

The New Jersey Economic Recovery Act of 2020: An Overview of the Offshore Wind Tax Credit Program

The New Jersey Economic Recovery Act of 2020 (ERA), a seven-year, \$14 billion package of incentive programs intended to encourage New Jersey job growth, property development and redevelopment, community partnerships, and numerous other economic development initiatives, was signed into law by Governor Phil Murphy on January 7, 2021.

This Client Alert focuses on the Offshore Wind Tax Credit Program, which represents an enhancement under the ERA of New Jersey's existing and underutilized tax credit incentives for "qualified wind energy" facilities that were adopted in 2010 (P.L. 2010. C. 57). The newly bolstered incentive program is intended to provide critical financial assistance to the development of the offshore wind industry in New Jersey and the construction of large-scale, electric generation wind turbines off the New Jersey coast.

Background

Under New Jersey's Energy Master Plan (EMP) and Governor Murphy's Executive Order 92, the state intends to construct 7,500 MWs of offshore wind energy generation by 2035, which is enough electricity to provide power to over four million homes. In December 2019, the New Jersey Board of Public Utilities (BPU) approved the construction of 1,100 MWs of offshore wind generation to be completed by 2024. The BPU is currently evaluating additional applications for the award of 1,200 MWs to be constructed by 2027.

Moreover, the EMP and Murphy Administration envision New Jersey becoming home to manufacturing and distribution ports that can support the development of the offshore wind generation industry off the east coast. Indeed, New Jersey is planning to build an offshore wind port in Lower Alloways Creek that would bring new jobs and investments to the state. The New Jersey Economic Development Authority (EDA) describes the New Jersey Wind Port as a "200+ acre transformative, hub-style marshalling and manufacturing port project that will serve offshore wind projects in New Jersey and the Mid-Atlantic."

The ERA defines a "qualified wind energy facility" as "any building, complex of buildings, or structural components of buildings, including water access infrastructure, and all machinery and equipment used in the manufacturing, assembly, development or administration of component parts that support the development and operation of a qualified offshore wind project, or other wind energy project as determined by the EDA."

Tax Credit Awards

Under the Offshore Wind Tax Credit Program, a qualified wind energy facility located in New Jersey may be awarded a tax credit of 100% of its capital investment for the facility. The award of a tax credit will be structured to consist of up to four awards, each equaling 25% of the total value of the tax credit, to a qualified business over four taxable years in which the business meets the following requirements for the minimum number of new, full-time employees:

Eligible businesses with between 150 and 300 new, full-time jobs may receive an award based on a prorated formula developed by the EDA.

Eligibility

To be eligible for the tax credit, an applicant must demonstrate to the EDA that the state's financial support of the proposed capital investment in a qualified wind energy facility will yield a "net positive benefit" to the state as determined by the EDA. The value of all credits approved by the EDA pursuant to this section may be up to \$100,000,000, except as may be increased by the EDA if the Chief Executive Officer of the EDA determines that certain qualified offshore wind projects are worthy of a higher award. Capital investments made by a tenant in a qualified wind energy facility may be included to the extent necessary to meet the owner's minimum capital investment, i.e., \$50,000,000.

While it has been a long-time coming, it is clear that New Jersey is now poised to occupy a key role in the development and support of offshore wind generation projects in the Mid-Atlantic region. The Offshore Wind Tax Credit Program is likely to play an important part in achieving that objective.

We will keep you updated regarding the Offshore Wind Tax Credit Program and other developments related to programs enacted under the New Jersey Economic Recovery Act of 2020. Please contact the author of this Alert, **Barbara J. Koonz** bkoonz@greenbaumlaw.com | 973.577.1894 with questions or to discuss your specific business circumstances. Ms. Koonz is Chair of the firm's **Energy, Renewable Resources & Sustainable Development Practice Group** and a member of the **Financial Incentives & Economic Development Practice Group**.

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