

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 bed of Lake Michigan is public land held in  
12 trust for the people of the State of Illinois and cannot be  
13 alienated to a private use or person;

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

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

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

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

4           (7) that so long as all affected public trust lands and  
5 waters of Lake Michigan remain under public ownership and  
6 control, the environmentally sustainable provision of  
7 renewable energy from offshore wind above Lake Michigan, in  
8 accordance with standards set by State and federal law and  
9 regulated by the State agency charged with protecting public  
10 trust lands and the public interest, would serve a public  
11 purpose and can be consistent with the public trust;

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

18           (9) that the State of Illinois should consider the  
19 recommendations, criteria, and lessons learned from the  
20 Advisory Council's Final Report, as well as new data,  
21 technologies, and scientific understandings, as it formulates  
22 rules to regulate offshore wind energy development in a manner  
23 that preserves public trust resources, produces public  
24 benefits, and protects the environment and public health,  
25 safety, and welfare.

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

2 "Public trust lands" means the bed of Lake Michigan.

3 "Department" means the Department of Natural  
4 Resources.

5 Section 15. Wind energy siting matrix. The Department shall  
6 develop a detailed offshore wind energy siting matrix for the  
7 public trust lands of Lake Michigan, which shall, at a minimum,  
8 identify areas that are unsuitable for wind energy development  
9 ("prohibited areas"), areas that are most appropriate for wind  
10 energy development ("preferred areas"), and areas that are  
11 neither prohibited nor preferred for wind energy development  
12 but that may be considered for development upon application  
13 ("possible areas"). The Department, in developing the wind  
14 energy siting matrix, shall take into consideration existing  
15 environmental, marine, public infrastructure, transportation,  
16 and security uses and factors, and may also consider other  
17 factors it identifies as appropriate.

18 Section 20. Offshore Wind Energy Economic Development  
19 Policy Task Force.

20 (a) The Governor shall convene an Offshore Wind Energy  
21 Economic Development Policy Task Force, to be chaired by the  
22 Director of Commerce and Economic Opportunity, or his or her  
23 designee, to analyze and evaluate policy and economic options  
24 to facilitate the development of offshore wind energy, and to

1 propose an appropriate Illinois mechanism for purchasing and  
2 selling power from possible offshore wind energy projects. The  
3 Task Force shall examine mechanisms used in other states and  
4 jurisdictions, including, without limitation, feed-in-tariffs,  
5 renewable energy certificates, renewable energy certificate  
6 carve-outs, power purchase agreements, and pilot projects. The  
7 Task Force shall report its findings and recommendations to the  
8 Governor and General Assembly by December 31, 2013.

9 (b) The Director of the Illinois Power Agency (or his or  
10 her designee), the Executive Director of the Illinois Commerce  
11 Commission (or his or her designee), the Director of Natural  
12 Resources (or his or her designee), and the Attorney General  
13 (or his or her designee) shall serve as ex officio members of  
14 the Task Force.

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

17 (1) one individual from an institution of higher  
18 education in Illinois representing the discipline of  
19 economics with experience in the study of renewable energy;

20 (2) one individual representing an energy industry  
21 with experience in renewable energy markets;

22 (3) one individual representing a Statewide consumer  
23 or electric ratepayer organization;

24 (4) one individual representing the offshore wind  
25 energy industry;

26 (5) one individual representing the wind energy supply

1 chain industry;

2 (6) one individual representing an Illinois electrical  
3 cooperative, municipal electrical utility, or association  
4 of such cooperatives or utilities;

5 (7) one individual representing an Illinois industrial  
6 union involved in the construction, maintenance, or  
7 transportation of electrical generation, distribution, or  
8 transmission equipment or components;

9 (8) one individual representing an Illinois commercial  
10 or industrial electrical consumer;

11 (9) one individual representing an Illinois public  
12 education electrical consumer;

13 (10) one individual representing an independent  
14 transmission company;

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

18 (12) one individual representing a Great Lakes  
19 regional organization with experience assessing or  
20 studying wind energy;

21 (13) one individual representing a Statewide  
22 environmental organization;

23 (14) one resident of the State representing an  
24 organization advocating for persons of low or limited  
25 incomes;

26 (15) one individual representing Argonne National

1 Laboratory; and

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

4 (d) The Governor may appoint additional public members to  
5 the Task Force.

6 (e) The Speaker of the House of Representatives, Minority  
7 Leader of the House of Representatives, Senate President, and  
8 Minority Leader of the Senate shall each appoint one member of  
9 the General Assembly to serve on the Task Force.

10 (f) Members of the Task Force shall serve without  
11 compensation.

12 Section 25. Assessment permits. After finalizing the wind  
13 energy siting matrix required under Section 15, the Department  
14 may, in accordance with rules adopted by the Department  
15 pursuant to Section 5-40 of the Illinois Administrative  
16 Procedure Act and with the written approval of the Governor,  
17 grant in the name of the State of Illinois permits and site  
18 leases with respect to public trust lands of Lake Michigan for  
19 the assessment of sites for offshore wind energy development.

20 Section 30. Permits for wind park construction and  
21 operation. The Department may, in accordance with rules adopted  
22 by the Department pursuant to Section 5-40 of the Illinois  
23 Administrative Procedure Act, convert site assessment leases  
24 to offshore wind park construction and operation leases, upon

1 an appropriate showing by the applicant that the construction  
2 and operation of wind energy facilities would not be  
3 inconsistent with the public trust.

4 Section 35. Permit terms. The Department may insert into  
5 any permit or lease issued under this Act any terms that it  
6 deems necessary to protect the rights of the State, the public,  
7 lessees, and users of waters above the public trust lands of  
8 Lake Michigan.

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

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

23 Section 45. Regulatory toolkit. The Department shall, in

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

9 Section 50. Limitation on Department Authority. Nothing  
10 contained in this Act shall be construed as requiring or  
11 permitting the Department to permanently convey any public  
12 trust lands for energy development.

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.