COMMITTEE REPORT

April 23, 2015

**H. 3874**

Introduced by Reps. Mitchell, Cobb‑Hunter, Merrill and Loftis

S. Printed 4/23/15--H.

Read the first time March 19, 2015.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (H. 3874) to amend the Code of Laws of South Carolina, 1976, by adding Section 12‑6‑3770 so as to provide for an income tax credit to an individual or business, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, SECTION 1, page 1, by striking 12-6-3770(A) and inserting:

/ (A) A taxpayer that constructs, purchases, or leases renewable energy property located on the Environmental Protection Agency’s National Priority List, National Priority List Equivalent Sites, and related removal actions, located in the State of South Carolina and places it in service in this State during the taxable year is allowed an income tax credit equal to thirty‑five percent of the cost, including the cost of installation, of the property. A lessor shall give a taxpayer who leases renewable energy property from him a statement that describes the renewable energy property and states the cost of the property upon request. No credit is allowed under this section to the extent the cost of the renewable energy property is provided by public funds. For purposes of this section, ‘public funds’ does not include grants made under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009. /

Amend the bill further, as and if amended, SECTION 1, page 2, by striking 12-6-3770(D) in its entirety.

Amend the bill further, as and if amended, page 3, by striking SECTION 2 in its entirety and inserting:

/ SECTION 2. This act takes effect in income tax years beginning after 2015. The provisions of this act are repealed on December 31, 2016.

Renumber sections to conform.

Amend title to conform.

W. BRIAN WHITE for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill would reduce general fund income tax revenue by $3,125,628 in FY 2016-17. Additionally, general fund income tax revenue would be reduced by an additional $2,500,000 in FY 2017-18 and each year thereafter for a total of $13,125,628 in FY 2020-21.

**Explanation of Fiscal Impact**

**State Revenue**

This bill adds Section 12-6-3770, which provides for a thirty-five percent income tax credit to a business or individual that constructs, purchases, or leases renewable energy property. For business renewable energy property, the credit must be taken in five equal installments beginning with the taxable year in which the property is placed in service. A taxpayer who owns renewable energy property that serves a non-business purpose must take the credit in the taxable year in which the property is placed in service. Renewable energy property is defined as biomass equipment, combined heat and power system property, geothermal equipment, hydroelectric generators, solar energy equipment that uses solar radiation as a substitute for traditional energy, and wind equipment. The credit for each installation of renewable energy property placed in service for a business purpose may not exceed two million five hundred thousand dollars. Credits for renewable energy property placed in service for non-business purposes range from one thousand four hundred dollars to ten thousand five hundred dollars based on the type of solar energy equipment. No credit is allowed for renewable energy property provided by public funds. Additionally, a taxpayer who claims another credit allowed with respect to renewable energy property may not take the credit allowed in this section for the same property.

The Department of Revenue reports that five businesses claimed the solar energy tax credit in 2013. Based upon our analysis of solar energy equipment tax credits for business purposes over the past three years, we estimate that five businesses will claim the tax credit in FY 2016-17. Since the credit for each installation of renewable energy property placed in service for a business purpose may not exceed $2,500,000, we estimate a total of $12,500,000 in credits Adjusting for the fact that the tax credit must be taken in five equal installments, it is estimated that this bill would reduce general fund income tax revenue by an estimated $2,500,000 in FY 2016-17. Additionally, general fund income tax revenue would also be reduced by $2,500,000 in FY 2017-18 and each year thereafter through FY 2020-21.

Based on data from the Department of Revenue, two hundred fifty-six taxpayers claimed the existing non-business solar energy tax credit for a total of $625,628 in 2013. Since the credit for non-business renewable energy property must be taken in the taxable year in which the property is placed in service and assuming a similar trend, we estimate this bill will reduce general fund income tax by $625,628 beginning in FY 2016-17.

In summary, this bill would reduce general fund income tax revenue by $3,125,628 in FY 2016-17. Additionally, general fund income tax revenue would be reduced by an additional $2,500,000 in FY 2017-18 and each year thereafter for a total of $13,125,628 in FY 2020-21.

The estimates represented above are for data on solar energy equipment. Data on real property eligible under the new renewable energy equipment credit is not available.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑6‑3770 SO AS TO PROVIDE FOR AN INCOME TAX CREDIT TO AN INDIVIDUAL OR BUSINESS THAT CONSTRUCTS, PURCHASES, OR LEASES RENEWABLE ENERGY PROPERTY AND PLACES IT IN SERVICE IN THIS STATE, AND TO PROVIDE A DEFINITION OF “RENEWABLE ENERGY PROPERTY”.

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

SECTION 1. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑3770. (A) A taxpayer that constructs, purchases, or leases renewable energy property and places it in service in this State during the taxable year is allowed an income tax credit equal to thirty‑five percent of the cost, including the cost of installation, of the property. A taxpayer who owns renewable energy property that serves a nonbusiness purpose must take the credit in the taxable year in which the property is placed in service. For all other renewable energy property, the credit must be taken in five equal installments beginning with the taxable year in which the property is placed in service. A lessor shall give a taxpayer who leases renewable energy property from him a statement that describes the renewable energy property and states the cost of the property upon request. No credit is allowed under this section to the extent the cost of the renewable energy property is provided by public funds. For purposes of this section, ‘public funds’ does not include grants made under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009.

(B) If the renewable energy property with respect to which the credit was claimed is disposed of, taken out of service, or moved out of the State in a year in which the installment of a credit accrues, then the credit expires and the taxpayer may not take any remaining installments of the credit.

(C) A credit for each installation of renewable energy property placed in service for a business purpose may not exceed two million five hundred thousand dollars. Renewable energy property is placed in service for a business purpose if the useful energy generated by the property is offered for sale or is used on‑site for a purpose other than providing energy to a residence.

(D) If the renewable energy property is placed into service for a nonbusiness purpose, then the credit may not exceed:

(1) one thousand four hundred dollars for each dwelling unit for solar energy equipment for domestic water heating, including pool heating;

(2) three thousand five hundred dollars for each dwelling unit for solar energy equipment for active space heating, combined active space and domestic water systems, and passive space heating;

(3) eight thousand four hundred dollars for each installation of geothermal equipment; and

(4) ten thousand five hundred dollars for each installation of any other renewable energy property.

(E) A taxpayer who claims any other credit allowed with respect to renewable energy property may not take the credit allowed in this section with respect to the same property. A taxpayer may not take the credit allowed in this section for renewable energy property the taxpayer leases from another unless the taxpayer obtains the lessor’s written certification that the lessor will not claim a credit under this section with respect to the property.

(F) For purposes of this section, ‘renewable energy property’ means any of the following machinery and equipment or real property:

(1) biomass equipment that uses renewable biomass resources for biofuel production of ethanol, methanol, and biodiesel, anaerobic biogas production of methane utilizing agricultural and animal waste or garbage, or commercial thermal or electrical generation. The term also includes related devices for converting, conditioning, and storing the liquid fuels, gas, and electricity produced with biomass equipment;

(2) combined heat and power system property as defined in 26 U.S.C. Section 48;

(3) geothermal equipment that either:

(a) is a heat pump that uses the ground or groundwater as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure; or

(b) uses the internal heat of the earth as a substitute for traditional energy for water heating or active space heating or cooling;

(4) hydroelectric generators located at existing dams or in free‑flowing waterways and related devices for water supply and control and converting, conditioning, and storing the electricity generated;

(5) solar energy equipment that uses solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. The term also includes related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy;

(6) wind equipment required to capture and convert wind energy into electricity or mechanical power and related devices for converting, conditioning, and storing the electricity produced or relaying the electricity by cable from the turbine motor to the power grid.”

SECTION 2. This act takes effect in income tax years beginning after 2015.

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