

2013 HOUSE FINANCE AND TAXATION

HB 1353

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1353
January 30, 2013
Job #17993

Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A Bill relating to income and sales tax incentives for smaller wind energy generation units.

Minutes:

Attached testimony #1.

Chairman Belter: Opened hearing on HB 1353.

Representative Vigesaa: Introduced bill. This bill will expand the ability to receive income tax credit and sales tax exemptions for wind generating units of a smaller scale. Currently, the threshold for being able to receive the credits and exemptions is 100 kilowatts. This will lower the threshold to 20 kilowatts and thereby allowing smaller wind towers or wind generating units to receive the credit. This will spur the industry allowing more people to take advantage of the credit. There is a segment of the wind units that are being generated and developed here in North Dakota so this would also help those firms who are developing the wind towers to encourage sales. Their production would increase and also it would offer individuals who would like to have a smaller wind unit on a farm to generate electricity for their operation to be able to receive the credit.

Representative Drovdal: Can you explain what credit a person would get when they put up a wind generator and what federal credits a person would get?

Representative Vigesaa: As far as I know there is an income tax credit that can be claimed for purchasing one and for the developers is where the sales tax exemption would come in. I'm not sure about any federal credits. I would refer that to someone who is following me.

Chairman Belter: Further testimony in support of 1353?

Keith Monson, Marketing Director for Dakota Turbines: Consumers in North Dakota are extremely fortunate because we have one of the smallest electrical rates in the nation. I think Washington or Oregon is the only state lower than we are on the average. The down side of that is for anybody trying to purchase and pay for one of these small wind generators the low retail rate is the basis of the payback. If the same turbine was sold in

New York it would pay off in four years, in California five years, and in North Dakota it is almost ten years. That is a direct reflection of the low retail rates. Insulation of a small wind turbine is a private investment. An individual company or business buys it, maintains it, and yet adds the electrical energy to the sum total of what is generated in North Dakota. There are no transmission fees associated with it and there's no chance of a rate hike because they have to pay for a large generator facility. If this bill is passed it allows for an income tax credit for the private individual or business to utilize and helping to pay for the investment. Right now it's considerably a long term investment because of the low rates. There was a limit previously put on the size that would qualify and that was 100 kilowatts and I'm not sure why this number but it could have been because it was commercial. A 20 kilowatt turbine is also commercial as it would far exceed the individual needs of homeowner and if you exceed your usage the price you will get paid for the excess electricity is avoided cost which is typically half or less of retail and you would never pay for your investment. I think there is a justification for the number 20 but if you start getting below that you could start getting into the residential sizes. North Dakota is a power house of energy and an envy of the nation because of all the money generated and flowing from our various energy sources. We are also number one in wind resource. I think the 3% for five years to help distribute a generation become a viable part is just a natural growth progression of all energy sources.

Representative Zaiser: Would you say that North Dakota is underutilizing this resource of wind energy?

Keith Monson: Considerably. From the big wind perspective right now transmission is the stopping factor other than in the western part of the state where recent reports show they are in dire need of electricity, Minot in particular. The rest of it has to be shipped out of state. The neat thing about distributed generation is that you don't need any additional transmission; it can be virtually plugged in anywhere and it adds to your total generation yet adds no cost. We could have an unlimited number of distributed generation turbines with zero cost to the consumers.

Representative Drovdal: In looking at my fiscal note it says this change relates to the insulation of residential size wind turbines but you say that 20 kilowatts would not be a residential size?

Keith Monson: Twenty kilowatts would handle four average homes so any excess energy that is generated gets avoided cost and each of the utilities in the state seem to have a different number for that ranging from a low of two cents to a high of five and half cents. There's no way you are going to pay off an investment in a turbine with those kinds of rates.

Vice Chairman Headland: Can you give the committee an idea of what a twenty kilowatt turbine costs and how many are currently being marketed in North Dakota today?

Keith Monson: A twenty kilowatt turbine would probably be in the \$100,000- 120,000 range. As far as how many are being sold right now you could probably fit it on one hand. Small wind energy is going through a reassessment and they are going through a small wind certification counsel. The industry is now policing itself forcing the turbine manufacturers to go through the certification process which just started about a year ago

and won't be completed for a few years. Right now the consumers are waiting to see what will be available but without the additional subsidies you just can't pay for them.

Chairman Belter: If a person purchased a twenty kilowatt generator, how long would it take to pay back your investment?

Keith Monson: At \$.092 we come in at about eight years and nine months. If this passes that drops that to about six or seven years; it's almost a three year shortening of the payback.

Chairman Belter: In today's investment world an 8 ½ year payback isn't that bad is it?

Keith Monson: Probably not. I've had multiple discussions and when you run it through a calculator and it comes in at that nine year time frame a lot of the people I'm talking to are in their 50s or early 60s and its beyond of where it will transition to their kids. We'll never get to the really short payback because in order to do that our electrical rates really have to go up and nobody wants that.

Representative Kelsh: It appears from the language on page 3 that it has a built in sunset clause and it expires after the year 2015. Is there any reason for that or should it be extended and allow for some uncertainty?

Keith Monson: It should be extended. This is good for two years and it was an oversight on our part. It should be extended into the future.

Chairman Belter: Further testimony in support of 1353?

Warren Enyart, General Manager of M-Power, LLC in Finley, ND: We are fortunate to brag about the first landowner driven community based wind farm. With the help of Ottertail Power and Next Air (?) we were successful on line 170 megawatts a couple years ago. We are in support of this bill and recognize the idea of weaning us from natural resources will take quite a bit of time and more importantly it will take public policy for at least some period of time. We feel it is no contest to us and in fact an augmentation to have as much distributed power across this nation as we can possibly legislate and drive from a commercial and economic basis. The only thing in my opinion that has stimulated an investment now in excess of \$2 billion in North Dakota has been public policy at the national level although intermittent we still achieved quite a milestone over the periods that it's been on and off again. On the big wind side we are trying to establish some continuity and a phase out process for the production tax credits that incentivize the installation of large wind.

Chairman Belter: If you can get 40% generation out of it then what do you do with the other 60% of the time when we don't have wind?

Warren Enyart: There are two answers we think are possible; one farther in the distance is the improvement of the transmission grid system so we can install more economically and effectively smart grid technology that would transfer loads and be able to control the flow a little bit better that it is now. The one that is more promising in the near term are the

plans for and the ultimate build out of gas turbines particularly that which would serve or replace coal fired older generation. Wind is a very prudent investment and a good thing to focus your policy on.

Representative Hatlestad: Is there any research being done on the ability to store excess energy?

Warren Enyart: There are a couple projects in Minnesota but they are not ready yet. One had to be shut down due the technology not being advanced. There are other ideas they are working on. They are looking at wind making anhydrous ammonia which would end up being a fuel source and could be exported. When the wind is in excess of that which is required to manufacture the anhydrous ammonia would be on line and when its not it would be put in to a substitute transport fuel.

John Wanecke, owner of Renewable and Sustainable Solutions Renewables.com, member of the Sierra Club, Minnesota: I have the ability to install and consult on various small renewable energy projects from one kilowatt up to 100 kilowatts. North Dakota is number one in average daily wind speed in the United States so it's a shame the wind is not harnessed more than it is now. Since moving to North Dakota I've had little business which is not due to lack of trying as I've had several prospective customers but once you run the numbers and you do the feasibility study there's no use. This tax exemption for wind energy from 20 kilowatts and up will help foster more farmers, ranchers, and businesses in North Dakota to use wind energy to become energy dependent.

Chairman Belter: Further testimony to HB 1353?

Kim Christianson, board member of North Dakota Alliance for Renewable Energy: See attached testimony #1.

Chairman Belter: Further testimony in support of 1353?

Scott Skokos, Dakota Resource Council's Clean Electricity Task Force: The passage of this bill would mean a business environment for small wind throughout North Dakota providing the same tax exemptions that are provided to those individuals and businesses that have similar things. North Dakota is the leader in wind energy and we would like to continue that.

Chairman Belter: Any other testimony in support of 1353? Any opposition to 1353? Any neutral testimony?

Representative Drovdal: Would you explain how a farmer or investor who wants to put up wind energy would get credit and also if you understand what national or federal laws affect the credit and what credits those would be?

Ryan Rauschenberger: The credit is based on the cost of installation. In reality it's about a 15% credit, you get 5% of the cost of installation and you earn that over three years so you get 5% each year.

Representative Drovdal: If you put \$100,000 in on a wind turbine and get a \$15,000 tax credit that's a direct tax credit dollar for dollar? And plus I get to depreciate the value of the property?

Ryan Rauschenberger: Income tax credit. If you are a business there is an accelerated depreciation that is part of the federal incentive for installing wind. I'm not sure it's still there or not after the fiscal cliff negotiations.

Representative Drovdal: I don't understand that fiscal cliff because depreciation on equipment is standard deduction for businesses. What other credit is there that the fiscal cliff may affect?

Ryan Rauschenberger: There might be people in the crowd who would be better at answering that question for you as far as what the federal government allows. They've had some credits in the past that have sunsetted and come back but as far as the small wind I'm not as familiar with that.

Representative Froseth: I'd like to ask a question of Keith Monson. I think the tax credit is 3% for five years according to line 16 and 17 on page 1. Do you have any idea of how many of these could be sold or installed in the next five years?

Keith Monson: About the only thing I can reference is the interest we've had with our turbine and in the next five years if we sold 10 or 15 into North Dakota I think we'd be pretty lucky. Most of these will probably be sold overseas and into places like New York. It's a tough sell in North Dakota because of the price and that's the reason we are asking for a little incentive because if you plug in the 3% for five years that makes a three year difference in payback. Moneywise it isn't that much but it's on the front end so it's an exaggerated help in the payback period. I don't think distributed generation in North Dakota is going to be anything that is going to be overwhelming because unless the electrical rates go up the payback isn't that good.

Chairman Belter: If there are no further questions from the committee I will close the hearing on HB 1353.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1353
February 6, 2013
Job #18440

Conference Committee

Committee Clerk Signature

Mary Bruckner

Explanation or reason for introduction of bill/resolution:

A Bill relating to income and sales tax incentives for smaller wind energy generation units.

Minutes:

No testimony.

Representative Dockter: Made a motion for a Do Not Pass.

Representative Hatlestad: Seconded.

Chairman Belter: No discussion.

**ROLL CALL VOTE: 10 Yes 4 No 0 Absent
DO NOT PASS**

Representative Dockter will carry the bill.

FISCAL NOTE
Requested by Legislative Council
01/18/2013

Bill/Resolution No.: HB 1353

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1353 expands the existing energy device income tax credit law to allow individuals a credit for installing a wind device, and lowers the size requirement of a wind turbine for the existing sales tax exemption for power plant construction.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Sections 1 and 2 of the bill change existing law allowing an income tax credit for installing a biomass, geothermal, solar, and wind energy device in North Dakota on property owned or leased by the taxpayer. In the case of an individual, current law only allows the credit for a geothermal energy device. The bill will expand the law to allow the credit for a wind energy device, included the share received from a passthrough entity such as a partnership. It is presumed that this change relates to the installation of residential-size (or small) wind energy devices. Section 3 of the bill expands a sales tax exemption for certain wind-powered electrical generating facilities to include smaller units, those with a capacity of twenty kilowatts or more. If enacted, HB 1353 will reduce state general fund and state aid distribution fund revenues for the 2013-15 biennium, the amount of which cannot be determined. An estimate of the reduction is not possible because the extent of any sales of the devices cannot be determined. Also, the costs of acquisition and installation are dependent on manufacturer, size or energy-production capacity, location and zoning, and method of installation. And information on commercial installations by passthrough entities and the extent of any earned credits passed through to individual owners is an unknown.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/29/2013

Date: 2-6-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1353

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Dockter Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	✓		Rep. Scot Kelsh		✓
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser		✓
Rep. Matthew Klein	✓		Rep. Jessica Haak		✓
Rep. David Drovdal	✓		Rep. Marie Strinden		✓
Rep. Glen Froseth	✓				
Rep. Mark Owens	✓				
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 10 No 4

Absent 0

Floor Assignment Rep. Dockter

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1353: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1353 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

HB 1353

**TESTIMONY ON HB 1353
NORTH DAKOTA ALLIANCE FOR RENEWABLE ENERGY**

The North Dakota Alliance for Renewable Energy (NDARE) is pleased to testify in support of this bill, which provides income and sales tax incentives for smaller wind energy generation units.

NDARE is a diverse member organization that fosters the development and use of renewable energy and energy efficiency through education, outreach and public policy advocacy. Our members include utility companies, city and county economic development corporations, commodity groups, state and federal agencies involved with agriculture and energy, environmental organizations, and others.

NDARE supports HB 1353 because we believe that these tax incentives provide a good return on investment to the public. Our organization very recently released a new study which shows that the state's renewable energy industry, such as wind and biofuels, generates more than \$1.2 billion in annual economic activity in North Dakota. The study was conducted by NDSU's Agribusiness and Applied Economics Department on behalf of NDARE, and was made possible through a grant from the ND Dept. of Commerce State Energy Program.

NDARE believes that the projects provided these tax incentives will contribute to a more robust renewable energy sector in North Dakota and will help to create new jobs, wealth, and tax revenue for the state.

Thank you for the opportunity to testify on HB 1353.