**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3955**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Gullick, H.B. Brown, Agnew, R.L. Brown, Funderburk, Gunn, Hodges and J.E. Smith

Document Path: l:\council\bills\agm\19397bh09.docx

Introduced in the House on April 23, 2009

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Appalachian Mountains Preservation Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/23/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\04-23-09.docx)‑228

4/23/2009 House Referred to Committee on **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2009\04-23-09.docx)‑228

**VERSIONS OF THIS BILL**

[4/23/2009](file:///p:\pprever\2009-10\3955_20090423.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 58‑27‑250 SO AS TO ENACT THE “APPALACHIAN MOUNTAINS PRESERVATION ACT”, TO PROVIDE THAT AN ELECTRIC PUBLIC UTILITY THAT OPERATES A COAL‑FIRED GENERATING UNIT MAY NOT ENTER INTO A CONTRACT TO PURCHASE OR USE COAL EXTRACTED BY MOUNTAINTOP COAL MINING, TO REQUIRE A UTILITY TO ENSURE THE COAL IT AGREES TO PURCHASE OR USE WAS NOT EXTRACTED USING MOUNTAINTOP REMOVAL COAL MINING BY SECURING FROM COAL PROVIDERS BY SWORN STATEMENT, TO PROVIDE REPORTING REQUIREMENTS AND WHAT REPORTS MUST INCLUDE, TO ALLOW INFORMATION REPORTED TO THE COMMISSION TO BE CONSIDERED CONFIDENTIAL, TO PROVIDE FOR AN APPLICATION PROCEDURE TO DETERMINE A PROPER RATE, TO REQUIRE THE COMMISSION TO PUBLISH A LIST OF PUBLIC UTILITIES THAT OPERATE A COAL‑FIRED GENERATING UNIT, TO PROVIDE PENALTIES FOR VIOLATION OF THIS SECTION, AND TO DEFINE CERTAIN TERMS.

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

SECTION 1. The General Assembly finds:

(1) South Carolina is home to the Appalachian Mountains, and the State’s citizens and wildlife share in common this critical economic, environmental, and cultural resource with states that contain or border these ancient mountains.

(2) From Maine to Alabama, these ancient mountains have shaped the economy, environment, and unique cultural heritage of the areas located along the Appalachian Mountains.

(3) Coal mining has played a central role in shaping the economy, environment, and unique cultural heritage of the Appalachian coalfields.

(4) Coal mining, whether conducted on the earth’s surface or underground, poses significant risks to human health, local communities, the environment, real property, personal property, and wildlife resources.

(5) By transforming the majestic mountains of the Appalachian coalfields into flattened, eerily lifeless moonscapes, mountaintop removal coal mining, of all methods of extracting coal, poses the greatest risk to human health, local communities, the environment, real property, personal property, and wildlife resources.

(6) As of 2009, mountaintop removal coal mining has permanently erased more than four hundred seventy peaks from the Appalachian skyline, buried or polluted more than twelve hundred miles of pristine headwater streams, and swept away more than eight hundred square miles of one of America’s most diverse and valuable ecosystems.

(7) Left unchecked, mountaintop removal coal mining will continue to destroy irreversibly the people, communities, cultural heritage, and environment of the Appalachian coalfields, as well as our wildlife resources.

(8) The impacts of mountaintop removal coal mining are unacceptable to the citizens of this State.

(9) By consuming coal extracted by mountaintop removal coal mining to provide power to our homes, businesses, and economy, South Carolina is responsible, in part, for the permanent destruction to date of the Appalachian coalfields and the wildlife resources of the Appalachian Mountains.

(10) Sixty‑one percent of the electricity used to provide power to South Carolina’s homes, businesses, and economy is generated by coal‑fired generating units located in South Carolina.

(11) Fifty percent of the coal used to produce electricity in South Carolina is extracted by mountaintop removal coal mining in the Appalachian coalfields.

(12) Because South Carolina burns a significant amount of coal extracted by mountaintop removal coal mining, we have an obligation to eliminate or reduce the devastating social and environmental impacts of this mining in the Appalachian Mountains.

(13) Fulfilling this obligation also will enhance the general welfare of South Carolina’s citizens, our wildlife resources, and our interest in preserving the Appalachian Mountains for current and future generations.

SECTION 2. This act may be cited as the “Appalachian Mountains Preservation Act”.

SECTION 3. Article 1, Chapter 27, Title 58 of the 1976 Code is amended by adding:

“Section 58‑27‑250. (A) An electric public utility that operates a coal‑fired generating unit located in South Carolina may not enter into a contract to purchase or use coal extracted by mountaintop coal mining. The utility also shall ensure that the coal it agrees to purchase or use was not, nor will be, extracted using mountaintop removal coal mining, by securing from coal providers a sworn statement of an authorized officer of the provider that contains:

(1) the name, location, and mining methods of each mine from which the coal to be purchased was, or will be, extracted; and

(2) a statement that the coal purchase was not, nor will be, extracted by mountaintop removal coal mining.

(B) On the fifteenth day of each month, an electric public utility that operates a coal‑fired generating unit located in South Carolina shall file a report with the commission that itemizes the monthly and accumulated costs incurred by purchasing or using coal extracted by a method other than mountaintop removal coal mining, using the most recent data available. The utility also must submit an annual report on the cost of fuels and fuel‑related costs which must include copies of each sworn statement obtained pursuant to subsection (A) of this section and each contract undertaken during the reporting period.

(C) An electric public utility that operates a coal‑fired generating unit located in South Carolina may file with the commission an application to determine the rate that includes reasonable and prudent incremental fuel costs incurred by purchasing or using coal extracted by a method other than mountaintop removal coal mining.

(D) The commission shall, within twenty calendar days after receiving a written request, provide a list of each public utility that operates a coal‑fired generating unit located in South Carolina, indicating whether each utility is in compliance with this section upon the most recent information available.

(E) If an electric public utility considers certain information required to be included in a report pursuant to this section confidential and entitled to protection from public disclosure, the utility may designate that information as confidential and file it with the commission under seal. A document marked as confidential must be treated as required under applicable commission rules, procedures, and orders concerning filings made under seal and with nondisclosure agreements.

(F) The commission shall, upon petition of an electric public utility, approve an annual rider to the utility rates to recover reasonable and prudent incremental costs incurred by each investor‑owned public utility that operates a coal‑fired generating unit within South Carolina for purchasing or using coal extracted by a method other than mountaintop removal coal mining prohibited by this section.

(G) An electric public utility that violates the provisions of this section is prohibited from recovering the costs of fuel provided in subsection (F) of this section.

(H) If an electric public utility that operates a coal‑fired generating unit located in South Carolina fails to file the monthly or annual reports required pursuant to this section, the commission shall issue an order canceling or suspending the utility’s certificate of convenience and necessity thirty days after the date of service of the order. If the report is filed during the thirty‑day period, the order of cancellation or suspension is void.

(I) For purposes of this section, ‘mountaintop removal coal mining’ means a method of surface coal mining that removes a mountaintop or ridgeline, whether or not the mined area will be returned to its approximate original contour, and includes cross‑ridge mining, box‑cut method mining, steep-slope mining, area mining, mountaintop mining, and other methods of coal mining that utilize valley fills.”

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

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