

REPORT OF THE ECONOMIC DEVELOPMENT, CAPITAL IMPROVEMENT & OTHER TAXES SUBCOMMITTEE

(Loftis, Cobb-Hunter, J.R. Smith, Barfield & Ott - Staff Contact: Daniel Boan)

HOUSE BILL 3644

H. 3644 -- Reps. Loftis, Sellers, W.J. McLeod, Funderburk, Gagnon, Govan, Herbkersman, Lowe, Lucas, D.C. Moss, Ott, Pitts, Toole, Vick, Williams and J.E. Smith: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 13-1-390 SO AS TO ESTABLISH WITHIN THE DIVISION OF STATE DEVELOPMENT OF THE DEPARTMENT OF COMMERCE THE CLEAN ENERGY INDUSTRY MARKET DEVELOPMENT ADVISORY COUNCIL AND PROVIDE FOR ITS MEMBERSHIP AND FUNCTIONS; TO AMEND SECTION 12-6-3588, RELATING TO THE RENEWABLE ENERGY TAX CREDIT INCENTIVE PROGRAM, SO AS TO REDESIGNATE THE PROGRAM THE SOUTH CAROLINA CLEAN ENERGY TAX INCENTIVE PROGRAM, TO REVISE DEFINITIONS TO EXTEND THE CREDIT TO ADDITIONAL FORMS OF ENERGY PRODUCTION AND OPERATIONS, TO DECREASE INVESTMENT THRESHOLDS AND DECREASE JOB CREATION THRESHOLDS FOR QUALIFYING FOR THE CREDIT AND MAKE THE CREDIT, PREVIOUSLY DUE TO EXPIRE DECEMBER 31, 2015, AVAILABLE THROUGH 2019 AND TO REVISE CREDIT ADMINISTRATION PROCEDURES; AND TO AMEND SECTION 12-6-3600, AS AMENDED, RELATING TO THE INCOME TAX CREDIT FOR CORN-BASED ETHANOL OR SOY-BASED BIODIESEL PRODUCTION IN THIS STATE, SO AS TO EXTEND THE CREDIT TO ALL LIQUID FUELS DERIVED FROM RENEWABLE SOURCES, MAKE CONFORMING DEFINITIONS, REDUCE THE AMOUNT OF LIQUID FUEL ELIGIBLE FOR THE CREDIT, AND TO EXTEND THE PERIOD DURING WHICH THE CREDIT MAY BE CLAIMED THROUGH 2019.

Summary of Bill:

This bill expands the S.C. Renewable Energy Tax Incentive Program to additional clean energy industries and lowers the investment threshold required to claim the credit. It also updates the credit for ethanol and biodiesel facilities to include other alternative sources of motor fuel and creates the Clean Energy Market Development Advisory Council under the Department of Commerce.

Introduced: 02/27/2013

Received by Ways and Means: 03/07/2013

Estimated Fiscal Impact:

None for FY 13-14.

Subcommittee Recommendation:

Favorable with Amendment

Full Committee Recommendation:

Pending

Other Notes/Comments:

The subcommittee amendment gives the secretary of Commerce the exclusive authority to appoint members of the advisory council, focuses the council's efforts on clean energy manufacturing, and removes "small modular reactors" from the list of investments eligible to receive the credit.

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

CONE/SHACKELFORD
APRIL 15, 2013

CLERK OF THE HOUSE

THE ECONOMIC DEVELOPMENT, CAPITAL
IMPROVEMENT, AND OTHER TAXES
SUBCOMMITTEE PROPOSES THE FOLLOWING AMENDMENT
No. TO H. 3644
(COUNCIL\GGS\3644C001.GGS.HTC13):

REFERENCE IS TO THE BILL AS INTRODUCED .

**AMEND THE BILL, AS AND IF AMENDED, BY
STRIKING SECTIONS 1, 2, AND 3 BEGINNING ON
PAGE 2, AND INSERTING:**

**/ SECTION 1. ARTICLE 3, CHAPTER 1, TITLE
13 OF THE 1976 CODE IS AMENDED BY ADDING:**

**“SECTION 13-1-390. (A) IN ADDITION TO
THOSE ADVISORY COUNCILS THAT MAY BE**

ESTABLISHED BY THE SECRETARY OF COMMERCE PURSUANT TO SECTION 13-1-40, THERE IS ESTABLISHED WITHIN THE DIVISION A CLEAN ENERGY INDUSTRY MANUFACTURING MARKET DEVELOPMENT ADVISORY COUNCIL TO ASSIST IN THE DEVELOPMENT OF CLEAN ENERGY TECHNOLOGY, MATERIALS, AND PRODUCTS MANUFACTURED IN THIS STATE.

(B) THE COUNCIL IS COMPOSED OF FOURTEEN MEMBERS. THE SECRETARY OF THE SOUTH CAROLINA DEPARTMENT OF COMMERCE OR THE SECRETARY'S DESIGNEE AND THE DIRECTOR OF THE STATE ENERGY OFFICE OR THE DIRECTOR'S DESIGNEE SHALL SERVE ON THE COUNCIL AND THE SECRETARY OF COMMERCE SHALL APPOINT ONE MEMBER REPRESENTATIVE FROM EACH OF THE FOLLOWING:

(1)ADVANCED VEHICLE TECHNOLOGY INDUSTRY;

(2)ALTERNATIVE TRANSPORTATION FUELS INDUSTRY;

(3)BATTERY MANUFACTURING INDUSTRY;

- (4)BIOMASS ENERGY INDUSTRY;**
- (5)ENERGY EFFICIENCY INDUSTRY;**
- (6)HIGHER EDUCATION RESEARCH
INSTITUTION'S INCUBATION AND BUSINESS
DEVELOPMENT DEPARTMENT;**
- (7)HYDROELECTRIC COMPONENT
MANUFACTURING INDUSTRY;**
- (8)HYDROGEN STORAGE OR FUEL CELL
INDUSTRY;**
- (9)SOLAR MANUFACTURING INDUSTRY;**
- (10) SC TECHNICAL COLLEGE SYSTEM'S
CLEAN ENERGY WORKFORCE DEVELOPMENT
DEPARTMENT;**
- (11) UTILITY INDUSTRY; AND**
- (12) WIND COMPONENTS MANUFACTURING
INDUSTRY.**

(C) APPOINTED MEMBERS OF THE COUNCIL SHALL SERVE FOR TERMS OF FOUR YEARS AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIED. TERMS OF MEMBERS INITIALLY APPOINTED EXPIRE AFTER JUNE 30, 2017. APPOINTED MEMBERS SERVE AT THE PLEASURE OF THEIR APPOINTING AUTHORITY AND WITHOUT COMPENSATION OR EXPENSES. THE FUNCTIONS OF THE COUNCIL ARE ADVISORY TO THE STATE. VACANCIES MUST BE FILLED IN THE MANNER OF ORIGINAL APPOINTMENT FOR THE UNEXPIRED PORTION OF THE TERM.

(D) THE CHAIRMAN MUST BE DESIGNATED BY THE SECRETARY OF COMMERCE AND THE COUNCIL SHALL SELECT ITS OWN VICE CHAIRMAN AND ADOPT THOSE PROCEDURES NECESSARY FOR ITS OPERATIONS. THE COUNCIL SHALL MEET AT LEAST ONCE ANNUALLY AND AT THE CALL OF THE CHAIR OR AT THE REQUEST OF A MAJORITY OF THE MEMBERS. A MAJORITY OF THE MEMBERS CONSTITUTES A QUORUM TO DO BUSINESS. THE STATE ENERGY OFFICE AND THE SOUTH CAROLINA DEPARTMENT OF COMMERCE, IF NECESSARY, SHALL PROVIDE THE NECESSARY STAFF AND ADMINISTRATIVE FACILITIES AND SERVICES TO THE COUNCIL.

(E) NOT LATER THAN OCTOBER 31, 2014, THE COUNCIL SHALL PROVIDE TO THE GOVERNOR AND THE GENERAL ASSEMBLY AN INITIAL REPORT WHICH MUST INCLUDE, AT A MINIMUM, THE FOLLOWING:

(1) A DESCRIPTION AND ANALYSIS OF THIS STATE'S EXISTING CLEAN ENERGY MANUFACTURING INDUSTRY;

(2) AN ANALYSIS OF JOB DEVELOPMENT POTENTIAL FOR CLEAN ENERGY MANUFACTURING IN THIS STATE;

(3) AN ANALYSIS OF MARKET POTENTIAL IN THIS STATE, IN OTHER STATES, OR IN FOREIGN COUNTRIES FOR TECHNOLOGY, MATERIALS, AND PRODUCTS MANUFACTURED BY A CLEAN ENERGY INDUSTRY FROM THIS STATE;

(4) RECOMMENDATIONS FOR ACTIONS WHICH MAY BE TAKEN TO PROVIDE INCENTIVES FOR MANUFACTURING OF CLEAN ENERGY TECHNOLOGY, MATERIALS, AND PRODUCTS FROM THIS STATE;

(5) RECOMMENDATIONS ON CATEGORIES OF CLEAN ENERGY MARKETS THAT SHOULD BE DEVELOPED IN THIS STATE AND BENCHMARKS TO INCREASE CLEAN ENERGY MANUFACTURING IN THIS STATE; AND

(6) RECOMMENDATIONS FOR MARKETING AND PUBLIC EDUCATION PROGRAMS THAT SHOULD BE IMPLEMENTED BY ECONOMIC DEVELOPMENT ENTITIES TO PROVIDE INFORMATION TO THE PUBLIC

AND TO BUSINESS AND INDUSTRY ON THE BENEFITS OF INVESTMENT IN THE CLEAN ENERGY MANUFACTURING INDUSTRY IN THIS STATE.

(F) FOLLOWING ITS INITIAL REPORT, THE COUNCIL SHALL SUBMIT TO THE GOVERNOR AND TO THE GENERAL ASSEMBLY BY THE END OF EACH CALENDAR YEAR AN ANNUAL REPORT ON THE CLEAN ENERGY MANUFACTURING INDUSTRY ACTIVITIES IN THIS STATE WHICH MUST INCLUDE, AT A MINIMUM, THE FOLLOWING:

(1) REVISIONS WHICH THE ADVISORY COUNCIL DETERMINES ARE NECESSARY TO ITS INITIAL AND SUBSEQUENT REPORTS;

(2) A DESCRIPTION AND ANALYSIS OF THE CLEAN ENERGY MANUFACTURING INDUSTRY IN THIS STATE AND GROWTH OF THE INDUSTRY DURING THE PRECEDING YEAR;

(3) RECOMMENDATIONS REGARDING POLICIES THAT COULD BE IMPLEMENTED TO ACHIEVE GROWTH IN THE CLEAN ENERGY MANUFACTURING INDUSTRY IN THIS STATE; AND

(4) ANY OTHER RECOMMENDATIONS, INCLUDING TAX AND ECONOMIC DEVELOPMENT INCENTIVES, TO FACILITATE THE DEVELOPMENT OF THE CLEAN ENERGY MANUFACTURING INDUSTRY IN THIS STATE.”

SECTION 2. SECTION 12-6-3588 OF THE 1976 CODE, AS ADDED BY ACT 290 OF 2010, IS AMENDED TO READ:

“SECTION 12-6-3588. (A) THE GENERAL ASSEMBLY HAS DETERMINED TO ENACT THE ‘SOUTH CAROLINA ~~RENEWABLE~~ CLEAN ENERGY TAX INCENTIVE PROGRAM’ AS CONTAINED IN THIS SECTION TO ENCOURAGE BUSINESS INVESTMENT THAT WILL PRODUCE HIGH QUALITY EMPLOYMENT OPPORTUNITIES AND ENHANCE THIS STATE’S POSITION AS A CENTER FOR PRODUCTION AND USE OF ~~RENEWABLE~~ CLEAN ENERGY PRODUCTS. THE PROGRAM ACCOMPLISHES THIS GOAL BY PROVIDING TAX INCENTIVES TO COMPANIES IN THE SOLAR, WIND, GEOTHERMAL, HYDROGEN, ENERGY STORAGE, AND ENERGY

EFFICIENCY AND OTHER RENEWABLE ENERGY INDUSTRIES WHO WHICH
ARE EXPANDING OR LOCATING IN SOUTH CAROLINA.

(B) AS USED IN THIS SECTION:

(1) 'CAPITAL INVESTMENT' MEANS AN EXPENDITURE TO ACQUIRE, LEASE, OR IMPROVE PROPERTY THAT IS USED IN OPERATING A BUSINESS, INCLUDING LAND, BUILDINGS, MACHINERY, AND FIXTURES.

(2) 'MANUFACTURING' MEANS FABRICATING, PRODUCING, OR MANUFACTURING RAW OR UNPREPARED MATERIALS INTO USABLE PRODUCTS, IMPARTING NEW FORMS, QUALITIES, PROPERTIES, AND COMBINATIONS. MANUFACTURING DOES NOT INCLUDE GENERATING ELECTRICITY FOR OFF-SITE CONSUMPTION.

(3) 'QUALIFYING INVESTMENT' MEANS INVESTMENT IN LAND, BUILDINGS, MACHINERY, AND FIXTURES FOR EXPANSION OF AN EXISTING FACILITY OR ESTABLISHMENT OF A NEW FACILITY IN THIS STATE. QUALIFYING INVESTMENT DOES NOT INCLUDE RELOCATING AN EXISTING FACILITY IN THIS STATE TO ANOTHER LOCATION IN THIS STATE WITHOUT ADDITIONAL CAPITAL INVESTMENT.

(4) '~~RENEWABLE~~ CLEAN ENERGY OPERATIONS' ARE LIMITED TO MANUFACTURERS OF SYSTEMS ~~AND~~ OR COMPONENTS THAT ARE USED OR USEFUL IN MANUFACTURING ~~RENEWABLE~~ OR OPERATION OF CLEAN ENERGY EQUIPMENT FOR THE GENERATION, STORAGE, TESTING AND RESEARCH AND DEVELOPMENT, AND TRANSMISSION OR DISTRIBUTION OF ELECTRICITY FROM ~~RENEWABLE~~ CLEAN ENERGY SOURCES, INCLUDING SPECIALIZED PACKAGING FOR THE ~~RENEWABLE~~ CLEAN ENERGY EQUIPMENT MANUFACTURED AT THE FACILITY. A CLEAN ENERGY OPERATION DOES NOT INCLUDE GENERATING ELECTRICITY FOR OFF-SITE CONSUMPTION.

(C) A BUSINESS OR CORPORATION MEETING THE REQUIREMENTS OF THIS SECTION ~~BEGINNING IN 2010~~ IS ELIGIBLE TO RECEIVE A TEN PERCENT-NONREFUNDABLE INCOME TAX CREDIT OF THE COST OF THE COMPANY'S TOTAL QUALIFYING INVESTMENTS IN PLANT AND

EQUIPMENT IN THIS STATE FOR ~~RENEWABLE~~ CLEAN ENERGY OPERATIONS.

(D) THE BUSINESS OR CORPORATION ~~MUST~~ SHALL:

(1) MANUFACTURE ~~RENEWABLE~~ CLEAN ENERGY SYSTEMS ~~AND OR~~ COMPONENTS IN SOUTH CAROLINA FOR SOLAR, WIND, GEOTHERMAL, HYDROGEN, ENERGY STORAGE, OR ENERGY EFFICIENCY ~~OR OTHER RENEWABLE ENERGY~~ USES IN ORDER TO BE ELIGIBLE FOR THE TAX CREDIT AUTHORIZED BY THIS SECTION;

(2) INVEST AT LEAST ~~FIVE HUNDRED~~ FIFTY MILLION DOLLARS IN A TIER IV COUNTY; AT LEAST ONE HUNDRED MILLION DOLLARS IN A TIER III COUNTY; AT LEAST ONE HUNDRED FIFTY MILLION DOLLARS IN A TIER II COUNTY; AND AT LEAST TWO HUNDRED MILLION DOLLARS IN A TIER I COUNTY ACCORDING TO THE COUNTY RANKING AND DESIGNATION SYSTEM AS PROVIDED PURSUANT TO SECTION 12-6-3360(B) IN THE YEAR THE TAX CREDIT IS CLAIMED IN NEW QUALIFYING PLANT AND EQUIPMENT; AND

(3) HAVE CREATED AT LEAST ONE ~~AND ONE-HALF~~ FULL-TIME JOB FOR EVERY ~~FIVE HUNDRED THOUSAND~~ ONE MILLION DOLLARS OF CAPITAL INVESTMENT QUALIFYING FOR THE CREDIT THAT EACH PAYS AT LEAST ONE HUNDRED TWENTY-FIVE PERCENT OF THIS STATE'S AVERAGE ANNUAL MEDIAN WAGE AS DEFINED BY THE DEPARTMENT OF COMMERCE.

(E) THE INCOME TAX CREDIT ~~PROGRAM~~ IS ALLOWED FOR UP TO SIXTY MONTHS ~~FOR A FIVE-YEAR PERIOD~~ BEGINNING WITH THE FIRST MONTH FOR WHICH THE BUSINESS OR CORPORATION IS ELIGIBLE TO RECEIVE THE CREDIT ~~JANUARY 1, 2010,~~ AND ENDING NO LATER THAN DECEMBER 31, 2015 ~~2020~~.

(F) A TAXPAYER MAY SEPARATELY QUALIFY FOR NEW FACILITIES IN SEPARATE LOCATIONS OR FOR SEPARATE EXPANSIONS OF EXISTING FACILITIES LOCATED IN THIS STATE.

(G) A TAXPAYER'S TOTAL CREDIT FOR ALL EXPENDITURES ALLOWED PURSUANT TO THIS SECTION MUST NOT EXCEED FIVE

HUNDRED THOUSAND DOLLARS FOR ANY YEAR AND FIVE MILLION DOLLARS TOTAL FOR ALL YEARS. UNUSED CREDITS MAY BE CARRIED FORWARD FOR FIFTEEN YEARS AFTER THE TAX YEAR IN WHICH A QUALIFIED EXPENDITURE WAS MADE. THE CREDIT IS NONREFUNDABLE.

(H) TO OBTAIN THE AMOUNT OF THE CREDIT AVAILABLE TO A TAXPAYER, EACH TAXPAYER SHALL NOTIFY THE DEPARTMENT OF REVENUE AND THE DEPARTMENT OF COMMERCE, IN WRITING, OF ITS INTENTION TO CLAIM THE TAX CREDIT. THE DEPARTMENT OF REVENUE SHALL DETERMINE THE PROOF NECESSARY TO MEET THE REQUIREMENTS OF SUBSECTION (D)(1) AND (2). EXPENDITURES QUALIFYING FOR A THE TAX CREDIT ALLOWED BY THIS SECTION MUST BE CERTIFIED BY THE STATE ENERGY OFFICE DEPARTMENT OF REVENUE. THE STATE ENERGY OFFICE DEPARTMENT OF REVENUE MAY CONSULT WITH APPROPRIATE STATE AND FEDERAL OFFICIALS ON STANDARDS FOR CERTIFICATION.

~~(I) TO OBTAIN THE AMOUNT OF THE CREDIT AVAILABLE TO A TAXPAYER,~~ EACH TAXPAYER MUST SHALL SUBMIT A REQUEST FOR THE CREDIT TO THE ~~STATE ENERGY OFFICE~~ DEPARTMENT OF REVENUE BY JANUARY THIRTY-FIRST FOR QUALIFYING EXPENSES INCURRED IN THE PREVIOUS CALENDAR YEAR AND THE ~~STATE ENERGY OFFICE~~ DEPARTMENT OF REVENUE MUST NOTIFY THE TAXPAYER THAT THE SUBMITTED EXPENDITURES QUALIFY FOR THE CREDIT AND THE AMOUNT OF CREDIT ALLOCATED TO SUCH TAXPAYER BY MARCH FIRST OF THAT YEAR. A TAXPAYER MAY CLAIM THE MAXIMUM AMOUNT OF THE CREDIT FOR ITS TAXABLE YEAR WHICH CONTAINS THE DECEMBER THIRTY-FIRST OF THE PREVIOUS CALENDAR YEAR.

(I) TO OBTAIN THE AMOUNT OF THE CREDIT AVAILABLE TO A TAXPAYER, THE DEPARTMENT OF COMMERCE ALSO MUST CERTIFY TO THE ~~STATE ENERGY OFFICE~~ DEPARTMENT OF REVENUE THAT THE TAXPAYER HAS MET THE JOB CREATION REQUIREMENTS OF SUBSECTION (D)(3).

(J) THE CREDITS AUTHORIZED BY THIS SECTION ARE IN LIEU OF ANY OTHER APPLICABLE INCOME TAX CREDITS OR ABATEMENTS ALLOWED BY STATE LAW, AND IN THE EVENT OF AN OVERLAP OR CONFLICT IN AVAILABLE CREDITS OR ABATEMENTS TO A TAXPAYER, THE TAXPAYER MUST SELECT THE CREDIT OR ABATEMENT ~~HE~~ THE TAXPAYER DESIRES IN THE MANNER PRESCRIBED BY THE DEPARTMENT OF REVENUE TO THE EXTENT THE CREDITS OR ABATEMENTS CONFLICT OR OVERLAP.”

SECTION 3. SECTION 12-6-3600 OF THE 1976 CODE, AS LAST AMENDED BY ACT 261 OF 2008, IS FURTHER AMENDED TO READ:

“SECTION 12-6-3600. (A)(1) FOR TAXABLE YEARS BEGINNING AFTER 2006, AND BEFORE ~~2017~~ 2020, THERE IS ALLOWED A CREDIT AGAINST THE TAX IMPOSED PURSUANT TO THIS CHAPTER FOR ANY CORN-BASED ~~ETHANOL~~ OR SOY-BASED ~~BIODIESEL~~ LIQUID FUEL PRODUCTION FACILITY WHICH IS IN PRODUCTION AT THE RATE OF AT LEAST TWENTY-FIVE PERCENT OF ITS NAME PLATE DESIGN CAPACITY FOR THE PRODUCTION OF CORN-BASED ~~ETHANOL~~ OR SOY-BASED ~~BIODIESEL~~ LIQUID FUEL, BEFORE DENATURING, ON OR BEFORE DECEMBER 31, ~~2014~~ 2015. THE CREDIT EQUALS TWENTY CENTS A GALLON OF CORN-BASED ~~ETHANOL~~ OR SOY-BASED ~~BIODIESEL~~ LIQUID FUEL PRODUCED AND IS ALLOWED FOR SIXTY MONTHS BEGINNING WITH THE FIRST MONTH FOR WHICH THE FACILITY IS ELIGIBLE TO RECEIVE THE CREDIT AND ENDING NOT LATER THAN DECEMBER 31, ~~2016~~ 2019. THE TAXPAYER IS ELIGIBLE TO CLAIM THE CREDIT AFTER THE FACILITY HAS SIX CONSECUTIVE MONTHS OF OPERATION AT AN AVERAGE PRODUCTION RATE OF AT LEAST TWENTY-FIVE PERCENT OF ITS NAME PLATE DESIGN CAPACITY. IN THE FIRST TAXABLE YEAR IN WHICH THE TAXPAYER IS ELIGIBLE TO CLAIM THE CREDIT, THE TAXPAYER MAY CLAIM THE CREDIT FOR THE FIRST SIX MONTHS IT MET

THE REQUIREMENTS IN ADDITION TO QUALIFYING PRODUCTION DURING ITS CURRENT TAXABLE YEAR.

(2) FOR TAXABLE YEARS BEGINNING AFTER 2006, AND BEFORE ~~2017~~ 2020, THERE IS ALLOWED A CREDIT AGAINST THE TAX IMPOSED PURSUANT TO THIS CHAPTER FOR ~~AN ETHANOL~~ A LIQUID FUEL PRODUCTION FACILITY USING A FEEDSTOCK OTHER THAN CORN OR A ~~BIODIESEL FACILITY USING A FEEDSTOCK OTHER THAN~~ SOY OIL WHICH IS IN PRODUCTION AT THE RATE OF AT LEAST TWENTY-FIVE PERCENT OF ITS NAME PLATE DESIGN CAPACITY FOR THE PRODUCTION OF ~~ETHANOL OR BIODIESEL~~ LIQUID FUEL, BEFORE DENATURING, ON OR BEFORE DECEMBER 31, ~~2011~~ 2015. THE CREDIT EQUALS THIRTY CENTS A GALLON OF NONCORN ~~ETHANOL~~ OR NONSOY OIL ~~BIODIESEL~~ LIQUID FUEL PRODUCED AND IS ALLOWED FOR UP TO SIXTY MONTHS BEGINNING WITH THE FIRST MONTH FOR WHICH THE FACILITY IS ELIGIBLE TO RECEIVE THE CREDIT AND ENDING NO LATER THAN DECEMBER 31, ~~2016~~ 2019. THE TAXPAYER IS ELIGIBLE TO CLAIM THE CREDIT AFTER THE FACILITY HAS SIX CONSECUTIVE MONTHS OF OPERATION AT AN AVERAGE PRODUCTION RATE OF AT LEAST TWENTY-FIVE PERCENT OF ITS NAME PLATE DESIGN CAPACITY. IN THE FIRST TAXABLE YEAR IN WHICH THE TAXPAYER IS ELIGIBLE TO CLAIM THE CREDIT, THE TAXPAYER MAY CLAIM THE CREDIT FOR THE FIRST SIX MONTHS IT MET THE REQUIREMENTS IN ADDITION TO QUALIFYING PRODUCTION DURING ITS CURRENT TAXABLE YEAR.

(3) ANY UNUSED CREDIT MAY BE CARRIED FORWARD FOR TEN YEARS.

(B) AS USED IN THIS SECTION:

(1) 'LIQUID FUEL' MEANS ANY FUEL THAT WILL POWER AN INTERNAL COMBUSTION ENGINE AND IS DERIVED FROM ALGAE, CELLULOSE, CORN, NATURAL GAS, SOY, USED OIL, WASTE OIL, OR YELLOW GREASE AND USED AS A SUBSTITUTE FOR GASOLINE OR DIESEL FUEL. LIQUID FUEL AS DEFINED IN THIS ITEM DOES NOT INCLUDE FUELS DERIVED FROM CRUDE TALL OIL. ~~ETHANOL FACILITY~~" MEANS A PLANT

~~OR FACILITY PRIMARILY ENGAGED IN THE PRODUCTION OF ETHANOL OR ETHYL ALCOHOL DERIVED FROM RENEWABLE AND SUSTAINABLE BIOPRODUCTS USED AS A SUBSTITUTE FOR GASOLINE FUEL.~~

(2) 'LIQUID FUEL PRODUCTION FACILITY' MEANS A PLANT OR FACILITY PRIMARILY ENGAGED IN THE PRODUCTION OF LIQUID FUEL AS DEFINED IN THIS SECTION. ~~BIODIESEL FACILITY" MEANS A PLANT OR FACILITY PRIMARILY ENGAGED IN THE PRODUCTION OF PLANT OR ANIMAL-BASED FUELS USED AS A SUBSTITUTE FOR DIESEL FUEL.~~

(3) 'NAME PLATE DESIGN CAPACITY' MEANS THE ORIGINAL DESIGNED CAPACITY OF AN ETHANOL OR BIODIESEL A LIQUID FUEL PRODUCTION FACILITY. CAPACITY MAY BE SPECIFIED AS BUSHELS OF GRAIN GROUND OR GALLONS OF ~~ETHANOL OR BIODIESEL~~ LIQUID FUEL PRODUCED A YEAR.

(C)(1) BEGINNING JANUARY 1, ~~2017~~ 2020, ~~AN ETHANOL OR BIODIESEL A LIQUID FUEL PRODUCTION FACILITY~~ MUST RECEIVE A CREDIT AGAINST THE TAX IMPOSED BY THIS CHAPTER IN THE AMOUNT OF SEVEN AND ONE-HALF CENTS A GALLON OF ~~ETHANOL OR BIODIESEL LIQUID FUEL~~, BEFORE DENATURING, FOR NEW PRODUCTION FOR A PERIOD NOT TO EXCEED THIRTY-SIX CONSECUTIVE MONTHS.

(2) FOR PURPOSES OF THIS SUBSECTION, 'NEW PRODUCTION' MEANS PRODUCTION WHICH RESULTS FROM A NEW FACILITY, A FACILITY WHICH HAS NOT RECEIVED CREDITS BEFORE ~~2017~~ 2020, OR THE EXPANSION OF THE CAPACITY OF AN EXISTING FACILITY BY AT LEAST TWO MILLION GALLONS FIRST PLACED INTO SERVICE AFTER ~~2016~~ 2019, AS CERTIFIED BY THE DESIGN ENGINEER OF THE FACILITY TO THE STATE ENERGY OFFICE.

(3) FOR EXPANSION OF THE CAPACITY OF AN EXISTING FACILITY, 'NEW PRODUCTION' MEANS ANNUAL PRODUCTION IN EXCESS OF TWELVE TIMES THE MONTHLY AVERAGE OF THE HIGHEST THREE MONTHS OF ~~ETHANOL OR BIODIESEL~~ LIQUID FUEL PRODUCTION AT ~~AN ETHANOL OR BIODIESEL A LIQUID FUEL PRODUCTION FACILITY~~ DURING

THE TWENTY-FOUR-MONTH PERIOD IMMEDIATELY PRECEDING CERTIFICATION OF THE FACILITY BY THE DESIGN ENGINEER.

(4) CREDITS ARE NOT ALLOWED PURSUANT TO THIS SUBSECTION FOR EXPANSION OF THE CAPACITY OF AN EXISTING FACILITY UNTIL PRODUCTION IS IN EXCESS OF TWELVE TIMES THE THREE-MONTH AVERAGE AMOUNT DETERMINED PURSUANT TO THIS SUBSECTION DURING ANY TWELVE-CONSECUTIVE-MONTH PERIOD BEGINNING NO SOONER THAN JANUARY 1, ~~2017~~ 2020.

(5) THE AMOUNT OF A CREDIT GRANTED PURSUANT TO THIS SECTION BASED ON NEW PRODUCTION MUST BE APPROVED BY THE STATE ENERGY OFFICE BASED ON THE ~~ETHANOL OR BIODIESEL~~ LIQUID FUEL PRODUCTION RECORDS AS MAY BE NECESSARY TO REASONABLY DETERMINE THE LEVEL OF NEW PRODUCTION.

(D)(1) THE CREDITS DESCRIBED IN THIS SECTION ARE ALLOWED ONLY FOR ~~ETHANOL OR BIODIESEL~~ LIQUID FUEL PRODUCED AT A PLANT IN THIS STATE AT WHICH ALL FERMENTATION, DISTILLATION, AND DEHYDRATION TAKES PLACE. CREDIT IS NOT ALLOWED FOR ~~ETHANOL OR BIODIESEL~~ LIQUID FUEL PRODUCED OR SOLD FOR USE IN THE PRODUCTION OF DISTILLED SPIRITS.

(2) NOT MORE THAN ~~TWENTY-FIVE MILLION~~ TEN MILLION GALLONS OF ~~ETHANOL OR BIODIESEL~~ LIQUID FUEL PRODUCED ANNUALLY AT ~~AN ETHANOL OR BIODIESEL~~ A LIQUID FUEL PRODUCTION FACILITY IS ELIGIBLE FOR THE CREDITS IN SUBSECTIONS (A) AND (B) OF THIS SECTION, AND THE CREDITS ONLY MAY BE CLAIMED BY A PRODUCER FOR THE PERIODS SPECIFIED IN SUBSECTIONS (A) AND (B) OF THIS SECTION.

(3) NOT MORE THAN TEN MILLION GALLONS OF ~~ETHANOL OR BIODIESEL~~ LIQUID FUEL PRODUCED DURING A TWELVE-CONSECUTIVE-MONTH PERIOD AT ~~AN ETHANOL OR BIODIESEL~~ A LIQUID FUEL PRODUCTION FACILITY IS ELIGIBLE FOR THE CREDIT DESCRIBED IN SUBSECTION (C) OF THIS SECTION, AND THE CREDIT

ONLY MAY BE CLAIMED BY A PRODUCER FOR THE PERIODS SPECIFIED IN SUBSECTION (C) OF THIS SECTION.

(4) NOT MORE THAN ~~ONE HUNDRED TWENTY-FIVE~~ FIFTY MILLION GALLONS OF ~~ETHANOL OR BIODIESEL~~ LIQUID FUEL PRODUCED AT AN ~~ETHANOL OR BIODIESEL~~ A LIQUID FUEL PRODUCTION FACILITY BY THE END OF THE SIXTY-MONTH PERIOD SET FORTH IN SUBSECTION (A) OR (B) OF THIS SECTION IS ELIGIBLE FOR THE CREDIT UNDER THE SUBSECTION. ~~AN ETHANOL OR BIODIESEL~~ A LIQUID FUEL PRODUCTION FACILITY WHICH RECEIVES A CREDIT FOR ~~ETHANOL OR BIODIESEL~~ LIQUID FUEL PRODUCED UNDER SUBSECTION (A) OR (B) OF THIS SECTION MAY NOT RECEIVE A CREDIT PURSUANT TO SUBSECTION (C) OF THIS SECTION UNTIL ITS ELIGIBILITY TO RECEIVE A CREDIT UNDER SUBSECTION (A) OR (B) OF THIS SECTION HAS BEEN COMPLETED.

(E) THE STATE ENERGY OFFICE SHALL PRESCRIBE AN APPLICATION FORM AND PROCEDURES FOR CLAIMING CREDITS UNDER THIS SECTION.

(F) FOR PURPOSES OF ASCERTAINING THE CORRECTNESS OF THE CREDIT ALLOWED PURSUANT TO THIS SECTION, THE STATE ENERGY OFFICE OR THE DEPARTMENT MAY EXAMINE OR CAUSE TO HAVE EXAMINED, BY ANY AGENT OR REPRESENTATIVE DESIGNATED FOR THAT PURPOSE, ANY BOOKS, PAPERS, RECORDS, OR MEMORANDA BEARING UPON THESE MATTERS.

(G) ~~NOTWITHSTANDING THE CREDIT AMOUNT ALLOWED BY THIS SECTION, FOR FISCAL YEAR 2008-2009, ALL CLAIMS MADE PURSUANT TO THIS SECTION MUST NOT EXCEED EIGHT HUNDRED THOUSAND DOLLARS AND MUST APPLY PROPORTIONATELY TO ALL ELIGIBLE CLAIMANTS.~~

~~(H)~~(1) TO OBTAIN THE MAXIMUM AMOUNT OF THE CREDIT AVAILABLE TO A TAXPAYER, EACH TAXPAYER MUST SUBMIT A REQUEST FOR CREDIT TO THE STATE ENERGY OFFICE BY JANUARY THIRTY-FIRST FOR ALL GALLONS OF QUALIFYING FUEL PRODUCED IN THE PREVIOUS CALENDAR YEAR AND THE STATE ENERGY OFFICE MUST

NOTIFY THE TAXPAYER THAT IT QUALIFIES FOR THE CREDIT AND THE AMOUNT OF CREDIT ALLOCATED TO THE TAXPAYER BY MARCH FIRST OF THAT YEAR. A TAXPAYER MAY CLAIM THE MAXIMUM CREDIT FOR ITS TAXABLE YEAR WHICH CONTAINS THE DECEMBER THIRTY-FIRST OF THE PREVIOUS CALENDAR YEAR. THE DEPARTMENT OF REVENUE MAY REQUIRE ANY DOCUMENTATION THAT IT DEEMS NECESSARY TO ADMINISTER THE CREDIT.

~~(2) FOR THE STATE'S FISCAL YEAR BEGINNING JULY 1, 2008, THE MAXIMUM AMOUNT OF CREDIT IS TO BE DETERMINED BASED ON AN EIGHTEEN-MONTH PERIOD BEGINNING JULY 1, 2008, THROUGH DECEMBER 31, 2009. APPLICATIONS ARE TO BE MADE BY JANUARY 31, 2010, FOR THE PREVIOUS EIGHTEEN-MONTH PERIOD COMMENCING JULY 1, 2008, AND ENDING DECEMBER 31, 2009. A TAXPAYER ALLOCATED A CREDIT FOR THIS EIGHTEEN-MONTH PERIOD MAY CLAIM THE CREDIT FOR ITS TAX YEAR WHICH CONTAINS DECEMBER 31, 2009.~~

~~(3) TO THE EXTENT THE MAXIMUM AMOUNT OF THE CREDIT CONTAINED IN THIS SECTION IS REPEALED, THE ELIMINATION OF THE MAXIMUM AMOUNT SHALL BE SEEN AS THE LAST EXPRESSION OF THE LEGISLATURE AND TO THE EXTENT ANY LANGUAGE IN THIS ACT CONFLICTS WITH THAT REPEAL, IT SHALL BE CONSIDERED NULL AND VOID."~~ /

RENUMBER SECTIONS TO CONFORM.
AMEND TITLE TO CONFORM.

Statement of Estimated State Revenue Impact

Date: April 16, 2013 (As amended April 10, 2013 by the Sales & Income Tax Committee)

Bill Number: H.B. 3644

Authors: Loftis, Sellers, W.J. McLeod, Funderburk, Gagnon, *et. al.*

Committee Requesting Impact: House Judiciary Committee

Bill Summary

A bill to amend the Code of Laws of South Carolina, 1976, by adding Section 13-1-390 so as to establish within the Division of State Development of the Department of Commerce the Clean Energy Industry Market Development Advisory Council and provide for its membership and functions; to amend Section 12-6-3588, relating to the renewable energy tax credit incentive program, so as to redesignate the program the South Carolina Clean Energy Tax Incentive Program, to revise definitions to extend the credit to additional forms of energy production and operations, to decrease investment thresholds and decrease job creation thresholds for qualifying for the credit and make the credit, previously due to expire December 31, 2015, available through 2019 and to revise credit administration procedures; and to amend Section 12-6-3600, as amended, relating to the income tax credit for corn-based ethanol or soy-based biodiesel production in this state, so as to extend the credit to all liquid fuels derived from renewable sources, make conforming definitions, reduce the amount of liquid fuel eligible for the credit, and to extend the period during which the credit may be claimed through 2019.

REVENUE IMPACT ^{1/}

This bill, as amended, is not expected to affect state General Fund revenue in FY2013-14.

Explanation of Amendment (April 10, 2013) – House Sales & Income Tax Subcommittee

This amendment, as and if amended, would strike Section 1, Section 2, and Section 3, and insert the following changes to the original bill.

Section 1. This amendment would change the name of the advisory council to “Clean Energy Industry Manufacturing Market Development Advisory Council” to assist in the development of clean energy technology, materials, and products “manufactured” in this State.

Section 2. This amendment deletes “small modular reactors” from the types of companies that would qualify for tax incentives, including the ten percent nonrefundable income tax credit of the cost of qualifying investments in plant and equipment in this State for clean energy operations. To receive the credit available to a taxpayer, each taxpayer must notify the Department of Commerce and the Department of Revenue, instead of the State Energy Office.

Section 3. This amendment alters the definition of “liquid fuel” to not include “fuels derived from crude tall oil”. Tall oil, also called “liquid rosin” or tallol, is a viscous yellow-black odorous liquid obtained as a by-product of wood pulp manufacture when pulping mainly coniferous trees. Tall oil rosin is used as a component of adhesives, rubbers, inks, and as an emulsifier.

Explanation of Bill filed February 27, 2013

This bill would amend Article 3, Chapter 1, Title 13 by adding:

Statement of Estimated State Revenue Impact

Section 1. This bill would add Section 13-1-390 to allow the Secretary of Commerce to establish a Clean Energy Industry Market Development Advisory Council. The Council would assist in the development of markets for clean energy technology, materials, and products developed by a clean energy industry from this State. The Council shall provide an initial report to the Governor and the General Assembly an analysis of the clean energy industry in the State no later than October 31, 2014. Following the initial report, the Council shall submit by the end of each calendar year an annual report on the clean energy industry activities in this State.

Section 2. This bill would amend Section 13-6-3588 to update references from “renewable” to “clean” energy products. The Clean Energy Tax Incentive Program was established to provide tax incentives to companies to companies in the solar, wind, geothermal, and other renewable energy industries in South Carolina. This bill would expand the types of clean energy industries to include hydrogen, energy storage, small modular reactors, and energy efficiency industries. Hydrogen is widely produced and used in the U.S., and is now being considered for use in transportation markets. There is enough hydrogen produced in the U.S. each year to power about 30,000,000 cars or about 5-8 million homes. Most hydrogen is used for oil refining, food production, treating metals, and producing ammonia for fertilizer. Nearly all hydrogen (99%) is transported through approximately 1,213 miles of pipeline in the U.S., mainly for oil production. Most of the hydrogen pipelines; therefore, are located in Texas and Louisiana. The availability of hydrogen resources is potentially large, but the challenge will be to produce it economically and create an infrastructure to move and deliver the product to the end user. Energy storage systems would be items such as fuel cells. This technology relies on a high level of hydrogen purity and thus entails a higher cost. According to the U.S. Department of Energy, there are more than 50 types of commercial fuel cells being sold in a competitive market reaching nearly one billion dollars in sales. Small modular reactors are essentially mobile nuclear reactors containing small amounts of radioactive elements. Although the potential energy gains are large, however, the risks associated with potential hazardous events may outweigh the rewards of such a system. Based upon information from the U.S. Department of Energy and the S.C. Department of Commerce, there are presently no commercial or industrial producers of hydrogen, fuel cells, or modular reactors located within South Carolina.

Currently, qualified taxpayers are eligible to receive a ten percent nonrefundable income tax credit of the total cost of the taxpayer's qualifying investments in plant and equipment for clean energy operation. This bill would lower the investment threshold from \$500,000,000 in new qualifying plant and equipment and replace it with a graduated investment scale based upon county tiered designations as follows:

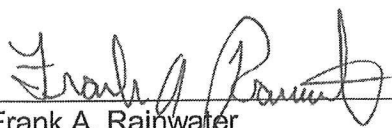
County Designation	Minimum Investment Level
Tier IV	\$50,000,000
Tier III	\$100,000,000
Tier II	\$150,000,000
Tier I	\$200,000,000

This bill also lowers the job creation level from one and one-half job for every \$500,000 of capital investment to at least one full-time job for every \$1,000,000 of capital investment that each pays at least 125 percent of this State's average annual median wage. The length of time a qualifying may receive the tax credits is extended an additional five years from December 31, 2015 to December 31, 2020.

Statement of Estimated State Revenue Impact

Section 3. This bill amends Section 12-6-3600(A)(1) and (2) to replace the terms "ethanol" and "biodiesel" with the term "liquid fuel" to include additional types of clean energy fuels. The term "liquid fuel" also refers to fuel that will power an internal combustion engine and is derived from algae, cellulose, natural gas, used oil, waste oil, or yellow grease and used as a substitute for gasoline or diesel fuel. Currently, a taxpayer may receive an income tax credit equal to 20 cents a gallon of corn-based ethanol or soy-based biodiesel produced for sixty months ending not later than December 31, 2016. Also, a taxpayer may receive an income tax credit equal to 30 cents a gallon for production of noncorn ethanol or nonsoy oil biodiesel produced for sixty months ending not later than December 31, 2016. This bill would extend the production credits to all liquid fuels and extend the ending date of receiving the tax credits to no later than December 31, 2019. Also, the amount of liquid fuel produced annually at a qualified liquid fuel facility is reduced from not more than 25,000,000 gallons to 10,000,000 gallons for sixty months ending not later than December 31, 2016. Currently, beginning January 1, 2017, an ethanol or biodiesel facility must receive an income tax credit of seven and one-half cents a gallon of ethanol or biodiesel for new production for a period not to exceed 36 consecutive months. This bill would replace "ethanol" and "biodiesel" with the term "liquid fuel" and extend the start date by three years to 2020.

According to the U.S. Department of Energy and the S.C. Department of Commerce, there are presently no commercial or industrial producers of hydrogen, fuel cells, or modular reactors located within South Carolina. Since these industries are not present, there is not a likelihood of the income tax credits being claimed by these companies. Also, because the additional types of liquid fuels are not currently produced in South Carolina and the use of these liquid fuels and technology is in its infancy, this bill is not expected to affect state General Fund revenue in FY2013-14.



Frank A. Rainwater
Chief Economist

Analyst: Martin

^{1/} This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact of Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

Statement of Estimated State Revenue Impact

Date: April 15, 2013

Bill Number: H.B. 3644

Authors: Loftis, Sellers, W.J. McLeod, Funderburk, Gagnon, *et. al.*

Committee Requesting Impact: House Judiciary Committee

Bill Summary

A bill to amend the Code of Laws of South Carolina, 1976, by adding Section 13-1-390 so as to establish within the Division of State Development of the Department of Commerce the Clean Energy Industry Market Development Advisory Council and provide for its membership and functions; to amend Section 12-6-3588, relating to the renewable energy tax credit incentive program, so as to redesignate the program the South Carolina Clean Energy Tax Incentive Program, to revise definitions to extend the credit to additional forms of energy production and operations, to decrease investment thresholds and decrease job creation thresholds for qualifying for the credit and make the credit, previously due to expire December 31, 2015, available through 2019 and to revise credit administration procedures; and to amend Section 12-6-3600, as amended, relating to the income tax credit for corn-based ethanol or soy-based biodiesel production in this state, so as to extend the credit to all liquid fuels derived from renewable sources, make conforming definitions, reduce the amount of liquid fuel eligible for the credit, and to extend the period during which the credit may be claimed through 2019.

REVENUE IMPACT ^{1/}

This bill is not expected to affect state General Fund revenue in FY2013-14.

Explanation

This bill would amend Article 3, Chapter 1, Title 13 by adding:

Section 1. This bill would add Section 13-1-390 to allow the Secretary of Commerce to establish a Clean Energy Industry Market Development Advisory Council. The Council would assist in the development of markets for clean energy technology, materials, and products developed by a clean energy industry from this State. The Council shall provide an initial report to the Governor and the General Assembly an analysis of the clean energy industry in the State no later than October 31, 2014. Following the initial report, the Council shall submit by the end of each calendar year an annual report on the clean energy industry activities in this State.

Section 2. This bill would amend Section 13-6-3588 to update references from "renewable" to "clean" energy products. The Clean Energy Tax Incentive Program was established to provide tax incentives to companies to companies in the solar, wind, geothermal, and other renewable energy industries in South Carolina. This bill would expand the types of clean energy industries to include hydrogen, energy storage, small modular reactors, and energy efficiency industries. Hydrogen is widely produced and used in the U.S., and is now being

Statement of Estimated State Revenue Impact

considered for use in transportation markets. There is enough hydrogen produced in the U.S. each year to power about 30,000,000 cars or about 5-8 million homes. Most hydrogen is used for oil refining, food production, treating metals, and producing ammonia for fertilizer. Nearly all hydrogen (99%) is transported through approximately 1,213 miles of pipeline in the U.S., mainly for oil production. Most of the hydrogen pipelines; therefore, are located in Texas and Louisiana. The availability of hydrogen resources is potentially large, but the challenge will be to produce it economically and create an infrastructure to move and deliver the product to the end user. Energy storage systems would be items such as fuel cells. This technology relies on a high level of hydrogen purity and thus entails a higher cost. According to the U.S. Department of Energy, there are more than 50 types of commercial fuel cells being sold in a competitive market reaching nearly one billion dollars in sales. Small modular reactors are essentially mobile nuclear reactors containing small amounts of radioactive elements. Although the potential energy gains are large, however, the risks associated with potential hazardous events may outweigh the rewards of such a system. Based upon information from the U.S. Department of Energy and the S.C. Department of Commerce, there are presently no commercial or industrial producers of hydrogen, fuel cells, or modular reactors located within South Carolina.

Currently, qualified taxpayers are eligible to receive a ten percent nonrefundable income tax credit of the total cost of the taxpayer's qualifying investments in plant and equipment for clean energy operation. This bill would lower the investment threshold from \$500,000,000 in new qualifying plant and equipment and replace it with a graduated investment scale based upon county tiered designations as follows:

County Designation	Minimum Investment Level
Tier IV	\$50,000,000
Tier III	\$100,000,000
Tier II	\$150,000,000
Tier I	\$200,000,000

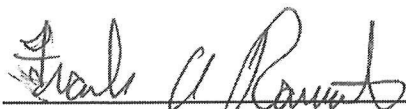
This bill also lowers the job creation level from one and one-half job for every \$500,000 of capital investment to at least one full-time job for every \$1,000,000 of capital investment that each pays at least 125 percent of this State's average annual median wage. The length of time a qualifying may receive the tax credits is extended an additional five years from December 31, 2015 to December 31, 2020.

Section 3. This bill amends Section 12-6-3600(A)(1) and (2) to replace the terms "ethanol" and "biodiesel" with the term "liquid fuel" to include additional types of clean energy fuels. The term "liquid fuel" also refers to fuel that will power an internal combustion engine and is derived from algae, cellulose, natural gas, used oil, waste oil, or yellow grease and used as a substitute for gasoline or diesel fuel. Currently, a taxpayer may receive an income tax credit equal to 20 cents a gallon of corn-based ethanol or soy-based biodiesel produced for sixty months ending not later than December 31, 2016. Also, a taxpayer may receive an income tax credit equal to 30 cents a gallon for production of noncorn ethanol or nonsoy oil

Statement of Estimated State Revenue Impact

biodiesel produced for sixty months ending not later than December 31, 2016. This bill would extend the production credits to all liquid fuels and extend the ending date of receiving the tax credits to no later than December 31, 2019. Also, the amount of liquid fuel produced annually at a qualified liquid fuel facility is reduced from not more than 25,000,000 gallons to 10,000,000 gallons for sixty months ending not later than December 31, 2016. Currently, beginning January 1, 2017, an ethanol or biodiesel facility must receive an income tax credit of seven and one-half cents a gallon of ethanol or biodiesel for new production for a period not to exceed 36 consecutive months. This bill would replace "ethanol" and "biodiesel" with the term "liquid fuel" and extend the start date by three years to 2020.

According to the U.S. Department of Energy and the S.C. Department of Commerce, there are presently no commercial or industrial producers of hydrogen, fuel cells, or modular reactors located within South Carolina. Since these industries are not present, there is not a likelihood of the income tax credits being claimed by these companies. Also, because the additional types of liquid fuels are not currently produced in South Carolina and the use of these liquid fuels and technology is in its infancy, this bill is not expected to affect state General Fund revenue in FY2013-14.



Frank A. Rainwater
Chief Economist

Analyst: Martin

¹⁷ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact of Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

South Carolina General Assembly
120th Session, 2013-2014

H. 3644

STATUS INFORMATION

General Bill

Sponsors: Reps. Loftis, Gagnon, Herbkersman, Lowe, Lucas, D.C. Moss, Ott, Pitts and Toole

Document Path: I:\council\bill\bbm\10852htc13.docx

Companion/Similar bill(s): 525

Introduced in the House on February 27, 2013

Currently residing in the House Committee on **Ways and Means**

Summary: Clean Energy Industry Market Development Advisory Council

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
2/27/2013	House	Introduced and read first time (House Journal-page 85)
2/27/2013	House	Referred to Committee on Labor, Commerce and Industry (House Journal-page 85)
2/28/2013	House	Member(s) request name added as sponsor: J.E.Smith
3/7/2013	House	Recalled from Committee on Labor, Commerce and Industry (House Journal-page 39)
3/7/2013	House	Referred to Committee on Ways and Means (House Journal-page 39)
4/9/2013	House	Member(s) request name removed as sponsor: J.E.Smith, W.J.McLeod, Williams, Vick, Funderburk, Sellers, Govan

View the latest [legislative information](#) at the LPITS web site

VERSIONS OF THIS BILL

2/27/2013

1
2
3
4
5
6
7
8
9 **A BILL**

10
11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, BY ADDING SECTION 13-1-390 SO AS TO ESTABLISH
13 WITHIN THE DIVISION OF STATE DEVELOPMENT OF THE
14 DEPARTMENT OF COMMERCE THE CLEAN ENERGY
15 INDUSTRY MARKET DEVELOPMENT ADVISORY
16 COUNCIL AND PROVIDE FOR ITS MEMBERSHIP AND
17 FUNCTIONS; TO AMEND SECTION 12-6-3588, RELATING
18 TO THE RENEWABLE ENERGY TAX CREDIT INCENTIVE
19 PROGRAM, SO AS TO REDESIGNATE THE PROGRAM THE
20 SOUTH CAROLINA CLEAN ENERGY TAX INCENTIVE
21 PROGRAM, TO REVISE DEFINITIONS TO EXTEND THE
22 CREDIT TO ADDITIONAL FORMS OF ENERGY
23 PRODUCTION AND OPERATIONS, TO DECREASE
24 INVESTMENT THRESHOLDS AND DECREASE JOB
25 CREATION THRESHOLDS FOR QUALIFYING FOR THE
26 CREDIT AND MAKE THE CREDIT, PREVIOUSLY DUE TO
27 EXPIRE DECEMBER 31, 2015, AVAILABLE THROUGH 2019
28 AND TO REVISE CREDIT ADMINISTRATION
29 PROCEDURES; AND TO AMEND SECTION 12-6-3600, AS
30 AMENDED, RELATING TO THE INCOME TAX CREDIT FOR
31 CORN-BASED ETHANOL OR SOY-BASED BIODIESEL
32 PRODUCTION IN THIS STATE, SO AS TO EXTEND THE
33 CREDIT TO ALL LIQUID FUELS DERIVED FROM
34 RENEWABLE SOURCES, MAKE CONFORMING
35 DEFINITIONS, REDUCE THE AMOUNT OF LIQUID FUEL
36 ELIGIBLE FOR THE CREDIT, AND TO EXTEND THE
37 PERIOD DURING WHICH THE CREDIT MAY BE CLAIMED
38 THROUGH 2019.

39
40 Be it enacted by the General Assembly of the State of South
41 Carolina:
42

1 SECTION 1. Article 3, Chapter 1, Title 13 of the 1976 Code is
2 amended by adding:

3
4 “Section 13-1-390. (A) In addition to those advisory councils
5 that may be established by the Secretary of Commerce pursuant to
6 Section 13-1-40, there is established within the division a Clean
7 Energy Industry Market Development Advisory Council to assist
8 in the development of markets for clean energy technology,
9 materials, and products developed by a clean energy industry from
10 this State.

11 (B) The council is composed of fourteen members. The
12 Secretary of the South Carolina Department of Commerce or the
13 secretary’s designee and the Director of the State Energy Office or
14 the director’s designee shall serve on the council and jointly shall
15 appoint one member representative from each of the following:

- 16 (1) advanced vehicle technology industry;
- 17 (2) alternative transportation fuels industry;
- 18 (3) battery manufacturing industry;
- 19 (4) biomass energy industry;
- 20 (5) energy efficiency industry;
- 21 (6) higher education research institution’s incubation and
22 business development department;
- 23 (7) hydroelectric component manufacturing industry;
- 24 (8) hydrogen storage or fuel cell industry;
- 25 (9) solar manufacturing industry;
- 26 (10) SC Technical College System’s clean energy workforce
27 development department;
- 28 (11) utility industry; and
- 29 (12) wind components manufacturing industry.

30 (C) Appointed members of the council shall serve for terms of
31 four years and until a successor is appointed and qualified. Terms
32 of members initially appointed expire after June 30, 2017.
33 Appointed members serve at the pleasure of their appointing
34 authority and without compensation or expenses. The functions of
35 the council are advisory to the State. Vacancies must be filled in
36 the manner of original appointment for the unexpired portion of
37 the term.

38 (D) The chairman must be designated by the Secretary of
39 Commerce and the council shall select its own vice chairman and
40 adopt those procedures necessary for its operations. The council
41 shall adopt and meet at least once annually and at the call of the
42 chair or at the request of a majority of the members. A majority of
43 the members constitutes a quorum to do business. The State

1 Energy Office shall provide the necessary staff and administrative
2 facilities and services to the council.

3 (E) Not later than October 31, 2014, the council shall provide
4 to the Governor and the General Assembly an initial report which
5 must include, at a minimum, the following:

6 (1) a description and analysis of this state's existing clean
7 energy industry;

8 (2) an analysis of the projected long-term capacity of
9 existing markets for clean energy technology, materials, products,
10 manufacturing and job development in this State;

11 (3) an analysis of market potential in this State, in other
12 states, or in foreign countries for technology, materials, and
13 products developed by a clean energy industry from this State;

14 (4) an analysis of institutional, economic, policy, and
15 technical barriers to the development of a clean energy industry in
16 this State;

17 (5) recommendations for actions which may be taken to
18 increase demand for clean energy technology, materials, and
19 products from this State;

20 (6) recommendations for actions which may be taken to
21 increase the incentives for private individuals and for business and
22 industry related to the clean energy industry to locate in this State;

23 (7) recommendations on categories of clean energy markets
24 that should be developed in this State and benchmarks to achieve
25 those developments in this State; and

26 (8) recommendations for marketing and public education
27 programs that should be implemented by economic development
28 entities to provide information to the public and to business and
29 industry on the benefits of investment in the clean energy industry
30 in this State.

31 (G) Following its initial report, the council shall submit to the
32 Governor and to the General Assembly by the end of each calendar
33 year an annual report on the clean energy industry activities in this
34 State which must include, at a minimum, the following:

35 (1) revisions which the advisory council determines are
36 necessary to its initial and subsequent reports;

37 (2) a description and analysis of the clean energy industry in
38 this State and growth of the industry during the preceding year;

39 (3) recommendations regarding policies that could be
40 implemented to achieve growth in the clean energy industry in this
41 State; and

1 (4) any other recommendations, including tax and economic
2 development incentives, to facilitate the development of the clean
3 energy industry in this State.”

4
5 SECTION 2. Section 12-6-3588 of the 1976 Code, as added by
6 Act 290 of 2010, is amended to read:

7
8 “Section 12-6-3588. (A) The General Assembly has
9 determined to enact the ‘South Carolina Renewable Clean Energy
10 Tax Incentive Program’ as contained in this section to encourage
11 business investment that will produce high quality employment
12 opportunities and enhance this State’s position as a center for
13 production and use of renewable clean energy products. The
14 program accomplishes this goal by providing tax incentives to
15 companies in the solar, wind, geothermal, hydrogen, energy
16 storage, small modular reactors, and energy efficiency and ~~other~~
17 ~~renewable energy~~ industries ~~who~~ which are expanding or locating
18 in South Carolina.

19 (B) As used in this section:

20 (1) ‘Capital investment’ means an expenditure to acquire,
21 lease, or improve property that is used in operating a business,
22 including land, buildings, machinery, and fixtures.

23 (2) ‘Manufacturing’ means fabricating, producing, or
24 manufacturing raw or unprepared materials into usable products,
25 imparting new forms, qualities, properties, and combinations.
26 Manufacturing does not include generating electricity for off-site
27 consumption.

28 (3) ‘Qualifying investment’ means investment in land,
29 buildings, machinery, and fixtures for expansion of an existing
30 facility or establishment of a new facility in this State. Qualifying
31 investment does not include relocating an existing facility in this
32 State to another location in this State without additional capital
33 investment.

34 (4) ‘Renewable Clean energy operations’ are limited to
35 manufacturers of systems ~~and~~ or components that are used or
36 useful in manufacturing ~~renewable~~ or operation of clean energy
37 equipment for the generation, storage, testing and research and
38 development, and transmission or distribution of electricity from
39 renewable clean energy sources, including specialized packaging
40 for the renewable clean energy equipment manufactured at the
41 facility. A clean energy operation does not include generating
42 electricity for off-site consumption.

1 (C) A business or corporation meeting the requirements of this
2 section ~~beginning in 2010~~ is eligible to receive a ten percent
3 nonrefundable income tax credit of the cost of the company's total
4 qualifying investments in plant and equipment in this State for
5 ~~renewable clean~~ energy operations.

6 (D) The business or corporation ~~must~~ shall:

7 (1) manufacture ~~renewable clean~~ energy systems ~~and or~~
8 components in South Carolina for solar, wind, geothermal,
9 hydrogen, energy storage, small modular reactors, or energy
10 efficiency or other renewable energy uses in order to be eligible for
11 the tax credit authorized by this section;

12 (2) invest at least ~~five hundred~~ fifty million dollars in a Tier
13 IV county; at least one hundred million dollars in a Tier III county;
14 at least one hundred fifty million dollars in a Tier II county; and at
15 least two hundred million dollars in a Tier I county according to
16 the county ranking and designation system as provided pursuant to
17 Section 12-6-3360(B) in the year the tax credit is claimed in new
18 qualifying plant and equipment; and

19 (3) have created at least one ~~and one-half~~ full-time job for
20 every ~~five hundred thousand~~ one million dollars of capital
21 investment qualifying for the credit that each pays at least one
22 hundred twenty-five percent of this State's average annual median
23 wage as defined by the Department of Commerce.

24 (E) The income tax credit ~~program~~ is allowed for up to sixty
25 months for a five-year period beginning with the first month for
26 which the business or corporation is eligible to receive the credit
27 January 1, 2010, and ending no later than December 31, 2015
28 2020.

29 (F) A taxpayer may separately qualify for new facilities in
30 separate locations or for separate expansions of existing facilities
31 located in this State.

32 (G) A taxpayer's total credit for all expenditures allowed
33 pursuant to this section must not exceed five hundred thousand
34 dollars for any year and five million dollars total for all years.
35 Unused credits may be carried forward for fifteen years after the
36 tax year in which a qualified expenditure was made. The credit is
37 nonrefundable.

38 (H) To obtain the amount of the credit available to a taxpayer,
39 each taxpayer shall notify the State Energy Office and the
40 Department of Commerce, in writing, of its intention to claim the
41 tax credit. The State Energy Office shall determine the proof
42 necessary to meet the requirements of subsection (D)(1) and (2).
43 Expenditures qualifying for a the tax credit allowed by this section

1 must be certified by the State Energy Office. The State Energy
2 Office may consult with appropriate state and federal officials on
3 standards for certification.

4 ~~(I) To obtain the amount of the credit available to a taxpayer,~~

5 Each taxpayer ~~must~~ shall submit a request for the credit to the
6 State Energy Office by January thirty-first for qualifying expenses
7 incurred in the previous calendar year and the State Energy Office
8 must notify the taxpayer that the submitted expenditures qualify
9 for the credit and the amount of credit allocated to such taxpayer
10 by March first of that year. A taxpayer may claim the maximum
11 amount of the credit for its taxable year which contains the
12 December thirty-first of the previous calendar year.

13 ~~(I) To obtain the amount of the credit available to a taxpayer,~~
14 the Department of Commerce also must certify to the State Energy
15 Office that the taxpayer has met the job creation requirements of
16 subsection (D)(3).

17 (J) The credits authorized by this section are in lieu of any
18 other applicable income tax credits or abatements allowed by state
19 law, and in the event of an overlap or conflict in available credits
20 or abatements to a taxpayer, the taxpayer must select the credit or
21 abatement ~~he the taxpayer~~ desires in the manner prescribed by the
22 Department of Revenue to the extent the credits or abatements
23 conflict or overlap.”

24
25 SECTION 3. Section 12-6-3600 of the 1976 Code, as last
26 amended by Act 261 of 2008, is further amended to read:

27
28 “Section 12-6-3600. (A)(1) For taxable years beginning after
29 2006, and before ~~2017~~ 2020, there is allowed a credit against the
30 tax imposed pursuant to this chapter for any corn-based ~~ethanol~~ or
31 soy-based ~~biodiesel~~ liquid fuel production facility which is in
32 production at the rate of at least twenty-five percent of its name
33 plate design capacity for the production of corn-based ~~ethanol~~ or
34 soy-based ~~biodiesel~~ liquid fuel, before denaturing, on or before
35 December 31, ~~2011~~ 2015. The credit equals twenty cents a gallon
36 of corn-based ~~ethanol~~ or soy-based ~~biodiesel~~ liquid fuel produced
37 and is allowed for sixty months beginning with the first month for
38 which the facility is eligible to receive the credit and ending not
39 later than December 31, ~~2016~~ 2019. The taxpayer is eligible to
40 claim the credit after the facility has six consecutive months of
41 operation at an average production rate of at least twenty-five
42 percent of its name plate design capacity. In the first taxable year
43 in which the taxpayer is eligible to claim the credit, the taxpayer

1 may claim the credit for the first six months it met the
2 requirements in addition to qualifying production during its current
3 taxable year.

4 (2) For taxable years beginning after 2006, and before ~~2017~~
5 2020, there is allowed a credit against the tax imposed pursuant to
6 this chapter for ~~an ethanol~~ a liquid fuel production facility using a
7 feedstock other than corn or ~~a biodiesel facility using a feedstock~~
8 ~~other than~~ soy oil which is in production at the rate of at least
9 twenty-five percent of its name plate design capacity for the
10 production of ~~ethanol or biodiesel liquid fuel~~, before denaturing,
11 on or before December 31, ~~2014~~ 2015. The credit equals thirty
12 cents a gallon of noncorn ~~ethanol or~~ nonsoy oil ~~biodiesel liquid~~
13 fuel-produced and is allowed for up to sixty months beginning with
14 the first month for which the facility is eligible to receive the credit
15 and ending no later than December 31, ~~2016~~ 2019. The taxpayer is
16 eligible to claim the credit after the facility has six consecutive
17 months of operation at an average production rate of at least
18 twenty-five percent of its name plate design capacity. In the first
19 taxable year in which the taxpayer is eligible to claim the credit,
20 the taxpayer may claim the credit for the first six months it met the
21 requirements in addition to qualifying production during its current
22 taxable year.

23 (3) Any unused credit may be carried forward for ten years.

24 (B) As used in this section:

25 (1) 'Liquid Fuel' means any fuel that will power an internal
26 combustion engine and is derived from algae, cellulose, corn,
27 natural gas, soy, used oil, waste oil, or yellow grease and used as a
28 substitute for gasoline or diesel fuel. Ethanol facility" means a
29 plant or facility primarily engaged in the production of ethanol or
30 ethyl alcohol derived from renewable and sustainable bioproducts
31 used as a substitute for gasoline fuel.

32 (2) 'Liquid Fuel Production Facility' means a plant or
33 facility primarily engaged in the production of liquid fuel as
34 defined in this section. Biodiesel facility" means a plant or facility
35 primarily engaged in the production of plant or animal based fuels
36 used as a substitute for diesel fuel.

37 (3) 'Name plate design capacity' means the original
38 designed capacity of ~~an ethanol or biodiesel~~ a liquid fuel
39 production facility. Capacity may be specified as bushels of grain
40 ground or gallons of ~~ethanol or biodiesel~~ liquid fuel produced a
41 year.

42 (C)(1) Beginning January 1, ~~2017~~ 2020, ~~an ethanol or biodiesel~~
43 a liquid fuel production facility must receive a credit against the

1 tax imposed by this chapter in the amount of seven and one-half
2 cents a gallon of ~~ethanol or biodiesel~~ liquid fuel, before denaturing,
3 for new production for a period not to exceed thirty-six
4 consecutive months.

5 (2) For purposes of this subsection, 'new production' means
6 production which results from a new facility, a facility which has
7 not received credits before ~~2017~~ 2020, or the expansion of the
8 capacity of an existing facility by at least two million gallons first
9 placed into service after ~~2016~~ 2019, as certified by the design
10 engineer of the facility to the State Energy Office.

11 (3) For expansion of the capacity of an existing facility,
12 'new production' means annual production in excess of twelve
13 times the monthly average of the highest three months of ~~ethanol~~
14 ~~or biodiesel~~ liquid fuel production at ~~an ethanol or biodiesel a~~
15 liquid fuel production facility during the twenty-four-month period
16 immediately preceding certification of the facility by the design
17 engineer.

18 (4) Credits are not allowed pursuant to this subsection for
19 expansion of the capacity of an existing facility until production is
20 in excess of twelve times the three-month average amount
21 determined pursuant to this subsection during any
22 twelve-consecutive-month period beginning no sooner than
23 January 1, ~~2017~~ 2020.

24 (5) The amount of a credit granted pursuant to this section
25 based on new production must be approved by the State Energy
26 Office based on the ~~ethanol or biodiesel~~ liquid fuel production
27 records as may be necessary to reasonably determine the level of
28 new production.

29 (D)(1) The credits described in this section are allowed only for
30 ~~ethanol or biodiesel~~ liquid fuel produced at a plant in this State at
31 which all fermentation, distillation, and dehydration takes place.
32 Credit is not allowed for ~~ethanol or biodiesel~~ liquid fuel produced
33 or sold for use in the production of distilled spirits.

34 (2) Not more than ~~twenty-five million~~ ten million gallons of
35 ~~ethanol or biodiesel~~ liquid fuel produced annually at ~~an ethanol or~~
36 ~~biodiesel a liquid fuel production~~ facility is eligible for the credits
37 in subsections (A) and (B) of this section, and the credits only may
38 be claimed by a producer for the periods specified in subsections
39 (A) and (B) of this section.

40 (3) Not more than ten million gallons of ~~ethanol or biodiesel~~
41 liquid fuel produced during a twelve-consecutive-month period at
42 ~~an ethanol or biodiesel a liquid fuel production~~ facility is eligible
43 for the credit described in subsection (C) of this section, and the

1 credit only may be claimed by a producer for the periods specified
2 in subsection (C) of this section.

3 (4) Not more than ~~one hundred twenty-five~~ fifty million
4 gallons of ~~ethanol or biodiesel~~ liquid fuel produced at an ~~ethanol or~~
5 ~~biodiesel~~ a liquid fuel production facility by the end of the
6 sixty-month period set forth in subsection (A) or (B) of this section
7 is eligible for the credit under the subsection. ~~An ethanol or~~
8 ~~biodiesel~~ A liquid fuel production facility which receives a credit
9 for ~~ethanol or biodiesel~~ liquid fuel produced under subsection (A)
10 or (B) of this section may not receive a credit pursuant to
11 subsection (C) of this section until its eligibility to receive a credit
12 under subsection (A) or (B) of this section has been completed.

13 (E) The State Energy Office shall prescribe an application form
14 and procedures for claiming credits under this section.

15 (F) For purposes of ascertaining the correctness of the credit
16 allowed pursuant to this section, the State Energy Office or the
17 department may examine or cause to have examined, by any agent
18 or representative designated for that purpose, any books, papers,
19 records, or memoranda bearing upon these matters.

20 ~~(G) Notwithstanding the credit amount allowed by this section,~~
21 ~~for Fiscal Year 2008-2009, all claims made pursuant to this section~~
22 ~~must not exceed eight hundred thousand dollars and must apply~~
23 ~~proportionately to all eligible claimants.~~

24 ~~(H)(1)~~ To obtain the maximum amount of the credit available to
25 a taxpayer, each taxpayer must submit a request for credit to the
26 State Energy Office by January thirty-first for all gallons of
27 qualifying fuel produced in the previous calendar year and the
28 State Energy Office must notify the taxpayer that it qualifies for
29 the credit and the amount of credit allocated to the taxpayer by
30 March first of that year. A taxpayer may claim the maximum
31 credit for its taxable year which contains the December thirty-first
32 of the previous calendar year. The Department of Revenue may
33 require any documentation that it deems necessary to administer
34 the credit.

35 ~~(2) For the state's fiscal year beginning July 1, 2008, the~~
36 ~~maximum amount of credit is to be determined based on an~~
37 ~~eighteen-month period beginning July 1, 2008, through December~~
38 ~~31, 2009. Applications are to be made by January 31, 2010, for the~~
39 ~~previous eighteen-month period commencing July 1, 2008, and~~
40 ~~ending December 31, 2009. A taxpayer allocated a credit for this~~
41 ~~eighteen-month period may claim the credit for its tax year which~~
42 ~~contains December 31, 2009.~~

1 ~~(3) To the extent the maximum amount of the credit~~
2 ~~contained in this section is repealed, the elimination of the~~
3 ~~maximum amount shall be seen as the last expression of the~~
4 ~~legislature and to the extent any language in this act conflicts with~~
5 ~~that repeal, it shall be considered null and void."~~

6
7 SECTION 4. This act takes effect upon approval by the Governor.

8 ----XX----

9