GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE DRS85178-MH-50 (03/17)

Short Title:	Offshore Wind Jobs and Economic Development.	(Public)
Sponsors:	Senators Hartsell, Stein, and Bingham (Primary Sponsors).	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE THE DEVELOPMENT OF THE STATE'S OFFSHORE WIND ENERGY RESOURCES AND TO ATTRACT JOBS AND ECONOMIC DEVELOPMENT.

Whereas, the offshore wind industry presents North Carolina with a once-in-a-generation opportunity to build a new industry, attract major new manufacturing facilities, establish a robust export market, and create thousands of jobs; and

Whereas, the opportunity for states to attract major new offshore wind manufacturing facilities exists now, but decisions by supply chain companies have already started to be made, and North Carolina must act or risk foregoing significant economic development opportunities; and

Whereas, North Carolina has the largest offshore wind resource and among the highest total energy use on the East Coast, making the State uniquely positioned to develop offshore wind on the scale needed to attract jobs and new manufacturing facilities; and

Whereas, studies have shown that the waters off the North Carolina coast have sufficient wind resources to generate about 130% of the State's total energy use; and

Whereas, North Carolina has the fastest growing population on the East Coast and our State's investor-owned utilities have identified significant new electricity generation needs to accommodate projected energy demand growth; and

Whereas, the United States Department of Energy's Energy Information Administration released a report in November 2010 suggesting that North Carolina is the least expensive location in the nation in which to build new offshore wind generation; and

Whereas, the development of North Carolina's vast offshore wind resources will reduce the amount of money leaving the State to purchase fossil fuels and positions North Carolina to be a future exporter of both energy and manufactured goods; and

Whereas, the benefits of electricity generated from offshore wind accrue to the public at large, including long-term energy price stability, decreased greenhouse gas emissions, a healthier environment, improved public health, increased energy security, and decreased reliance on and vulnerability from imported energy sources; and

Whereas, the statewide benefits of generating energy from offshore wind and building an offshore wind industry should outweigh statewide costs of doing so in order to justify incurring those costs; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Definitions. – The following definitions apply in this section:

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(1) Commission. – The North Carolina Utilities Commission.

(2) Participating electric utility. – An investor-owned public utility that sells electric power to retail electric power customers in the State.

(3) Qualifying offshore wind generator. – A wind energy generation facility that meets one of the following criteria:

a. The facility is located in federal waters, with at least fifty percent (50%) of the facility within the administrative boundaries for the State as defined by the federal Department of Interior's Bureau of Ocean Energy Management.

b. The facility is located in waters of the State.

(4) Renewable energy certificate. – Defined in G.S. 62-133.8(a).

SECTION 1.(b) Requirement. – The Commission, by rule or by order, shall require the State's participating electric utilities to enter into a long-term contract for one or more qualifying offshore wind generators with a total nameplate capacity of 2,500 megawatts to be constructed in yearly increments as specified by the Commission over a period of seven to ten years, with the first facility producing electricity by December 31, 2017, or as close as practically possible to that date. Any electric membership corporation or municipality may decide, in its sole discretion, to be considered a participating electric utility by delivering written notice to the Utilities Commission at least 30 calendar days prior to the date specified in subsection (f) of this section. The Utilities Commission may contract with any consultants, attorneys, or other experts necessary for the Commission to carry out the requirements of this section.

SECTION 1.(c) RFP. – In order to construct the qualifying offshore wind generators described in subsection (b) of this section, the Commission shall by regulation or by order develop a process for drafting and issuing a request for proposals (RFP) and shall work jointly with the Department of Commerce to determine the number of contracts, the size of each contract in megawatts, and the timing of construction for each contract that is most likely to maximize the net benefit to the State. The RFP shall specify the anticipated number of contracts to be awarded, the size of each contract in megawatts, with a minimum size of 350 megawatts per contract, and the timing of construction for each contract and shall require that any proposal include contractual terms specifying the following terms:

(1) Sale of energy and associated capacity resulting from the nameplate capacity identified in the RFP for a term of not less than 20 years.

(2) Sale of renewable energy certificates associated with the project.

(3) Sale of any air emission credits or offsets, or any other tradeable environmental attributes of the project.

The Commission shall issue the RFP on or before January 1, 2012, and shall require responses on or before April 30, 2012.

SECTION 1.(d) Net Economic Benefit Analysis. – The Department of Commerce, in consultation with the Commission when necessary, shall evaluate each proposal meeting all requirements of subsection (c) of this section to determine the long-term net economic cost or benefit of the proposal to the State. In conducting this analysis, the Department may contract with any consultants, attorneys, or other experts necessary for the Department to meet the requirements of this section and may charge a fee to the submitter of a proposal to cover the reasonable costs of the analysis required by this subsection. The Department of Commerce may request assistance from other State agencies, including, but not limited to, the Commission and its public staff, the Department of Revenue, and the Department of Environment and Natural Resources if additional expertise is required to carry out the requirements of this section, and the requested agencies shall, to the extent practicable, provide such assistance. The analysis by the Department of Commerce shall consider statewide costs and benefits over a minimum of 20 years and shall include all of the following criteria to the extent deemed practicable by the Department, given available resources:

(1) The estimated incremental cost or savings to ratepayers.

(2) The expected number of direct, indirect, and induced jobs created and direct, indirect, and induced economic activity generated.

(3) The impacts to State and local tax revenue.

(4) The environmental, climate, and public health impacts.

(5) The estimated impact on energy security for both the State and the nation.

(6) The potential impacts, both positive and negative, on system reliability and transmission congestion.

(7) The impacts from the utilization of locally available energy resources and the concomitant reduction of expenditures on energy resources imported from outside the State.

(8) Estimates of expected future export of energy, RECs, manufactured goods, and other applicable goods or services.

(9) Estimated impacts on tourism, recreational fishing, commercial fishing, and other existing industries in North Carolina.

(10) Any other criteria that are consistent with the intent of this act and deemed appropriate by the Department of Commerce.

SECTION 1.(e) Review of Proposals. – No later than October 31, 2012, the Commission shall complete its evaluation of all proposals received in response to the RFP and decide which proposals to approve. The evaluation and approval decision shall be based on the following criteria:

(1) The estimated net economic impact to the State based on the net economic benefit analysis of the project conducted pursuant to subsection (d) of this section.

(2) Any other criteria that are consistent with the intent of this section and that the Commission deems relevant and appropriate.

An approval issued by the Commission pursuant to this subsection shall, with respect to all facilities for generation of electricity included in the proposal, meet the certification requirement of G.S. 62-110.1. Notwithstanding any other requirement of this subsection, if the Department of Commerce determines after reviewing the proposals received under the RFP that none of the proposals results in a net economic benefit to the State, the Commission may choose to approve no proposals. In the event that proposals meeting criteria for approval have, in the aggregate, a nameplate capacity in excess of 2,500 megawatts, the Commission shall approve the projects with the greatest net economic benefit to the State that do not exceed 2,500 megawatts in aggregate nameplate capacity.

SECTION 1.(f) Contract With Participating Electric Utilities. – For each proposal approved under subsection (e) of this section, the Commission shall require that each participating electric utility in the State enter into and file with the Commission a substantially similar contract with the proposing entity for the Commission's approval, with the only substantial difference among the contracts being the amount of output each participating electric utility is obligated to purchase. Each participating electric utility's share of the output from the proposed contract shall be established at the time of the signing of the contract as the product of the amount of nameplate capacity constructed under the approved proposal, multiplied by a fraction, with the numerator of the fraction being the company's total megawatt-hour load for the preceding year and the denominator of the fraction being the total megawatt-hour load for the preceding year for all of the participating electric utilities in the State. Each participating electric utility shall file the contracts required under this subsection by January 31, 2013. Contracts required under this subsection shall include all of the following:

(1) Terms and conditions approved by the Commission.

(2) An option for the participating electric utility to co-invest or purchase an ownership interest no greater than fifty percent (50%) in the qualifying offshore wind generator.

SECTION 1.(g) Resale by Participating Electric Utilities. – Utilities that enter into a contract under subsection (f) of this section shall maximize benefits under the contract for the participating electric utility's customers in this State by either retaining for the benefit of the participating electric utility's customers in this State, or selling into any available markets, any of the following products purchased under the contract:

(1) Renewable energy certificates associated with the project.

(2) Sale of any air emission credits or offsets, or any other tradeable environmental attributes of the project.

Fifty percent (50%) of the proceeds from sales under this subsection, net of taxes, and the reasonable costs of conducting the sale shall be refunded to a participating electric utility's customers in this State.

SECTION 1.(h) Use of Renewable Energy Certificates. – The renewable energy credits acquired through a contract under subsection (f) of this section shall not be eligible for compliance with any requirement of G.S. 62-133.8.

SECTION 1.(i) Contract Administrator. – The Commission may designate a contract administrator for the purpose of administering contracts under subsection (f) of this section or sales of products under subsection (g) of this section.

SECTION 1.(j) Rider. – The Commission shall permit a participating electric utility to charge an increment or decrement as a rider to its rates for changes in costs due to the requirements of this section. The rider shall be based on the cost-per-kilowatt-hour, shall be limited for any customer to the first 300,000 kilowatt-hours of annual retail sales to that customer, and shall ensure that any costs or savings associated with the requirements of this section are shared equitably among all customers of the participating electric utilities. The rider established by the Commission shall allow for the full and timely recovery of all of the participating electric utility's costs arising from the requirements of this section, including any costs, as approved by the Commission, directly incurred by the participating electric utility. The Commission shall establish procedures for submission and review of information and for approval of the rider similar to those set forth in G.S. 62-133.2.

SECTION 2. The General Assembly declares that the State has the goal of developing 2,500 megawatts of qualifying offshore wind generators by the year 2030 in addition to the requirements of Section 1 of this act, which will result in a total installed capacity of 5,000 megawatts by the year 2030. The Utilities Commission and Department of Commerce shall jointly study the desirability and feasibility of encouraging the development of the goal described in this section and shall submit a final report that includes findings and any recommendations to the General Assembly no later than December 1, 2013.

SECTION 3.(a) G.S. 105-164.14B(a) is amended by adding a new subdivision to read:

"…

<u>(21)</u> <u>Wind energy property manufacturing. – The development, production, or assembly of one or more of the following:</u>

<u>a.</u> <u>Equipment required to capture and convert wind energy into electricity or mechanical power.</u>

<u>b.</u> <u>Related devices for converting, conditioning, and storing the electricity produced or relaying the electricity by cable from the turbine motor to the power grid.</u>

…."

SECTION 3.(b) G.S. 105-164.14B(b)(1) is amended by adding a new sub-subdivision to read:

"(i) Wind energy property manufacturing."

SECTION 3.(c) G.S. 105-164.14B(b)(2) reads as rewritten:

"…

(2) Minimum investment requirement. – The Secretary of Commerce has certified that the owner of the facility will invest at least the required amount of private funds to construct the facility in this State. For the purpose of this subsection, costs of construction may include costs of acquiring and improving land for the facility and costs of equipment for the facility. If the facility is located in a development tier one area, the required amount is fifty million dollars ($50,000,000). For all other facilities, the required amount is one hundred million dollars ($100,000,000). In the case of a wind energy property manufacturing facility, the required amount is ten million dollars ($10,000,000) for a facility in a development tier one area and fifty million dollars ($50,000,000) for all other facilities. In the case of a computer manufacturing facility, the owner may invest these funds either directly or indirectly through a related entity or strategic partner.

…."

SECTION 3.(d) G.S. 105-164.14B(f) reads as rewritten:

"(f) Sunset. – ~~This section is~~ Sub-subdivisions (b)(1)a. through (b)(1)h. are repealed for sales made on or after January 1, 2013. Sub-subdivision (b)(1)(i) is repealed for sales made on or after January 1, 2022."

SECTION 4.(a) G.S. 105-129.16I reads as rewritten:

"**§ 105-129.16I. Credit for a ~~renewable~~ wind energy property facility.**

(a) Credit. – A taxpayer that places in service in this State a commercial facility for the manufacture of ~~renewable~~ wind energy property ~~or a major component subassembly for a solar array~~ or a wind turbine is allowed a credit. A taxpayer places a facility in service if it constructs the facility or converts its existing manufacturing facility to change the product it manufactures. For a taxpayer that constructs a facility, the credit is twenty-five percent (25%) of the taxpayer's cost to construct and equip the facility. For a taxpayer that converts a facility, the credit is twenty-five percent (25%) of the taxpayer's cost to convert and equip the existing facility. A taxpayer that claims any other credit allowed under this Chapter with respect to the facility may not take the credit allowed in this section with respect to that facility. As used in this section, "wind energy property" means equipment required to capture and convert wind energy into electricity or mechanical power, and related devices for converting, conditioning, and storing the electricity produced or relaying the electricity by cable from the turbine motor to the power grid.

(b) Installments. – The entire credit may not be taken for the taxable year in which the facility is placed in service but must be taken in five equal annual installments beginning with the taxable year in which the facility is placed in service. If, in one of the years in which the installment of a credit accrues, the facility with respect to which the credit was claimed is disposed of or taken out of service, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

(c) Sunset. – This section is repealed effective for a ~~renewable~~ wind energy property facility placed in service on or after January 1, ~~2014~~2020."

SECTION 5. Section 4 of this act takes effect on January 1, 2014. The remainder of this act is effective when it becomes law.