) Subject to ~~subsection~~ **subsections** (b)
 26 **and (c)**, the department and the office of energy and defense
 27 development shall determine the amount of each grant awarded under
 28 this chapter.

29 (b) The amount of a grant awarded under this chapter for a
 30 **renewable fuel compatible fueling station at a location** may not
 31 exceed the lesser of the following:

- 32 (1) The amount of the grant recipient's qualified investment for
- 33 the location.
- 34 (2) Twenty thousand dollars (\$20,000).

35 **(c) A grant awarded under this chapter for a project must be**
 36 **awarded on a competitive basis and may not exceed the lesser of:**

- 37 **(1) fifty percent (50%) of the grant recipient's qualified**
- 38 **investment for the project; or**
- 39 **(2) one hundred thousand dollars (\$100,000).**

40 ~~(c)~~ **(d)** The amount of a grant awarded under this chapter for a
 41 location **or project** may be less than the amount of the grant recipient's
 42 qualified investment for the location **or project**.

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1 SECTION 12. IC 15-11-11-11, AS ADDED BY P.L.2-2008,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2011]: Sec. 11. (a) The ~~E85 fueling station~~ **agricultural**
4 **biomass infrastructure** grant fund is established to provide grants
5 under this chapter.
6 (b) The fund consists of appropriations from the general assembly.
7 (c) The treasurer of state shall invest the money in the fund not
8 currently needed to meet the obligations of the fund in the same
9 manner as other public funds may be invested.
10 (d) Money in the fund at the end of a state fiscal year does not revert
11 to the state general fund but remains in the fund to be used exclusively
12 for purposes of this chapter.
13 (e) Money in the fund is continuously appropriated for the purposes
14 of this chapter.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1261, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

PEARSON, Chair

Committee Vote: yeas 11, nays 0.



HOUSE MOTION

Mr. Speaker: I move that House Bill 1261 be amended to read as follows:

Page 2, line 21, after "biomass" insert "(as defined in IC 15-11-11-0.7)".

Page 3, delete line 2.

Page 3, between lines 6 and 7, begin a new line blocked left and insert:

"The term does not include biomass used in direct-fired (direct combustion) or co-firing systems."

(Reference is to HB 1261 as printed January 26, 2010.)

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COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred House Bill No. 1261, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning renewable energy.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-1-8.8-1.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 1.4. For purposes of biomass

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infrastructure financial incentives under this chapter, "biomass" has the meaning set forth in IC 15-11-11-0.7.

SECTION 2. IC 8-1-8.8-10, AS AMENDED BY P.L.151-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 10. (a) **Except as provided in section 1.4 of this chapter**, as used in this chapter "renewable energy resources" means alternative sources of renewable energy, including the following:

- (1) Energy from wind.
- (2) Solar energy.
- (3) Photovoltaic cells and panels.
- (4) Dedicated crops grown for energy production.
- (5) Organic waste biomass, including any of the following organic matter that is available on a renewable basis:
 - (A) Agricultural crops.
 - (B) Agricultural wastes and residues.
 - (C) Wood and wood wastes, including the following:
 - (i) Wood residues.
 - (ii) Forest thinnings.
 - (iii) Mill residue wood.
 - ~~(iv) Waste from clean construction and demolition.~~
 - (D) Animal wastes.
 - (E) Animal byproducts.**
 - ~~(F)~~ **(F) Aquatic plants.**
 - (G) Algae.**
- (6) Hydropower from existing dams.
- (7) Fuel cells.
- (8) Energy from waste to energy facilities.
- (9) Energy storage systems.

(b) Except for energy described in subsection (a)(8), the term does not include energy from the incinerations, burning, or heating of any of the following:

- (1) Tires.
- (2) General household, institutional, commercial, industrial lunchroom, office, or landscape waste.
- (c) The term excludes treated or painted lumber."

Page 2, line 21, delete "(as defined in".

Page 2, line 22, delete "IC 15-11-11-0.7)".

Page 2, delete lines 28 through 33.

Page 3, delete lines 7 through 8.

Page 3, delete lines 27 through 42, begin a new paragraph and insert:

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"SECTION 8. IC 15-11-11-4.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: **Sec. 4.7. As used in this chapter, "project" refers to the production or distribution of biofuels through the use of a renewable energy system infrastructure.**

SECTION 9. IC 15-11-11-5, AS ADDED BY P.L.2-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: **Sec. 5. As used in this chapter, "qualified investment" refers to an ordinary and usual expense that is incurred:**

(1) after June 30, 2007, to do either of the following:

(1) after June 30, 2007, to do either of the following:
~~(1)~~ **(A) Purchase any part of a renewable fuel compatible fueling station for the purpose of:**

~~(A)~~ **(i) installing the new renewable fuel compatible fuel station at a location on which a fueling station is not located;**
 or

~~(B)~~ **(ii) converting an existing fueling station that is not a renewable fuel compatible fueling station into a fueling station that is a renewable fuel compatible fueling station.**

~~(2)~~ **(B) Refit any part of a fueling station that is not renewable fuel compatible as a renewable fuel compatible fueling station, including the costs of cleaning storage tanks and piping to remove petroleum sludge and other contaminants; or**

(2) after December 31, 2010, for the installation of a renewable energy system infrastructure that uses commercial technologies to produce or distribute biofuels. It does not include a cost or expense for:

(A) research and development;

(B) land acquisition;

(C) agricultural tillage equipment;

(D) salaries; or

(E) other noninfrastructure purposes determined ineligible by the department.

SECTION 10. IC 15-11-11-7, AS ADDED BY P.L.91-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: **Sec. 7. (a) Subject to subsection (c), the department may award a grant under this chapter to a person or unit that:**

(1) makes a qualified investment and

~~(2)~~ **places the qualified investment in service in Indiana for the dispensing of E85 base fuel into the fuel tanks of motor vehicles;**
 or

(2) places a qualified investment in service in Indiana for the

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production or distribution of biofuels.

(b) A recipient of a grant awarded under this chapter must comply with any guidelines developed by the department and the office of energy and defense development.

(c) The department may not award more than one (1) grant under this chapter for a:

- (1) renewable fuel compatible fueling station at a location; or**
- (2) project.**

SECTION 11. IC 15-11-11-8, AS ADDED BY P.L.91-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 8. (a) Subject to ~~subsection~~ **subsections (b) and (c)**, the department and the office of energy and defense development shall determine the amount of each grant awarded under this chapter.

(b) The amount of a grant awarded under this chapter for a **renewable fuel compatible fueling station at a location** may not exceed the lesser of the following:

- (1) The amount of the grant recipient's qualified investment for the location.
- (2) Twenty thousand dollars (\$20,000).

(c) A grant awarded under this chapter for a project must be awarded on a competitive basis and may not exceed the lesser of:

- (1) fifty percent (50%) of the grant recipient's qualified investment for the project; or**
- (2) one hundred thousand dollars (\$100,000).**

~~(c)~~ **(d)** The amount of a grant awarded under this chapter for a location **or project** may be less than the amount of the grant recipient's qualified investment for the location **or project**."

Delete page 4.

Page 5, delete lines 1 through 18.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1261 as reprinted February 2, 2010.)

GARD, Chairperson

Committee Vote: Yeas 7, Nays 0.

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