



Ohio Legislative Service Commission

Russ Keller

Fiscal Note & Local Impact Statement

Bill: Sub. S.B. 232 of the 128th G.A. (LSC 128 2043-4, as amended by AM-8128, AM-8127, AM-8117, and AM-8032) **Date:** May 11, 2010

Status: In Senate Energy & Public Utilities **Sponsor:** Sen. Widener

Local Impact Statement Procedure Required: Yes

Contents: To exempt qualifying renewable resource energy facilities from property taxation and to require payments in lieu of taxes on the basis of each megawatt of production capacity of such facilities

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2010	FY 2011	FUTURE YEARS
Counties			
Revenues	- 0 -	Potential loss up to several million dollars based on current applications to the Power Siting Board; loss would be permissive	Potential loss up to several million dollars based on current applications to the Power Siting Board; loss would be permissive
Expenditures	- 0 -	- 0 -	- 0 -
Other Local Governments			
Revenues	- 0 -	Potential loss up to several million dollars based on current applications to the Power Siting Board	Potential loss up to several million dollars based on current applications to the Power Siting Board
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- The bill would exempt a smaller renewable resource energy facility (250 kilowatts or less) from the public utility tangible personal property tax and real property tax if their construction or installation is completed on or after the bill's effective date.
- "Qualified energy projects," which are larger than 250 kilowatts, may be exempt from the public utility tangible personal property tax and real property tax if they receive approval from the applicable siting authority before December 31, 2011. Project construction must begin on or after January 1, 2009, and before January 1, 2012 in order to qualify, and several other requirements are necessary to maintain the property tax exemption. Only those qualified energy projects that were

approved by the local board of county commissioners may be entitled to the property tax exemption.

- At least six facilities with the potential to generate about 1,100 megawatts from renewable wind energy sources and with applications that were already approved or still pending before the Power Siting Board may establish facilities in Ohio.
- A facility designated a "qualified energy project" must make a \$7,000 service payment in lieu of taxes for each megawatt of name plate capacity. The payment will be allocated to counties, school districts, and local governments in the same manner that public utility tangible personal property is disbursed. The service payment would offset part of the revenue loss incurred from foregone tangible property and real property taxation exemption.

Detailed Fiscal Analysis

S.B. 232 provides an exemption from real and tangible personal property taxes and assessments for two types of renewable energy facilities. Smaller renewable resource energy facilities with an aggregate nameplate capacity of 250 kilowatts (kW) or less are exempt if their construction or installation is completed on or after the effective date of the bill. A facility larger than 250 kW is considered a "renewable energy company" and would be regarded as a public utility. Renewable energy companies may undertake "qualified energy projects" that are renewable energy projects certified by the Department of Development. These larger qualified energy projects qualify for real and tangible personal property tax exemptions only if the projects meet certain conditions specified by S.B. 232.

The bill defines a "renewable resource energy facility" as one or more interconnected wind turbines, solar panels, or other tangible personal property used to generate electricity from a renewable energy resource owned by the same person. The definition includes all interconnection cables and equipment necessary to connect the generators to an electricity grid as well as all the buildings, structures, improvements, or fixtures necessary for the operation of the facility.

The larger renewable resource energy facilities may be considered qualified energy projects if they meet certain conditions, including: (1) approval from the Power Siting Board or the applicable local siting authority before December 31, 2011, (2) project construction begins on or after January 1, 2009, and before January 1, 2012, (3) the property on or around the project site was not previously used to supply electricity, and (4) approval for the property tax exemption by the local board of county commissioners. The facility must be placed in service on or before December 31, 2012.

The Department of Development is responsible for certifying a renewable resource energy facility as a qualified energy project. Applicants must meet several requirements to qualify for the designation. A certificate of completion of the renewable resource energy facility's construction is required, and if applicable, the project owner must file a certificate of partial completion on or before March 1, 2013. S.B. 232 requires the Development Director to certify that the construction and operation of the qualified energy project creates and maintains the number of jobs during construction and each year that the facility is in service that are projected by the Job and Economic Development Impact (JEDI model) defined in the bill. A majority of the full-time equivalent employees must be domiciled in this state.

The certified qualified energy project is required to pay annual service payments in lieu of taxes to the treasurer of the county where the facility is located in an amount equal to \$7,000 per megawatt of name plate capacity. The bill also requires the facility to offer to sell power or renewable energy credits first to electric distribution utilities and electric service companies subject to the alternative energy portfolio requirements

of current law before offering the power and credits to others. Other requirements apply including restoring roads affected by facility construction, and providing training and equipment to fire and emergency responders where the facility is located.

The bill clarifies the sales tax treatment of the newly defined renewable resource energy conversion equipment. Specifically, the bill exempts this equipment from the sales tax, but LSC staff believes that the energy conversion equipment would already be exempt from the sales tax given that it is used by a public utility and the Revised Code exempts¹ tangible personal property that is used for the delivery of a public utility service. Therefore this provision is expected to have no fiscal effect.

Fiscal effect

According to the sponsor testimony, which utilizes information from the Wind Energy Association, a 100 megawatt (MW) commercial wind facility could have a personal property tax liability of approximately \$4 million and a real property tax of about \$200,000. If the proposed legislation is enacted, such a facility would make a \$700,000 payment in lieu of the public utility tangible personal property and real property taxes, but counties and other local governments would forego future payments for the property taxes.

Currently, Ohio does not have any large renewable energy facilities that would be eligible for the "qualified energy project" certification and the resulting property tax exemption. However, six wind facilities (Table 1 below) have applications that were either approved or still pending before the Power Siting Board. Assuming the three remaining applications are approved, these facilities may qualify for the tax exemption if they were put into service before January 31, 2012. If all six wind facilities are put into service with the maximum estimated generating capacity, it would yield up to \$7.7 million in annual revenue to the counties from payments in lieu of taxes, which would offset the \$2.2 million loss (maximum possible amount) in real property tax revenue that the county treasurers might currently be collecting on those lands where wind facilities are proposed to be built. But the bill's exemption from public utility tangible property taxes would eliminate millions in additional property tax revenue that would have been raised if those projects had been undertaken in the absence of the bill.²

¹ R.C. 5739.01(B)(3)(b).

² Property tax estimate made using examples provided in the sponsor testimony, which utilized information from participating companies and trade associations.

Table 1: Wind Projects with Cases Approved or Still Pending Before the Ohio Power Siting Board³			
Case No.	Project (County)	Company	Generating Capacity (Est.)
08-0666-EL-BGN	Buckeye Wind Project (Champaign)	Buckeye Wind, LLC, a subsidiary of EverPower Wind Holdings, Inc.	125 to 175 MW
09-0277-EL-BGN	Hardin County North Wind Farm (Hardin)	JW Great Lakes Wind, LLC, a subsidiary of juwi Wind GmbH	50 MW (approx.)
09-0479-EL-BGN	Hardin Wind Farm (Hardin)	Hardin Wind Energy, LLC, a subsidiary of Invenergy LLC	300 MW
09-0546-EL-BGN	Black Fork Wind Project (Crawford and Richland)	Black Fork Wind LLC	201.6 MW
09-0980-EL-BGN	Timber Road Wind Farm (Paulding)	Paulding Wind Farm, LLC, a subsidiary of Horizon Wind Energy	48.6 MW
09-1066-EL-BGN	Blue Creek Wind Farm Project (Paulding and Van Wert)	Heartland Wind, LLC, a subsidiary of Iberdrola Renewables	Up to 350 MW

Although the six projects are all wind facilities, wind projects are not the only renewable energy facilities that would qualify for the real and tangible personal property tax exemption authorized by S.B. 232. The total number of projects that may qualify for the tax exemptions is potentially larger than the six facilities mentioned above, including nonwind renewable energy facilities. The net fiscal effect on local governments may vary from the example above based on the type of facilities and the tangible personal and real property taxes in the counties where those projects may be located.

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³Source: <http://www.opsb.ohio.gov>.