



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2753

Introduced 2/21/2013, by Rep. Robyn Gabel

SYNOPSIS AS INTRODUCED:

New Act

Creates the Lake Michigan Wind Energy Act. Requires the Department of Natural Resources to develop a detailed offshore wind energy siting matrix for the public trust lands of Lake Michigan. Authorizes the Department, after finalizing the offshore wind energy siting matrix, to grant offshore wind energy development site assessment permits and leases. Authorizes the Department to convert site assessment leases to construction and operation leases. Grants the Department other rulemaking powers. Creates the Offshore Wind Energy Economic Development Policy Task Force. Charges the Task Force with analyzing and evaluating policy and economic options to facilitate the development of offshore wind energy and proposing an appropriate Illinois mechanism for purchasing and selling power from offshore wind energy projects. Effective immediately.

LRB098 10899 JDS 41429 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning energy.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Lake
5 Michigan Wind Energy Act.

6 Section 5. Legislative findings. The General Assembly
7 finds:

8 (1) that Lake Michigan is a unique and treasured public
9 asset that supports numerous activities for the benefit of the
10 people, wildlife, and flora of the State of Illinois;

11 (2) that the bottom of Lake Michigan up to the mean
12 high-water line is public land held in trust for the people of
13 the State of Illinois and cannot be alienated to a private use
14 or person;

15 (3) that federal and State policy, as well as the national
16 security, energy, and environmental needs of the United States
17 and the people of the State of Illinois, support exploration
18 and development of renewable energy resources, including
19 offshore wind energy;

20 (4) that the State of Illinois is a signatory to a federal
21 and multistate memorandum of understanding and is committed to
22 promoting the efficient, expeditious, orderly, and responsible
23 evaluation of offshore wind power projects in the Great Lakes;

1 (5) that wind above the Illinois public trust lands of Lake
2 Michigan is a unique and significant renewable energy resource;

3 (6) the development of that resource does not involve
4 mining or other extraction of resources from the public trust
5 lands of Lake Michigan;

6 (7) the provision of renewable energy from offshore wind,
7 if done in an environmentally responsible manner and without a
8 grant of any public trust lands of Lake Michigan, would serve a
9 primarily public purpose consistent with the public trust; and

10 (8) that the Lake Michigan Offshore Wind Energy Advisory
11 Council has recommended clarifying and confirming the State's
12 authority to permit such development and has made other
13 recommendations to further the responsible development of the
14 State's wind energy resources above Lake Michigan.

15 Section 10. Definitions. As used in this Act:

16 "Public trust lands" means lands, on or above the bed
17 of Lake Michigan and below the mean high-water mark of Lake
18 Michigan, belonging to, or subsequently acquired by, the
19 State.

20 "Department" means the Department of Natural
21 Resources.

22 Section 15. Wind energy siting matrix. The Department shall
23 develop, by no later than December 31, 2014, a detailed
24 offshore wind energy siting matrix for the public trust lands

1 of Lake Michigan, which shall, at a minimum, identify areas
2 that are unsuitable for wind energy development ("prohibited
3 areas"), areas that are most appropriate for wind energy
4 development ("preferred areas"), and areas that are neither
5 prohibited nor preferred for wind energy development but that
6 may be considered for development upon application ("possible
7 areas"). By a proposed rule, the Department may preliminarily
8 identify, in advance of completion of the wind energy siting
9 matrix, a limited number of prohibited areas, preferred areas,
10 and pilot project sites within the preferred areas. The
11 Department, in developing the wind energy siting matrix, shall
12 take into consideration existing environmental, marine, public
13 infrastructure, transportation, and security uses and factors,
14 and may also consider other factors it identifies as
15 appropriate.

16 Section 20. Offshore Wind Energy Economic Development
17 Policy Task Force.

18 (a) The Governor shall convene an Offshore Wind Energy
19 Economic Development Policy Task Force, to be chaired by the
20 Director of Commerce and Economic Opportunity, or his or her
21 designee, to analyze and evaluate policy and economic options
22 to facilitate the development of offshore wind energy, and to
23 propose an appropriate Illinois mechanism for purchasing and
24 selling power from possible offshore wind energy projects. The
25 Task Force shall examine mechanisms used in other states and

1 jurisdictions, including, without limitation, feed-in-tariffs,
2 renewable energy certificates, renewable energy certificate
3 carve-outs, power purchase agreements, and pilot projects. The
4 Task Force shall report its findings and recommendations to the
5 Governor and General Assembly by December 31, 2013.

6 (b) The Director of the Illinois Power Agency (or his or
7 her designee), the Executive Director of the Illinois Commerce
8 Commission (or his or her designee), and the Attorney General
9 (or his or her designee) shall serve as ex officio members of
10 the Task Force.

11 (c) The Governor shall appoint the following public members
12 to serve on the Task Force:

13 (1) one individual from an institution of higher
14 education in Illinois representing the discipline of
15 economics with experience in the study of renewable energy;

16 (2) one individual representing an energy industry
17 with experience in renewable energy markets;

18 (3) one individual representing a Statewide consumer
19 or electric ratepayer organization;

20 (4) one individual representing the offshore wind
21 energy industry;

22 (5) one individual representing the wind energy supply
23 chain industry;

24 (6) one individual representing an Illinois electrical
25 cooperative, municipal electrical utility, or association
26 of such cooperatives or utilities;

1 (7) one individual representing an Illinois industrial
2 union involved in the construction, maintenance, or
3 transportation of electrical generation, distribution, or
4 transmission equipment or components;

5 (8) one individual representing an Illinois commercial
6 or industrial electrical consumer;

7 (9) one individual representing an Illinois public
8 education electrical consumer;

9 (10) one individual representing an independent
10 transmission company;

11 (11) one individual from the Illinois legal community
12 with experience in contracts, utility law, municipal law,
13 and constitutional law;

14 (12) one individual representing a Great Lakes
15 regional organization with experience assessing or
16 studying wind energy;

17 (13) one individual representing a Statewide
18 environmental organization;

19 (14) one resident of the State representing an
20 organization advocating for persons of low or limited
21 incomes;

22 (15) one individual representing Argonne National
23 Laboratory; and

24 (16) one individual representing a local community
25 that has aggregated the purchase of electricity.

26 (d) The Governor may appoint additional public members to

1 the Task Force.

2 (e) The Speaker of the House of Representatives, Minority
3 Leader of the House of Representatives, Senate President, and
4 Minority Leader of the Senate shall each appoint one member of
5 the General Assembly to serve on the Task Force.

6 (f) Members of the Task Force shall serve without
7 compensation.

8 Section 25. Assessment permits. After finalizing the wind
9 energy siting matrix required under Section 15, the Department
10 may, in accordance with rules adopted by the Department
11 pursuant to Section 5-40 of the Illinois Administrative
12 Procedure Act and with the written approval of the Governor,
13 grant in the name of the State of Illinois permits and site
14 leases with respect to public trust lands of Lake Michigan for
15 the assessment of sites for offshore wind energy development.
16 An assessment permit and lease may be granted in advance of
17 completion of the wind energy siting matrix only for an area
18 preliminarily identified by a proposed rule of the Department
19 as a preferred area, and that preliminary identification shall
20 not be in any manner conclusive or precedential with respect to
21 ultimate classification of a site or any Department decision
22 authorized by this Act.

23 Section 30. Permits for wind park construction and
24 operation. The Department may, in accordance with rules adopted

1 by the Department pursuant to Section 5-40 of the Illinois
2 Administrative Procedure Act, convert site assessment leases
3 to offshore wind park construction and operation leases, upon
4 an appropriate showing by the applicant that the construction
5 and operation of wind energy facilities would not be
6 inconsistent with the public trust.

7 The Department may insert into any permit or lease issued
8 under this Act any terms that it deems necessary to protect the
9 rights of the State, the public, lessees, and users of waters
10 above the public trust lands of Lake Michigan.

11 Section 35. Rulemaking. The Department may adopt, in
12 accordance with the requirements of Section 5-40 of the
13 Illinois Administrative Procedure Act, any rule that is
14 necessary to implement this Act. The rules adopted by the
15 Department under this Section shall, at a minimum, specify
16 permit fees and royalty schedules, requirements for bonding and
17 guaranteeing, requirements for decommissioning, and any other
18 requirements necessary for carrying out the provisions of this
19 Act.

20 Prior to adopting any rule under this Act, the Department
21 shall consult with the Illinois Environmental Protection
22 Agency, the Illinois Commerce Commission, the Illinois Power
23 Agency, and the Department of Commerce and Economic
24 Opportunity.

1 Section 40. Regulatory toolkit. The Department shall, in
2 consultation with the Illinois Environmental Protection
3 Agency, the Illinois Commerce Commission, the Illinois Power
4 Agency, and the Department of Commerce and Economic
5 Opportunity, prepare and publish a toolkit for advising and
6 guiding developers on the regulatory and permitting process.
7 The toolkit shall, at a minimum, include a checklist of
8 required State permits and an overview of estimated timelines
9 and likely areas of concern.

10 Section 45. Limitation on Department Authority. Nothing
11 contained in this Act shall be construed as requiring or
12 permitting the Department to permanently convey any public
13 trust lands for energy development, or to permit on any
14 offshore public trust lands of Lake Michigan any development
15 other than for offshore wind.

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.