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Valihura, Wagner

DELAWARE STATE SENATE

142nd GENERAL ASSEMBLY

SENATE BILL NO. 93
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 26 AND 29 OF THE DELAWARE CODE RELATING TO STATE GOVERNMENT, THE STATE ENERGY OFFICE, AND ELECTRIC UTILITY PUBLIC PURPOSE AND CONSUMER EDUCATION PROGRAMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 80, Title 29 of the Delaware Code, by designating the existing sections thereof as
2 "Subchapter I. Natural Resources and Environmental Control" and by adding thereto a new Subchapter II as follows:

3 "Subchapter II. The Delaware Energy Act.

4 § 8051. Short title; declaration of policy.

5 (a) This subchapter shall be known and may be cited as 'The Delaware Energy Act.'

6 (b) The General Assembly finds and declares that:

7 (1) An adequate, reliable, and continuous supply of energy is essential to the health, safety, and
8 welfare of the citizens of this State and to the sustained growth of Delaware's economy;

9 (2) Shortages of non-renewable energy resources could threaten the reliable supply of energy in
10 Delaware;

11 (3) Inefficient energy consumption leads to increased air pollution from traditional means of
12 producing energy, which may be significantly mitigated by the development of efficiency
13 programs and alternative energy resources;

- 14 (4) Growth and inefficient energy usage must be addressed programmatically to continue the
15 social, economic, and environmental vitality of the State;
- 16 (5) The State must provide for the development of a comprehensive State energy policy which will
17 ensure an adequate, reliable, and continuous supply of energy and which is protective of public
18 health and the environment and which promotes our general welfare and economic well-being;
- 19 (6) The establishment of the State Energy Office is in the public interest and will promote the
20 general welfare by assuring coordinated and efficient management of State energy policy.
- 21 (c) It is the purpose and intent of the General Assembly:
- 22 (1) To establish the State Energy Office within the Department of Natural Resources and
23 Environmental Control;
- 24 (2) To provide for development and maintenance of a comprehensive State energy plan;
- 25 (3) To provide for the development and maintenance of a State emergency energy shortage
26 contingency plan;
- 27 (4) To provide for the development of a State facilities energy management plan;
- 28 (5) To reduce, to the maximum extent possible, the environmental consequences of energy
29 generation and use in Delaware;
- 30 (6) To achieve effective management of energy functions within the State government;
- 31 (7) To encourage and ensure full and effective public participation in the formulation and
32 implementation of a State energy plan.

33 § 8052. Definitions.

34 For the purposes of this subchapter:

- 35 (1) 'Renewable Energy Technology' or 'Alternative Energy Technology' means and includes any of the
36 following machinery, equipment, or real property:
- 37 a. Hydroelectric generators, located at existing dams or in free-flowing waterways, and
38 related devices for water supply and control, and converting, conditioning, and storing the
39 electricity generated;

- 40 b. Wind equipment, required to capture and convert wind energy into electricity or
- 41 mechanical power, and related devices for converting, conditioning, and storing the
- 42 electricity produced;
- 43 c. Solar energy equipment, and related devices necessary for collecting, storing, exchanging,
- 44 conditioning or converting solar energy to other useful forms of energy;
- 45 d. Geothermal heat pumps and geothermal heat pump systems; and
- 46 e. Fuel cells and fuel cell systems.

47 (2) 'Solar Energy Equipment' means any equipment that uses solar radiation as a substitute for
48 traditional energy for water heating, active space heating and cooling, passive heating,
49 daylighting, generating electricity, distillation, desalinization, detoxification or the production
50 of industrial or commercial process heat, and includes related devices necessary for collecting,
51 storing, exchanging, conditioning or converting solar energy to other useful forms of energy.

52 § 8053. State Energy Office; State Energy Coordinator; establishment; powers and duties.

53 (a) There is hereby established the State Energy Office within the Department of Natural Resources and
54 Environmental Control, Office of the Secretary.

55 (b) The administrator and head of the State Energy Office is the State Energy Coordinator, who shall:

- 56 (1) Be qualified by training or experience to perform the duties of the Office; and
- 57 (2) Perform such functions in the administration of the State Energy Office as the Secretary of the
58 Department of Natural Resources and Environmental Control may from time to time require.

59 (c) The State Energy Office shall:

- 60 (1) Act as a central repository and clearinghouse for collection and dissemination of data and
61 information on energy resources and energy matters in the State, including but not limited to:
 - 62 a. Data on energy supply, demand, costs, projections, and forecasts;
 - 63 b. Inventory data on energy research and development projects, studies, or other
64 programs conducted in the State under public or private supervision or sponsorship,
65 and the results thereof; and

- 66 c. The environmental impacts of energy generation and use and the means of reducing
67 those impacts through alternative fuels, innovative energy technologies, conservation
68 or other means.
- 69 (2) Coordinate with other state and federal agencies including, but not limited to, the Delaware
70 Public Service Commission, the Office of State Planning and Coordination, the Department of
71 Administrative Services, the Delaware Economic Development Office, the Delaware
72 Emergency Management Agency and the Department of Agriculture in carrying out its duties
73 under this Act;
- 74 (3) Recommend legislative or other initiatives to the Secretary, and hence to the Governor and
75 General Assembly, that will enable or assist the State, its instrumentalities, or private citizens,
76 to secure federal funds made available to states and individuals to support energy conservation
77 programs and initiatives, whatever form those funds take;
- 78 (4) Provide for a program of energy audits of facilities owned by instrumentalities of the State in
79 cooperation with designated representatives of said facilities;
- 80 (5) Provide for the training and certification of energy auditors to conduct energy audits as may be
81 necessary and proper to carry out the purposes and policies of this subchapter, or any other
82 energy related law applicable to this State;
- 83 (6) Assist the Division of Facilities Management in developing the state facilities energy
84 management plan as required in 29 Del C. § 8806(c); and
- 85 (7) Facilitate the development of a comprehensive State Energy Plan designed to protect the
86 health, safety, and welfare of the citizens and economy of Delaware and which shall include,
87 but not be limited to:
- 88 a. encouraging and promoting conservation of energy through reducing wasteful,
89 uneconomical, or inefficient uses of energy;
- 90 b. encouraging and promoting the use of renewable electric generation facilities and
91 alternate energy technologies by residential and small commercial consumers; and
- 92 c. encouraging and promoting such other energy efficiencies and conservation goals,
93 methods, standards, training, programs and policies that are consistent with the intent

94 of this subchapter, especially those directed toward improving end-use efficiency
95 among Delaware's energy consumers.

96 § 8054. Green Energy Fund.

- 97 (a) The State Energy Office shall administer moneys in the Green Energy Fund, in consultation with the
98 Delaware Economic Development Office, the Department of Natural Resources and Environmental
99 Control, and the Division of the Public Advocate through a program of environmental incentive grants
100 and loans for the development, promotion, and support of renewable or alternative energy technology in
101 the State;
- 102 (b) The State Energy Office shall establish standards, procedures and regulations governing the
103 administration of the Green Energy Fund which are not inconsistent with this subchapter. Up to 7.5%
104 of the moneys deposited in the Green Energy Fund each year may be used for administration of the
105 Fund.
- 106 (c) The goals which shall guide use of the Green Energy Fund include:
- 107 (1) Fostering use of energy efficient, renewable and environmentally friendly energy technologies
108 throughout Delaware in the residential, commercial, industrial, public, and agricultural sectors;
- 109 (2) Promoting research, development, and demonstration projects in the fields of energy efficiency
110 and renewable energy technologies;
- 111 (3) Advocating green public policy initiatives;
- 112 (4) Establishing and supporting education and public awareness programs;
- 113 (5) Pursuing community outreach programs;
- 114 (6) Supporting the development of green industries and generators in the State;
- 115 (7) Encouraging the construction, maintenance, and operation of green buildings, schools, and
116 residential developments; and
- 117 (8) Creating market incentives for the pursuit of renewable energy resources by energy providers
118 in Delaware.
- 119 (d) The Green Energy Fund shall be used for programs in Delaware including, but not limited to:
- 120 (1) A Green Energy Endowment Program (to repay electric consumers for the installation of
121 renewable energy technologies in Delaware) available to:

- 122 a. Persons in Delaware receiving services from DP&L, or its successor, after the adoption of a
123 restructuring plan pursuant to 26 Del. C. § 1005(a); and
- 124 b. Persons in Delaware receiving services from a non-regulated electric supplier which is
125 contributing to the Green Energy Fund;
- 126 (2) A Technology Demonstration Program, to provide a grant no greater than thirty-five percent
127 (35%) of the cost of a project for the demonstration of an energy efficiency, environmentally
128 friendly, or renewable energy technology for the purpose of demonstrating the market potential
129 of the technology in Delaware; and
- 130 (3) Research and Development Programs:
- 131 a. To support qualifying research and graduate studies in Delaware in energy efficiency and
132 renewable energy technologies; and
- 133 b. To provide grants equal to no greater than thirty-five percent (35%) of the cost of a project for
134 the development of a product in Delaware directly related to renewable or alternative energy
135 technology, including but not limited to any product improving the engineering of, adapting, or
136 developing renewable or alternative energy technology either as an independent piece of
137 renewable or alternative energy technology, or as a component thereof.

138 § 8055. Rules and regulations.

139 The Secretary shall promulgate rules and regulations governing the administration of the State Energy Office or
140 that are necessary to carry out the provisions of this subchapter."

141 Section 2. Amend §1014(a), Title 26 of the Delaware Code, by striking the second and third sentences thereof in
142 their entirety and by substituting in lieu thereof the following:

143 "Such fund shall be known as the 'Green Energy Fund' and all moneys deposited into the Green Energy Fund
144 shall be transferred in their entirety on the first day of July of each year to the State Energy Office to fund
145 environmental incentive programs for conservation and energy efficiency in Delaware. The State Energy Office
146 shall submit to the General Assembly by May 30 of each year a written accounting of moneys received from the
147 fund during the previous year and how those moneys were used or disbursed during that year."

148 Section 3. Upon the enactment of this Act into Law, all moneys having been previously deposited in the
149 environmental incentive fund created by and through the enactment of 72 Del. Laws Chapter 10, shall be transferred out

150 of that fund and distributed as follows: \$1,000,000 shall be transferred to the low-income program fund established in 26
151 Del. C. § 1014(b) and the remainder shall be transferred to the State Energy Office to be used to fund environmental
152 incentive programs for conservation and energy efficiency in Delaware.

153 Section 4. All positions heretofore established within the Energy Section of the Division of Facilities Management,
154 and all funding therefore, are hereby transferred to and established within the Office of the Secretary of the Department of
155 Natural Resources and Environmental Control.