
HOUSE BILL No. 1008

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-28-36; IC 6-3-2; IC 6-3.1-13.

Synopsis: Wind turbines. Establishes the Hoosier heritage innovative industry loan fund (fund). Provides that the fund is administered by the Indiana economic development corporation (IEDC). Provides that the IEDC board may make a loan from the fund to an applicant to establish a facility in Indiana that manufactures or fabricates wind turbines using steel made in the United States (wind turbine facility). Provides that a loan from the fund is interest free and may be for an amount up to \$1,000,000. Provides that the term of a loan from the fund may not exceed 20 years. Transfers \$1,000,000 from the Indiana twenty-first century research and technology fund to the fund. Provides that a taxpayer that establishes a wind turbine facility in Indiana may be eligible for a reduced adjusted gross income tax rate for the first two taxable years that the wind turbine facility is in operation. Provides that a taxpayer must be approved by the IEDC to receive the reduced adjusted gross income tax rate for income derived from the wind turbine facility. Provides that the reduced tax rate equals: (1) 5% of the adjusted gross income derived from the wind turbine facility if the taxpayer is a corporation; or (2) 2.4% of the adjusted gross income derived from the wind turbine facility if the taxpayer is an individual or pass-through entity. Provides that the IEDC must receive competing bids from two different applicants to establish a wind turbine facility in order for the IEDC to approve a reduced adjusted gross income tax rate. Allows the IEDC to award an additional economic development for a growing economy (EDGE) tax credit to a wind turbine facility. Provides that the additional tax credit may not exceed 1.6% of the wages attributable to the applicant's project. Provides that the duration
(Continued next page)

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Effective: July 1, 2012.

Moseley

January 9, 2012, read first time and referred to Committee on Ways and Means.



Digest Continued

of the credit may not be more than two taxable years. Provides that in order for an applicant to qualify for the additional tax credit the applicant must: (1) meet the existing requirements to receive an EDGE tax credit; (2) use steel made in the United States to manufacture or fabricate the wind turbines or wind turbine components; and (3) pay employees an average wage that exceeds the average wage of an employee in the county where the wind turbine facility is located by at least 10%. Provides that in order to award an additional EDGE credit, the IEDC must receive at least two competing bids to establish a wind turbine facility from at least two different applicants.

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Introduced

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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HOUSE BILL No. 1008



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

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

1 SECTION 1. IC 5-28-36 IS ADDED TO THE INDIANA CODE AS
 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2012]:
 4 **Chapter 36. Hoosier Heritage Innovative Industry Loan Fund**
 5 **Sec. 1. As used in this chapter, "fund" refers to the Hoosier**
 6 **heritage innovative industry loan fund established by section 3 of**
 7 **this chapter.**
 8 **Sec. 2. As used in this chapter, "qualified wind turbine facility"**
 9 **means a facility that fabricates or manufactures wind turbines or**
 10 **the gearbox or tower components of a wind turbine using steel**
 11 **made in the United States.**
 12 **Sec. 3. (a) The Hoosier heritage innovative industry loan fund**
 13 **is established to provide loans to support the establishment of a**
 14 **qualified wind turbine facility in Indiana.**
 15 **(b) The fund consists of:**



- 1 (1) appropriations from the general assembly;
 2 (2) money transferred to the fund from the Indiana
 3 twenty-first century research and technology fund established
 4 by IC 5-28-16-2; and
 5 (3) loan repayments.

6 (c) The corporation shall administer the fund. The following
 7 may be paid from the fund:

- 8 (1) Expenses of administering the fund.
 9 (2) Nonrecurring administrative expenses incurred to carry
 10 out the purposes of this chapter.

11 (d) The treasurer of state shall invest money in the fund not
 12 currently needed to meet the obligations of the fund in the same
 13 manner as other public funds may be invested. Interest that
 14 accrues from these investments shall be deposited in the fund.

15 (e) The money in the fund at the end of the state fiscal year does
 16 not revert to the state general fund but remains in the fund to be
 17 used exclusively for purposes of this chapter.

18 Sec. 4. (a) The board may make a loan to an applicant from the
 19 fund as provided in this chapter.

20 (b) A successful applicant may receive an interest free loan from
 21 the fund for an amount not to exceed one million dollars
 22 (\$1,000,000) to establish a qualified wind turbine facility in
 23 Indiana. The term of the loan may not exceed twenty (20) years.

24 Sec. 5. (a) A successful applicant for a loan from the fund must
 25 meet the requirements of this section and be approved by the
 26 board. An application for a loan from the fund must be made on an
 27 application form prescribed by the board. An applicant shall
 28 provide all information that the board finds necessary to make the
 29 determinations required by this chapter.

30 (b) All applications for a loan from the fund must include the
 31 following:

32 (1) A commitment to use steel produced in the United States
 33 in the fabrication or manufacture of wind turbines or the
 34 gearbox or tower components of a wind turbine.

35 (2) A detailed financial analysis that includes the commitment
 36 of resources by other entities that will be involved in the
 37 project.

38 (3) A statement of the economic development potential of the
 39 project, such as:

40 (A) a statement of the way in which a loan from the fund
 41 will lead to significantly increased funding from federal or
 42 private sources and from private sector research partners;

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or

(B) a projection of the jobs to be created.

(4) The identity, qualifications, and obligations of the applicant.

(5) Any other information the board considers appropriate.

An applicant for a loan from the fund may request that certain information that is submitted by the applicant be kept confidential. The board shall make a determination of confidentiality as soon as is practicable. If the board determines that the information should not be kept confidential, the applicant may withdraw the application, and the board must return the information before the information may be part of any public record.

Sec. 6. (a) The board shall accept, analyze, and approve applications under this chapter.

(b) The board shall give priority to an application for a loan from the fund that has the greatest economic development potential.

Sec. 7. Before July 15, 2012, the auditor of state shall transfer a total of one million dollars (\$1,000,000) from the Indiana twenty-first century research and technology fund established by IC 5-28-16-2 to the fund.

SECTION 2. IC 6-3-2-1, AS AMENDED BY P.L.172-2011, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) **Except as provided in section 1.6 of this chapter**, each taxable year, a tax at the rate of three and four-tenths percent (3.4%) of adjusted gross income is imposed upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person.

(b) Except as provided in section 1.5 or 1.6 of this chapter, each taxable year, a tax at the following rate of adjusted gross income is imposed on that part of the adjusted gross income derived from sources within Indiana of every corporation:

- (1) Before July 1, 2012, eight and five-tenths percent (8.5%).
- (2) After June 30, 2012, and before July 1, 2013, eight percent (8.0%).
- (3) After June 30, 2013, and before July 1, 2014, seven and five-tenths percent (7.5%).
- (4) After June 30, 2014, and before July 1, 2015, seven percent (7.0%).
- (5) After June 30, 2015, six and five-tenths percent (6.5%).

(c) If for any taxable year a taxpayer is subject to different tax rates

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1 under subsection (b), the taxpayer's tax rate for that taxable year is the
2 rate determined in the last STEP of the following STEPS:

3 STEP ONE: Multiply the number of months in the taxpayer's
4 taxable year that precede the month the rate changed by the rate
5 in effect before the rate change.

6 STEP TWO: Multiply the number of months in the taxpayer's
7 taxable year that follow the month before the rate changed by the
8 rate in effect after the rate change.

9 STEP THREE: Divide the sum of the amounts determined under
10 STEPS ONE and TWO by twelve (12).

11 However, the rate determined under this subsection shall be rounded
12 to the nearest one-hundredth of one percent (0.01%).

13 SECTION 3. IC 6-3-2-1.6 IS ADDED TO THE INDIANA CODE
14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 2012]: **Sec. 1.6. (a) This section applies only to taxable years
16 beginning after December 31, 2012.**

17 **(b) As used in this section, "IEDC" refers to the Indiana
18 economic development corporation.**

19 **(c) As used in this section, "qualified wind turbine facility" has
20 the meaning set forth in IC 5-28-36-2.**

21 **(d) A tax at the rate of:**

22 **(1) five percent (5%) of adjusted gross income is imposed on
23 that part of the adjusted gross income of a corporation; or**

24 **(2) two and four-tenths percent (2.4%) is imposed on that part
25 of the adjusted gross income of a person;**

26 **that is derived from the qualified wind turbine facility that has
27 been approved by the IEDC under subsection (f). The tax rate
28 under this section applies to the taxable year in which the qualified
29 wind turbine facility begins operation and to the next succeeding
30 taxable year.**

31 **(e) In order for a taxpayer to be taxed at the tax rate described
32 in subsection (d), the IEDC must approve an application submitted
33 to the IEDC. The application must be on a form prescribed by the
34 IEDC.**

35 **(f) After receipt of an application, the IEDC may enter into an
36 agreement with the taxpayer to have a tax rate described in
37 subsection (d) imposed on the adjusted gross income of the
38 taxpayer if the IEDC determines that all of the following conditions
39 exist:**

40 **(1) The taxpayer makes a commitment to use steel made in the
41 United States to fabricate or manufacture wind turbines or
42 the gearboxes or towers for wind turbines at the taxpayer's**

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- proposed qualified wind turbine facility.
- (2) The amount of the average wage paid to an employee working for the taxpayer exceeds the average wage paid to an employee in the county where the taxpayer proposes to establish the qualified wind turbine facility by at least ten percent (10%).
- (3) The taxpayer's project will create new jobs that were not jobs previously performed by employees of the taxpayer in Indiana.
- (4) The taxpayer's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment in Indiana and strengthening the economy of Indiana.
- (5) Receiving the tax rate provided in subsection (d) is a major factor in the taxpayer's decision to go forward with the project and not receiving the tax rate will result in the taxpayer not creating new jobs in Indiana.
- (6) The approval of the tax rate described in subsection (d) will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.
- (7) The tax rate described in subsection (d) is not prohibited by subsection (h).
- (g) In determining whether to approve the tax rate described in subsection (d), the IEDC may take into consideration the following factors:
 - (1) The economy of the county where the projected investment is to occur.
 - (2) The potential impact on the economy of Indiana.
 - (3) The incremental payroll attributable to the project.
 - (4) The capital investment attributable to the project.
 - (5) The costs to Indiana and the affected political subdivisions with respect to the project.
 - (6) The financial assistance and incentives that are otherwise provided by Indiana and the affected political subdivisions.
- (h) A taxpayer is not entitled to the tax rate described in subsection (d) if the taxpayer moves a qualified wind turbine facility in Indiana to another site in Indiana. Determinations under this subsection shall be made by the IEDC.
- (i) The IEDC may enter into an agreement under this section only if the IEDC has received at least two (2) applications from at least two (2) applicants proposing to establish a qualified wind turbine facility in Indiana.

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1 (j) The taxpayer must file with the taxpayer's annual state tax
2 return or returns a copy of the agreement entered into by the
3 corporation and the taxpayer under this section.

4 (k) The department of state revenue:

5 (1) shall adopt rules under IC 4-22-2 to establish a procedure
6 for determining the part of a taxpayer's adjusted gross
7 income that was derived from the qualified wind turbine
8 facility; and

9 (2) may adopt other rules the department considers necessary
10 to implement this section.

11 SECTION 4. IC 6-3.1-13-3.5 IS ADDED TO THE INDIANA
12 CODE AS A NEW SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2012]: **Sec. 3.5. As used in this chapter,**
14 **"enhanced credit amount" means the amount agreed to between**
15 **the corporation and an applicant to establish a qualified wind**
16 **turbine facility. The amount of the enhanced credit amount may**
17 **not exceed the amount described in section 15.1 of this chapter.**

18 SECTION 5. IC 6-3.1-13-7.5 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2012]: **Sec. 7.5. As used in this chapter,**
21 **"qualified wind turbine facility" has the meaning set forth in**
22 **IC 5-28-36-2.**

23 SECTION 6. IC 6-3.1-13-14, AS AMENDED BY P.L.4-2005,
24 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2012]: **Sec. 14. A person that proposes a project to create new**
26 **jobs in Indiana may apply, as provided in ~~section~~ sections 15 and 15.1**
27 **of this chapter, to the corporation to enter into an agreement for a tax**
28 **credit under this chapter. A person that proposes to retain existing jobs**
29 **in Indiana may apply, as provided in section 15.5 of this chapter, to the**
30 **corporation to enter into an agreement for a tax credit under this**
31 **chapter. The director shall prescribe the form of the application.**

32 SECTION 7. IC 6-3.1-13-15.1 IS ADDED TO THE INDIANA
33 CODE AS A NEW SECTION TO READ AS FOLLOWS
34 [EFFECTIVE JULY 1, 2012]: **Sec. 15.1. (a) This section applies to an**
35 **application by an applicant proposing a project to establish a**
36 **qualified wind turbine facility in Indiana.**

37 (b) In addition to a credit provided in an agreement under
38 section 15 of this chapter, the corporation may enter into an
39 agreement with an applicant to provide an enhanced credit amount
40 of up to one and sixth-tenths percent (1.6%) of the incremental
41 amount of wages subject to tax under IC 6-3 that is attributable to
42 the applicant's project. This amount is in addition to the maximum

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1 credit amount that may be awarded under section 18 of this
 2 chapter. The duration of the enhanced credit part of a credit
 3 provided under this chapter may not exceed two (2) taxable years.

4 (c) In order for the corporation to enter into an agreement with
 5 an applicant to provide the enhanced credit amount provided in
 6 subsection (b), the corporation must determine that the following
 7 conditions are met:

8 (1) The qualified wind turbine facility agrees to use steel made
 9 in the United States to fabricate or manufacture wind
 10 turbines or the gearboxes or towers for wind turbines.

11 (2) The amount of the average wage to be paid to a new
 12 employee by the applicant exceeds the average wage paid to
 13 an employee in the county where the applicant proposes to
 14 establish the qualified wind turbine facility by at least ten
 15 percent (10%).

16 (3) The conditions provided under section 15 of this chapter.

17 (d) The corporation may enter into an agreement under this
 18 section only if the corporation has received at least two (2)
 19 applications from at least two (2) applicants proposing to establish
 20 a qualified wind turbine facility in Indiana.

21 SECTION 8. IC 6-3.1-13-17, AS AMENDED BY P.L.197-2005,
 22 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2012]: Sec. 17. In determining the credit amount that should
 24 be awarded to an applicant under section 15 or 15.1 of this chapter that
 25 proposes a project to create jobs in Indiana, the corporation may take
 26 into consideration the following factors:

27 (1) The economy of the county where the projected investment is
 28 to occur.

29 (2) The potential impact on the economy of Indiana.

30 (3) The incremental payroll attributable to the project.

31 (4) The capital investment attributable to the project.

32 (5) The amount the average wage paid by the applicant exceeds
 33 the average wage paid:

34 (A) within the county in which the project will be located, in
 35 the case of an application submitted before January 1, 2006; or

36 (B) in the case of an application submitted after December 31,
 37 2005:

38 (i) to all employees working in the same NAICS industry
 39 sector to which the applicant's business belongs in the
 40 county in which the applicant's business is located, if there
 41 is more than one (1) business in that NAICS industry sector
 42 in the county in which the applicant's business is located;

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1 (ii) to all employees working in the same NAICS industry
 2 sector to which the applicant's business belongs in Indiana,
 3 if the applicant's business is the only business in that NAICS
 4 industry sector in the county in which the applicant's
 5 business is located but there is more than one (1) business in
 6 that NAICS industry sector in Indiana; or
 7 (iii) to all employees working in the same county as the
 8 county in which the applicant's business is located, if there
 9 is no other business in Indiana in the same NAICS industry
 10 sector to which the applicant's business belongs.

11 (6) The costs to Indiana and the affected political subdivisions
 12 with respect to the project.

13 (7) The financial assistance and incentives that are otherwise
 14 provided by Indiana and the affected political subdivisions.

15 (8) The extent to which the incremental income tax withholdings
 16 attributable to the applicant's project are needed for the purposes
 17 of an incremental tax financing fund or industrial development
 18 fund under IC 36-7-13 or a certified technology park fund under
 19 IC 36-7-32.

20 As appropriate, the corporation shall consider the factors in this section
 21 to determine the credit amount awarded to an applicant for a project to
 22 retain existing jobs in Indiana under section 15.5 of this chapter.

23 SECTION 9. IC 6-3.1-13-18, AS AMENDED BY P.L.171-2011,
 24 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2012]: Sec. 18. (a) The corporation shall determine the
 26 amount and duration of a tax credit awarded under this chapter. **Except**
 27 **as provided in section 15.1 of this chapter**, the duration of the credit
 28 may not exceed ten (10) taxable years. The credit may be stated as a
 29 percentage of the incremental income tax withholdings attributable to
 30 the applicant's project and may include a fixed dollar limitation. In the
 31 case of a credit awarded for a project to ~~create new jobs in Indiana,~~
 32 **under section 15 or 15.5 of this chapter**, the credit amount may not
 33 exceed the incremental income tax withholdings. However, the **sum of**
 34 **the credit amount and the enhanced credit amount** claimed for a
 35 taxable year may exceed the taxpayer's state tax liability for the taxable
 36 year, in which case the excess may, at the discretion of the corporation,
 37 be refunded to the taxpayer.

38 (b) For state fiscal year 2006 and each state fiscal year thereafter,
 39 the aggregate amount of credits awarded under this chapter for projects
 40 to retain existing jobs in Indiana may not exceed ten million dollars
 41 (\$10,000,000) per year.

42 (c) This subsection does not apply to a business that was enrolled

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1 and participated in the E-Verify program (as defined in IC 22-5-1.7-3)
2 during the time the taxpayer conducted business in Indiana in the
3 taxable year. A credit under this chapter may not be computed on any
4 amount withheld from an individual or paid to an individual for
5 services provided in Indiana as an employee, if the individual was,
6 during the period of service, prohibited from being hired as an
7 employee under 8 U.S.C. 1324a.

8 SECTION 10. **An emergency is declared for this act.**

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