**South Carolina General Assembly**

125th Session, 2023-2024

**H. 5118**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. G.M. Smith, West, Davis, Hager, Hewitt, Kirby, Long, M.M. Smith, B. Newton, Pendarvis, Sandifer, Hiott, Landing, Crawford, Brittain, Lawson, Williams, Whitmire, Jefferson, Bustos, Hartnett, Carter, Blackwell, Neese, W. Newton, Bradley, Erickson, Murphy, Brewer, Yow, Mitchell, Connell, Jordan, Thayer, Elliott, Wooten, Pedalino, Bailey, T. Moore, McGinnis, Gatch, Ligon, Gagnon, Hardee, B.L. Cox, Chapman, Leber, Anderson, Bannister, Calhoon, Felder, Hixon, Lowe, Taylor, Thigpen, Willis and Pope

Companion/Similar bill(s): 5221

Document Path: LC-0284HA24.docx

Introduced in the House on February 15, 2024

Introduced in the Senate on April 2, 2024

Last Amended on May 7, 2024

Currently residing in conference committee

Summary: Electrical Utilities, Electricity Regulation, and Economic Development

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/15/2024 House Introduced and read first time (House Journal‑page 15)

 2/15/2024 House Referred to Committee on **Labor, Commerce and Industry** (House Journal‑page 15)

 2/28/2024 House Member(s) request name removed as sponsor: Guest

 3/5/2024 House Member(s) request name added as sponsor: Pope

 3/21/2024 House Committee report: Favorable with amendment **Labor, Commerce and Industry** (House Journal‑page 5)

 3/26/2024 House Member(s) request name removed as sponsor:
 Guffey, Sessions, Gibson

 3/26/2024 House Requests for debate-Rep(s). Hiott, Hixon, B Newton, Hewitt, Carter, Felder, Ligon, O'Neal, T Moore, Nutt, Crawford, Guest, Brittain, JE Johnson, Hardee, BL Cox, Pace, Harris, Blackwell, Oremus, Williams, Henegan, Cromer, Chapman, Henderson-Myers, West, Anderson, Clyburn, Kirby, Gilliard, Rivers, King, Ott, Cobb-Hunter, Pendarvis, Garvin, Bauer, Robbins, Whitmire, Sandifer, Vaughan, Trantham, Ballintine, S Jones, Mitchell, Gilliam, Erickson, Wooten, Caskey, Weeks, W Jones, Dillard, McDaniels (House Journal‑page 54)

 3/27/2024 House Member(s) request name removed as sponsor: Ott

 3/27/2024 House Amended (House Journal‑page 41)

 3/27/2024 House Read second time (House Journal‑page 41)

 3/27/2024 House Roll call Yeas-88 Nays-21 (House Journal‑page 159)

 3/28/2024 House Read third time and sent to Senate (House Journal‑page 78)

 3/28/2024 House Roll call Yeas-83 Nays-21 (House Journal‑page 82)

 4/2/2024 Senate Introduced and read first time (Senate Journal‑page 18)

 4/2/2024 Senate Referred to Committee on **Judiciary** (Senate Journal‑page 18)

 4/10/2024 Senate Committee report: Favorable with amendment **Judiciary** (Senate Journal‑page 7)

 4/15/2024 Scrivener's error corrected

 5/7/2024 Senate Amended (Senate Journal‑page 48)

 5/7/2024 Senate Read second time (Senate Journal‑page 48)

 5/8/2024 Scrivener's error corrected

 5/8/2024 Senate Read third time and returned to House with amendments (Senate Journal‑page 43)

 5/8/2024 Senate Roll call Ayes-40 Nays-2 (Senate Journal‑page 43)

 5/9/2024 House Non-concurrence in Senate amendment (House Journal‑page 20)

 5/9/2024 House Roll call Yeas-23 Nays-76 (House Journal‑page 24)

 5/9/2024 Senate Senate insists upon amendment and conference committee appointed Rankin, Hutto, Massey (Senate Journal‑page 76)

 5/9/2024 House Conference committee appointed West, Sandifer, Ott (House Journal‑page 145)

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**VERSIONS OF THIS BILL**

[02/15/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/5118_20240215.docx)

[03/21/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/5118_20240321.docx)

[03/27/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/5118_20240327.docx)

[04/10/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/5118_20240410.docx)

[04/15/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/5118_20240415.docx)

[05/07/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/5118_20240507.docx)

[05/08/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/5118_20240508.docx)

Indicates Matter Stricken

Indicates New Matter

Amended

May 07, 2024

H. 5118

Introduced by Reps. G. M. Smith, West, Davis, Hager, Hewitt, Kirby, Long, M. M. Smith, B. Newton, Pendarvis, Sandifer, Hiott, Landing, Crawford, Brittain, Lawson, Williams, Whitmire, Jefferson, Bustos, Hartnett, Carter, Blackwell, Neese, W. Newton, Bradley, Erickson, Murphy, Brewer, Yow, Mitchell, Connell, Jordan, Thayer, Elliott, Wooten, Pedalino, Bailey, T. Moore, McGinnis, Gatch, Ligon, Gagnon, Hardee, B. L. Cox, Chapman, Leber, Anderson, Bannister, Calhoon, Felder, Hixon, Lowe, Taylor, Thigpen, Willis and Pope

S. Printed 05/07/24--S. [SEC 5/8/2024 2:22 PM]

Read the first time April 2, 2024

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A bill

To amend the South Carolina Code of Laws by enacting the “South Carolina Ten‑Year Energy Transformation Act”; By amending Section 58‑3‑20, relating to the membership, election, and qualifications of the public service commission, so as to change the number of commissioners from seven to three to be elected by the General Assembly from the state at large; By amending section 58‑3‑140, relating to the Public Service Commission’s powers to regulate public utilities, so as to establish considerations and state policy for the commission’s decision‑making process, to establish a schedule for certain testimony and discovery in contested proceedings, to permit electrical utility customers to address the commission as public witnesses, and to establish requirements for an independent third-party consultant hired by the commission; By amending section 58‑3‑250, relating to service of orders and decisions on parties, so as to make a technical change; By amending Section 58‑4‑10, relating to the office of regulatory staff and its representation of public interest before the commission, so as to establish its considerations for public interest; By adding Section 58‑4‑150 so as to require the office of regulatory staff to prepare a comprehensive state energy assessment and action plan and to establish requirements for this plan; by adding Chapter 38 to Title 58 so as to establish the South Carolina Energy Policy Institute; by adding Section 58‑33‑195 so as to encourage Dominion Energy, the Public Service Authority, Duke Energy Carolinas, and Duke Energy Progress to evaluate certain electrical generation facilities and provide for considerations related to these facilities; By adding Section 58‑31‑205 so as to permit the Public Service Authority to jointly own electrical generation and transmission facilities with investor‑owned electric utilities, and to provide requirements for joint ownership; By amending Section 58‑27‑650, relating to reassignment of electric suppliers’ service areas, so as to permit the commission to approve a request for any electric supplier to serve any transformational economic development project customer under certain conditions; by amending Article 9 of Chapter 7, Title 13, relating to the Governor’s nuclear advisory council, so as to as establish the council in the office of regulatory staff, to provide for its duties and membership, and to provide for the council’s director; by amending Section 37‑6‑604, relating to the consumer advocate’s intervention on matters filed at the commission, so as to transfer these duties to the Office of Regulatory Staff; By adding Section 58‑33‑196 so as to encourage consideration of deployment of nuclear facilities and to provide related requirements; By adding Section 58‑37‑70 so as to permit a small modular nuclear pilot program and to establish requirements; By adding Article 3 to Chapter 37, Title 58 so as to provide for state agency review of energy infrastructure project applications and to provide a sunset; by amending Section 58‑40‑10, relating to the definition of “customer‑generator”, so as to establish characteristics for a “customer‑generator”; by amending Section 58‑41‑30, relating to voluntary renewable energy programs, so as to provide additional requirements and considerations for these programs; by amending Section 58‑41‑10, relating to definitions, so as to add the definition of “energy storage facilities”; by amending Section 58‑41‑20, relating to proceedings for electrical utilities’ avoided cost methodologies and related processes, so as to authorize competitive PROCUREMENT programs for renewable energy, capacity, and storage, to permit competitive procurement of new renewable energy capacity and establish requirements for non‑competitive procurement programs, and to delete language regarding the commission hiring third‑party experts for these proceedings; by adding Section 58‑41‑25 so as to provide for a process for competitive procurement of renewable energy facilities; by amending Section 58‑33‑20, relating to definitions, so as to add the definition “like facility”; by amending Article 3 of Chapter 33, Title 58, relating to certification of major utility facilities, so as to provide for a like facility, to establish requirements and considerations for proposed facilities, to provide what actions may be taken without permission from the commission, and technical changes; By amending Section 58‑37‑40, relating to integrated resources plans, so as to add consideration of a utility’s transmission and distribution resource plan, to establish procedural requirements and evaluation by the commission, and require parties to bear their own costs; By amending Section 58‑3‑260, relating to communications between the commission and parties, so as to modify requirements for allowable ex parte communications and briefings, and to permit commission tours of utility plants or other facilities under certain circumstances; By amending Section 58‑3‑270, relating to ex parte communication complaint proceedings at the administrative law court, so as to permit an order tolling any deadlines on a proceeding subject to a complaint to the extent the proceeding was prejudiced so that the commission could not consider the matter impartially; by adding Chapter 43 to Title 58 so as to establish economic development rates for electrical utilities; By amending Section 58‑33‑310, relating to an appeal from a final order or decision of the commission, so as to require a final order issued pursuant to Chapter 33, Title 58 be immediately appealable to the South Carolina Supreme Court and to provide for an expedited hearing; By amending Section 58‑33‑320, relating to joint hearings and joint investigations, so as to make a conforming change; By adding Section 58‑4‑160 so as to require the office of regulatory staff to conduct a study to evaluate establishing a third‑party administrator for energy efficiency and demand-side management programs; By amending Section 58‑37‑10, relating to definitions, so as to add a reference to “demand‑side management program” and provide definitions for “cost‑effective” and “demand‑side management pilot program”; By amending Section 58‑37‑20, relating to commission procedures encouraging energy efficiency programs, so as to expand commission considerations for cost‑effective, demand‑side management programs, and require each investor‑owned electrical utility to submit an annual report to the commission regarding its demand‑side management programs; By amending Section 58‑37‑30, relating to reports on demand‑side activities, so as to make a conforming change; By adding Section 58‑37‑35 so as to permit programs and customer incentives to encourage or promote demand‑side management programs for customer-sited distribution resources, and to provide considerations for these programs; By amending Section 58‑37‑50, relating to agreements for energy efficiency and conservation measures, so as to establish certain terms and rate recovery for agreements for financing and installing energy efficiency and conservation measures, and for application to a residence occupied before the measures are taken; By adding section 58‑31‑215 so as to authorize the Public Service Authority, in consultation with the Department of Commerce, to serve as an anchor subscriber of natural gas and pipeline capacity for this state, to establish the “Energy Investment and Economic Development Fund”, and to provide for related requirements; by amending Section 58‑3‑70, relating to compensation of public service commission members, so as to establish salaries in amounts equal to ninety‑seven and one‑half percent of Supreme Court associate justices.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. (A) The General Assembly finds that:

 (1) South Carolina is achieving remarkable economic development success, which is bringing jobs and prosperity to its citizens.

 (2) From January to December 2023, the State announced total capital investments of 9.22 billion dollars and over 14,000 jobs, the second largest amount in state history.

 (3) In 2022, the State announced 120 projects creating over 14,000 new jobs with 10.27 billion dollars in new capital investment, the largest amount in state history.

 (4) Since 2017, the State has announced over 36.4 billion dollars in new investments and 86,378 new jobs.

 (5) Sustaining this success in economic development requires an electric system that can grow and modernize to meet the demands that a prosperous and developing economy places on it.

 (6) According to the U.S. Census Bureau, South Carolina led the nation in population growth in 2023.

 (7) The rapidly expanding population and record‑breaking economic development successes necessitate a strategic and forward-thinking approach to developing new energy infrastructure capable of meeting the energy needs of South Carolina's residents and supporting the continued prosperity of the State.

 (8) The urgency of addressing this situation is underscored by the interconnected challenges of meeting surging energy demand, ensuring grid reliability, and fortifying the state's resilience against potential disruptions, thereby compelling the imperative for the timely construction of new generation and transmission facilities to safeguard the continued well-being and economic vitality of South Carolina.

 (9) The economic and financial well‑being of South Carolina and its citizens depends upon continued economic development, industry retention, and opportunities for job attraction and retention.

 (10) Major commercial and industrial enterprises with the potential to bring substantial investments and employment opportunities are increasingly making decisions on the location of new facilities and investments in existing facilities based on the availability of safe, clean, reliable, and affordable electricity generated from a diverse portfolio of resources.

 (11) Electrical utilities, the South Carolina Public Service Authority, and electric cooperatives are critical economic development and industry retention partners for South Carolina by offering affordable power that has helped to attract jobs and associated development.

 (12) Natural gas combined-cycle generation, combustion turbines, and battery storage provide dispatchability and operating flexibility that will allow the state’s electrical utilities and the South Carolina Public Service Authority to add large amounts of flexible resources to their systems without jeopardizing cost-efficient and reliable service to customers.

 (13) Integrated resource planning by the state’s electrical utilities and the South Carolina Public Service Authority consistently indicates the need for and benefit of additional resources including, without limitation, combined-cycle natural gas, under multiple planning scenarios.

 (14) Cooperatively building new generation resources may enable the state’s electrical utilities and the South Carolina Public Service Authority to benefit from economies of scale to reduce the capital cost of these units compared to building single, stand-alone units sized to meet their individual needs alone, potentially reducing the environmental and land-use impact of the natural gas pipeline and transmission infrastructure required to support separate units.

 (15) Cooperatively building projects can provide a unique opportunity to anchor the expansion of natural gas pipelines serving certain coastal counties of South Carolina where economic development is currently hampered by the lack of such supplies, thereby increasing jobs, prosperity, and public welfare in those areas, and cooperatively built projects do so with minimal environmental disruption.

 (16) The rates, services, and operations of electrical utilities are a matter of public interest, and the availability of an adequate, reliable, clean, and economical supply of electric power and natural gas to the people and economy of South Carolina is a matter of public policy.

 (17) Certain aspects of the current regulatory structure in South Carolina can be revised to reduce the cost, delay, and uncertainty of planning, siting, and constructing new generation and transmission resources serving customers in this State.

 (18) It is important that the General Assembly take action to ensure that generation and transmission providers are able to plan, site, and construct new and replacement generation and transmission resources in a timely and cost-effective manner, utilizing procedures that are fair, prompt, efficient, and guided by an informed Public Service Commission.

 (19) It is important that the General Assembly take action to ensure that permitting and litigation processes for utility facilities are streamlined and do not cause unnecessary cost and delay.

 (B) The General Assembly declares it is the policy of this State to:

 (1) ensure South Carolina customers have access to an adequate, reliable, clean, and economical supply of energy resources;

 (2) sustain growth in industrial and economic development by ensuring an electric generation, transmission, and distribution system that can grow and modernize to meet the demands that a prosperous and developing economy places on it;

 (3) provide fair regulation of electrical utilities in the interest of the public in a manner that maintains the financial integrity of the electrical utility by assuring a sufficient and fair rate of return, supports economic development and industry retention, and provides just and reasonable rates to be established for entities providing electrical utility services to customers in this State while promoting adequate, reliable, clean, and economical utility service to all of the citizens and residents of this State;

 (4) provide the State and the public with a well‑regulated electrical utility environment;

 (5) assure that resources necessary to meet future growth through the provision of adequate, clean, and reliable electrical utility and South Carolina Public Service Authority services include use of the entire spectrum of demand‑side options including, but not limited to, conservation, load management, and energy efficiency programs as additional sources of energy supply and energy demand reduction;

 (6) provide just and reasonable rates and charges for electrical utility and South Carolina Public Service Authority services without undue preferences or advantages, or unfair or destructive competitive practices, and consistent with long‑term management and conservation of energy resources by avoiding wasteful, uneconomic generation and uses of energy;

 (7) assure that facilities necessary to meet future growth can be financed by the utilities operating in this State on terms which are reasonable and fair to both the customers and existing investors of such utilities, and to that end, to authorize fixing of rates in such a manner as to result in lower costs of new facilities and lower rates over the operating lives of such new facilities;

 (8) recognize the important role of utilities in economic development and industry retention, and the necessity for utilities to maintain the ability to finance continued investment in, and operation and maintenance of, the electric system, rapid restoration of power after major storms and outages, rate designs, and infrastructure necessary to attract and retain businesses and jobs to South Carolina, to maintain the ability to obtain financing at attractive rates, and to ensure a viable workforce for providing electricity and to attract such utility workers at market‑competitive wages;

 (9) seek to encourage and promote harmony between public utilities, their users, and the environment;

 (10) foster the continued service of electrical utilities and the South Carolina Public Service Authority on a well‑planned and coordinated basis that is consistent with the level of energy needed for the protection of public health and safety, and for the promotion of the general welfare, economic development, and industry retention;

 (11) seek to adjust the rate of growth of regulated energy supply facilities serving the State to the policy requirements of statewide economic development and industry retention;

 (12) encourage the continued study and research on new and innovative rate designs, which will protect the State, the public, the ratepayers, and the utilities;

 (13) facilitate the construction of energy facilities in and the extension of natural gas service to unserved and underserved areas in order to promote the public welfare throughout the State;

 (14) encourage electric providers to cooperate and collaborate on the development of new energy infrastructure where economies of scale and spreading of cost and risk bring benefit to consumers;

 (15) further the development of cleaner energy technologies on a cost‑effective basis to protect the natural resources of this State, promote the health and well‑being of the people of this State, and attract investments, create employment opportunities, drive economic growth, and foster innovation in this State; and

 (16) accomplish regulatory processes and issue orders in a timely manner.

 (C) The General Assembly finds that comprehensive legislation is needed to promote the development of new and reliable energy infrastructure resources, fostering resilient and reliable energy infrastructure critical to the economic success of the State of South Carolina.

SECTION 2. This act shall not affect the commission or any state agency’s decision-making in any proceeding, pending the passage of comprehensive legislation as contemplated in this act.

SECTION 3. This act takes effect upon approval by the Governor.

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