
By: **Senators Garagiola, Brinkley, Britt, Brochin, Conway, DeGrange,
Forehand, Giannetti, Gladden, Grosfeld, Jones, Kramer, Lawlah,
McFadden, Pinsky, Ruben, and Teitelbaum**

Introduced and read first time: February 4, 2005

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Renewable Energy Development Act of 2005**

3 FOR the purpose of altering the job creation tax credits program to specifically
4 include certain business entities engaged in renewable energy development;
5 altering the job creation requirements for certain business entities to qualify for
6 the tax credits; altering the amount of the tax credits for certain business
7 entities engaged in renewable energy development; requiring the Governor to
8 include in the annual budget bill certain appropriations to the Solar Energy
9 Grant Program for certain fiscal years; phasing out over a certain period of time
10 certain tax credits allowed to certain public service companies, electricity
11 suppliers, and cogenerators for the purchase of Maryland-mined coal for the
12 purpose of offsetting the loss of revenue resulting from this Act; providing for
13 the application of this Act; defining a certain term; and generally relating to job
14 creation tax credits, the Solar Energy Grant Program, and tax credits allowed
15 for the purchase of Maryland-mined coal.

16 BY repealing and reenacting, with amendments,
17 Article 83A - Department of Business and Economic Development
18 Section 5-1101 and 5-1102 (b) and (c)
19 Annotated Code of Maryland
20 (2003 Replacement Volume and 2004 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article - State Government
23 Section 9-2007
24 Annotated Code of Maryland
25 (2004 Replacement Volume)

26 BY repealing and reenacting, with amendments,
27 Article - Tax - General
28 Section 8-406 and 10-704.1
29 Annotated Code of Maryland

1 (2004 Replacement Volume)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article 83A - Department of Business and Economic Development**

5 5-1101.

6 (a) In this subtitle the following words have the meanings indicated.

7 (b) "Central financial, real estate, or insurance services" means the
8 performance of central management or administrative functions for a business entity
9 engaged in financial, real estate, or insurance services, such as general management,
10 accounting, computer tabulating, data processing, purchasing, transportation or
11 shipping, advertising, legal, financial, and research and development.

12 (c) (1) "Company headquarters" means a facility where the majority of a
13 business entity's financial, personnel, legal, and planning functions are handled
14 either on a regional or national basis.

15 (2) "Company headquarters" does not include the headquarters of a
16 professional sports organization.

17 (d) "Credit year" means the taxable year in which a qualified business entity
18 claims the credit allowed under this subtitle.

19 (e) "Full-time position" means a position requiring at least 840 hours of an
20 employee's time during at least 24 weeks in a 6-month period.

21 (f) (1) "Qualified business entity" means a person conducting or operating a
22 trade or business in Maryland who:

23 (i) Is engaged in an activity specified in § 5-1102(b)(2)(ii) of this
24 subtitle;

25 (ii) During any 24-month period creates:

26 1. At least 60 qualified positions;

27 2. At least 30 qualified positions if the aggregate payroll for
28 the qualified positions is greater than a threshold amount equal to the product of
29 multiplying 60 times the State's average annual salary, as determined by the
30 Department; [or]

31 3. AT LEAST 30 QUALIFIED POSITIONS IF THE BUSINESS
32 FACILITY ESTABLISHED OR EXPANDED BY THE BUSINESS ENTITY IS PRIMARILY
33 ENGAGED IN RENEWABLE ENERGY DEVELOPMENT; OR

1 [3.] 4. At least 25 qualified positions if the business facility
2 established or expanded by the business entity is located in a State priority funding
3 area; and

4 (iii) Is certified by the Secretary under § 5-1102(b) of this subtitle as
5 qualifying for the tax credit under this subtitle.

6 (2) For a person engaged in a business activity described in §
7 5-1102(b)(2)(ii)12 of this subtitle, "qualified business entity":

8 (i) Includes the persons owning or operating the multiuse facility
9 in which the entertainment, recreation, cultural, or tourism-related activities are
10 operated; and

11 (ii) Does not include any separate entity that leases retail space at
12 the facility.

13 (g) "Qualified employee" means an employee filling a qualified position.

14 (h) (1) "Qualified position" means a position that:

15 (i) Is a full-time position and is of indefinite duration;

16 (ii) Pays at least 150% of the federal minimum wage;

17 (iii) Is located in Maryland;

18 (iv) Is newly created, as a result of the establishment or expansion
19 of a business facility in a single location in the State; and

20 (v) Is filled.

21 (2) "Qualified position" does not include a position that is:

22 (i) Created when an employment function is shifted from an
23 existing business facility of the business entity located in Maryland to another
24 business facility of the same business entity if the position does not represent a net
25 new job in the State;

26 (ii) Created through a change in ownership of a trade or business;

27 (iii) Created through a consolidation, merger, or restructuring of a
28 business entity if the position does not represent a net new job in the State;

29 (iv) Created when an employment function is contractually shifted
30 from an existing business entity located in the State to another business entity if the
31 position does not represent a net new job in the State; or

32 (v) Filled for a period of less than 12 months.

1 (3) For a business entity engaged in a business activity described in §
2 5-1102(b)(2)(ii)12 of this subtitle, "qualified position" does not include any position
3 other than a position engaged in:

4 (i) The operation of entertainment, recreation, cultural, or
5 tourism-related activities for the multiuse facility in which the entertainment,
6 recreation, cultural, or tourism-related activities are operated; or

7 (ii) Management, marketing, building maintenance, hotel services,
8 and security for the facility.

9 (I) "RENEWABLE ENERGY DEVELOPMENT" MEANS THE RESEARCH,
10 DEVELOPMENT, OR PRODUCTION OF ONE OR MORE OF THE FOLLOWING SOURCES OF
11 ENERGY OR ENERGY TECHNOLOGY:

12 (1) SOLAR;

13 (2) WIND;

14 (3) QUALIFYING BIOMASS, AS DEFINED IN § 7-701 OF THE PUBLIC
15 UTILITIES COMPANY ARTICLE;

16 (4) METHANE FROM THE ANAEROBIC DECOMPOSITION OF ORGANIC
17 MATERIALS IN A LANDFILL OR WASTEWATER TREATMENT PLANT;

18 (5) GEOTHERMAL;

19 (6) OCEAN, INCLUDING ENERGY FROM WAVES, TIDES, CURRENTS, AND
20 THERMAL DIFFERENCES;

21 (7) A FUEL CELL THAT PRODUCES ELECTRICITY FROM A RENEWABLE
22 SOURCE UNDER ITEM (3) OR (4) OF THIS SUBSECTION; AND

23 (8) A HYDROELECTRIC POWER PLANT OF LESS THAN 30 MEGAWATTS IN
24 CAPACITY THAT IS LICENSED OR EXEMPT FROM LICENSING BY THE FEDERAL
25 ENERGY REGULATORY COMMISSION.

26 [(i)] (J) "Revitalization area" means:

27 (1) An area designated as an enterprise zone by the Secretary under §
28 5-402 of this title or by the United States government;

29 (2) An area designated as an empowerment zone by the United States
30 government pursuant to 26 U.S.C. § 1391 et seq.; or

31 (3) An area designated as an eligible neighborhood for economic
32 revitalization assistance under Article 83B, § 4-203 of the Code.

33 [(j)] (K) "Secretary" means the Secretary of Business and Economic
34 Development or the Secretary's designee.

1 [(k)] (L) "State priority funding area" includes the following areas:

2 (1) An incorporated municipality;

3 (2) A designated neighborhood, as defined in Article 83B, § 4-202 of the
4 Code;

5 (3) An enterprise zone as designated under § 5-402 of this title or by the
6 United States government;

7 (4) Those areas of the State located between Interstate Highway 495 and
8 the District of Columbia;

9 (5) Those areas of the State located between Interstate Highway 695 and
10 Baltimore City;

11 (6) No more than one area in a county designated by the county as a
12 priority funding area under § 5-7B-03(c) of the State Finance and Procurement
13 Article; and

14 (7) That portion of the Port Land Use Development Zone, as defined in §
15 6-501(e) of the Transportation Article, that has been designated as an area
16 appropriate for growth in the county comprehensive master plan.

17 5-1102.

18 (b) (1) (i) The Secretary shall certify a person as a qualified business
19 entity eligible for the tax credit under this subtitle if the person satisfies the criteria
20 set forth in this section.

21 (ii) A business entity may not be certified as qualifying for the tax
22 credit under this subtitle unless the business entity notifies the Department of its
23 intent to seek certification before hiring any qualified employees to fill the qualified
24 positions necessary to satisfy the requirements of paragraph (2)(i) of this subsection
25 for establishing or expanding the business facility on which the credit is based.

26 (2) To qualify for the tax credit provided under this subtitle, a business
27 entity must establish or expand a business facility in the State that:

28 (i) Results in the creation of:

29 1. At least 60 qualified positions;

30 2. At least 30 qualified positions if the aggregate payroll for
31 the qualified positions is greater than a threshold amount equal to the product of
32 multiplying 60 times the State's average annual salary, as determined by the
33 Department; [or]

34 3. **AT LEAST 30 QUALIFIED POSITIONS IF THE BUSINESS**
35 **FACILITY ESTABLISHED OR EXPANDED BY THE BUSINESS ENTITY IS PRIMARILY**
36 **ENGAGED IN RENEWABLE ENERGY DEVELOPMENT; OR**

1 [3.] 4. At least 25 qualified positions if the business facility
 2 established or expanded by the business entity is located in a State priority funding
 3 area; and

4 (ii) Is primarily engaged in one or more of the following:

- 5 1. Manufacturing or mining;
- 6 2. Transportation or communications;
- 7 3. Agriculture, forestry, or fishing;
- 8 4. Research, development, or testing;
- 9 5. Biotechnology;
- 10 6. Computer programming, data processing, or other
 11 computer related services;
- 12 7. Central financial, real estate, or insurance services;
- 13 8. The operation of central administrative offices or a
 14 company headquarters;
- 15 9. A public utility;
- 16 10. Warehousing;
- 17 11. Business services, if the business facility established or
 18 expanded by the business entity is located in a State priority funding area; [or]
- 19 12. Operation of entertainment, recreation, cultural, or
 20 tourism-related activities in a multiuse facility located within a revitalization area if
 21 the facility generates a minimum of 1,000 new full-time equivalent filled positions in
 22 a 24-month period and is not primarily used by a professional sports franchise or for
 23 gaming; OR

24 13. RENEWABLE ENERGY DEVELOPMENT.

25 (3) In determining whether a business facility is engaged in a qualifying
 26 activity described in paragraph (2)(ii) of this subsection, the Department shall
 27 consider the definitions set forth in the Standard Industrial Classification Manual.

28 (c) (1) A qualified business entity may claim a tax credit in the amount
 29 determined under this section.

30 (2) (i) Except as otherwise provided in this section, the credit earned
 31 under this section equals the lesser of:

- 32 1. \$1,000 multiplied times the number of qualified
 33 employees employed by the qualified entity during the credit year; and

Article - State Government

1 9-2007.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) "Photovoltaic property" means solar energy property that uses a solar
4 photovoltaic process to generate electricity and that meets applicable performance
5 and quality standards and certification requirements in effect at the time of
6 acquisition of the property, as specified by the Maryland Energy Administration.
7

8 (3) "Program" means the Solar Energy Grant Program.

9 (4) (i) "Solar energy property" means equipment that uses solar
10 energy:

11 1. to generate electricity;

12 2. to heat or cool a structure or provide hot water for use in a
13 structure; or

14 3. to provide solar process heat.

15 (ii) "Solar energy property" does not include a swimming pool, hot
16 tub, or any other energy storage medium that has a function other than storage.

17 (5) "Solar water heating property" means solar energy property that:

18 (i) when installed in connection with a structure, uses solar energy
19 for the purpose of providing hot water for use within the structure; and

20 (ii) meets applicable performance and quality standards and
21 certification requirements in effect at the time of acquisition of the property, as
22 specified by the Maryland Energy Administration.

23 (b) There is a Solar Energy Grant Program in the Administration.

24 (c) The purpose of the Program is to provide grants to individuals, local
25 governments, and businesses for a portion of the costs of acquiring and installing
26 photovoltaic property and solar water heating property.

27 (d) The Administration shall:

28 (1) administer the Program;

29 (2) establish application procedures for the Program; and

30 (3) award grants from the Program.

31 (e) A grant awarded under the Program may not exceed:

1 (1) for photovoltaic property installed on residential property, the lesser
2 of \$3,000 or 20% of the total installed cost of the photovoltaic property;

3 (2) for photovoltaic property installed on nonresidential property, the
4 lesser of \$5,000 or 20% of the total installed cost of the photovoltaic property; and

5 (3) for solar water heating property, the lesser of \$2,000 or 20% of the
6 total installed cost of the solar water heating property.

7 (F) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN
8 APPROPRIATION TO THE SOLAR ENERGY GRANT PROGRAM AS FOLLOWS:

9 (1) FOR FISCAL YEAR 2007 - \$500,000;

10 (2) FOR FISCAL YEAR 2008 - \$750,000; AND

11 (3) FOR FISCAL YEAR 2009 AND EACH FISCAL YEAR THEREAFTER -
12 \$1,000,000.

13 **Article - Tax - General**

14 8-406.

15 (a) A public service company may claim a credit against the public service
16 company franchise tax equal to the estimated tax paid under § 8-405(b) of this
17 subtitle.

18 (b) [A] FOR A TAXABLE YEAR BEGINNING BEFORE JANUARY 1, 2008, A public
19 service company, including any multijurisdictional public service company, may claim
20 a credit against the public service company franchise tax [in the amount of \$3] for
21 each ton of Maryland-mined coal that the public service company purchased in the
22 calendar year IN THE FOLLOWING AMOUNTS:

23 (1) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2004, BUT
24 BEFORE JANUARY 1, 2006 - \$3 PER TON;

25 (2) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2005, BUT
26 BEFORE JANUARY 1, 2007 - \$2 PER TON; AND

27 (3) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2006, BUT
28 BEFORE JANUARY 1, 2008 - \$1 PER TON.

29 (c) (1) To prevent actual multiple taxation of the sale of interstate long
30 distance telecommunications service, a long distance telecommunications company,
31 upon proof that it has paid a properly due excise, sales and use, or gross receipts tax
32 in another state on a sale the gross receipts from which are subject to taxation under
33 this subtitle, shall be allowed a credit against the public service company franchise
34 tax for the amount paid.

1 (2) The credit permitted under this subsection may not exceed the tax
2 imposed under this subtitle.

3 10-704.1.

4 (a) (1) In this section the following words have the meanings indicated.

5 (2) "Cogenerator" means a qualifying cogenerator or qualifying small
6 power producer as determined by the Federal Energy Regulatory Commission under
7 the Public Utility Regulatory Policies Act of 1978.

8 (3) "Electricity supplier" has the meaning stated in § 1-101 of the Public
9 Utility Companies Article.

10 (b) This section does not apply to:

11 (1) a cogenerator or electricity supplier that is subject to the public
12 service company franchise tax; or

13 (2) an electricity supplier that, before July 1, 1999, was not an electric
14 company as defined in § 1-101 of the Public Utility Companies Article as in effect on
15 June 30, 1999, unless the electricity supplier is an affiliate of such an electric
16 company.

17 (c) [A] FOR A TAXABLE YEAR BEGINNING BEFORE JANUARY 1, 2008, A
18 cogenerator or electricity supplier may claim a credit against the State income tax [in
19 the amount of \$3] for each ton of Maryland-mined coal that the cogenerator or
20 electricity supplier purchased in the taxable year IN THE FOLLOWING AMOUNTS:

21 (1) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2004, BUT
22 BEFORE JANUARY 1, 2006 - \$3 PER TON;

23 (2) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2005, BUT
24 BEFORE JANUARY 1, 2007 - \$2 PER TON; AND

25 (3) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2006, BUT
26 BEFORE JANUARY 1, 2008 - \$1 PER TON.

27 (d) (1) A cogenerator or electricity supplier may only apply the credit
28 against the State income tax for the taxable year in which the credit was earned.

29 (2) The amount of the credit may not exceed the State income tax for
30 that taxable year.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 July 1, 2005, and shall be applicable to all taxable years beginning after December 31,
33 2004.