

Statement of Estimated State Revenue Impact

Date: August 1, 2014 (As amended June 3, 2014 by the Senate)

Bill Number: H.B. 3644

Authors: Loftis, Gagnon, Herbkersman, Lowe, Lucan, *et al.*

Committee Requesting Impact: Senate

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 expected to reduce state General Fund income tax revenue by an estimated \$2,000,000 in FY2014-15. This amended bill is also expected to reduce state General Fund corporate license tax revenue by an estimated \$500,000 in FY2014-15. This amended bill is also expected to reduce Other Fund revenue of the Coordinating Council for Economic Development by an estimated \$35,000 in FY2014-15, and reduce Other Fund revenue of the Department of Revenue by an estimated \$8,000 in FY2014-15.

Explanation of Amendment (June 3, 2014) – By the Senate

This amendment would insert language from SB387 in the following sections.

Section 4. Part A of this section would increase the job retraining credit against withholding tax from \$500 a year not to exceed \$2,000 over five consecutive years to \$1,000 per year not to exceed \$5,000 over five consecutive years. A further provision in this section requires qualifying businesses to expend at least \$1.50 for every \$1.00 claimed as a credit against withholding tax. The current statute requires the business to match retraining expenditures on a dollar-for-dollar basis. The proposed legislation clarifies and expands the definitions of eligible employees and the eligible retraining programs. Subpart (F) of this section deletes the requirement that businesses claiming the retraining credits are subject to the reporting and audit requirements contained in Section 12-10-80(A). Specifically, this deletes the requirement of an annual report that itemizes the sources and uses of these funds and the requirement that each qualifying business with claims in excess of \$10,000 per year be audited at least once every three years by the Department of Revenue. Department of Revenue data report that job retraining credits have averaged \$2,000,000 annually over the last five years. Factoring in these proposed changes, we anticipate that the amount of job

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retraining credits claimed will effectively double, thereby decreasing General Fund income tax revenue by \$2,000,000 in FY 2014-15.

This bill also reduces the \$500 annual renewal fee shared equally between the Coordinating Council for Economic Development and the Department of Revenue to \$250 with the revenue being retained by the Department of Revenue. Revenue from this annual renewal fee has averaged \$70,000 over the last three years. Reducing the fee to \$250 will reduce total fee revenue by \$35,000 annually. The new allocation of this revenue entirely to the Department of Revenue will reduce Other Fund revenue for the Coordinating Council for Economic Development \$35,000 in FY 2014-15. The amendment will not impact Other Fund revenue allocated to the Department of Revenue from this fee.

Part B of this section would increase the threshold for businesses required to pay the annual \$1,000 annual fee pursuant to Section 12-10-105. Businesses would remit the annual fee only if they claim in excess of \$40,000 in job retraining credits. Currently, businesses that claim in excess of \$10,000 in job retraining credits must remit the annual fee. The Department of Revenue reports that these fees have averaged \$20,000 per year over the last three years and that job retraining credits claimed by eight firms fall below the proposed \$40,000 threshold. This provision would reduce Other Fund revenue allocated to the Department of Revenue by \$8,000 in FY 2014-15.

Section 5. Except where provided otherwise, this act takes effect upon approval by the Governor.

Explanation of Amendment (May 28, 2014) – By the Senate Finance Committee

This amendment would strike all after the enacting words and insert the following.

Section 1. This section would insert language from SB525 and 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 in the solar, wind, geothermal, and other renewable energy industries in 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 change would make it easier to qualify for the tax credit. 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

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December 31, 2020. Based on information from the U.S. Department of Energy, the S.C. Department of Commerce, and the S.C. Department of Revenue, there are presently no commercial or industrial producers of "clean" energy of this magnitude that would be eligible for the tax credit; therefore, this section is not expected to affect General Fund revenue in FY2014-15. This section takes effect upon approval by the Governor and applies to tax years beginning after 2013.

Section 2. Currently, pursuant to Section 12-6-3620, a taxpayer is allowed a nonrefundable tax credit of twenty-five percent of the costs of purchasing and installing equipment used to create heat, power, steam, electricity, or another form of energy for commercial use from a biomass resource. The tax credit is limited to \$650,000 for a single taxpayer in a single taxable year against corporate income tax or corporate license fees. Any unused credits may be carried forward for fifteen years. This section would not amend the tax credit, but would amend the approval process for claiming the tax credit. This section would amend Section 12-6-3620 to add that all requests for claiming the tax credit after tax year 2013 and submitting application materials have been changed from the State Energy Office to the Department of Revenue and the Department of Commerce. The Department of Revenue would qualify the amount of the tax credit that may be claimed by the taxpayer by March 1st for the previous calendar year, and the Department of Commerce would certify that the taxpayer has met the minimum job creation requirements for the project.

Section 3. This section would insert similar language from SB387, HB4301, and HB4807, and would amend Section 12-20-105 to allow a taxpayer that is subject to a corporate license tax to be eligible to claim a credit against its license tax liability for amounts paid in cash to provide infrastructure for an eligible project. Traditionally, the allowable costs included site preparation costs, but are not limited to clearing, grubbing, grading, and stormwater retention expenses of the project. This bill would amend Section 12-20-105 by adding subsection (I) to include in the definition of an eligible project for the promotion of economic development a county or municipality owned multiuse sports and recreational complex. This section would further define infrastructure of a multiuse sports and recreational complex to include the costs of land acquisition and preparation, the construction of facilities and venues, improvements and upgrades to existing facilities and venues, and any other capital costs incurred in the acquisition, construction, and operation of the complex. The complex must be located in a county that has collected at least \$5,000,000 in state accommodations tax revenue in at least one fiscal year. The only counties that meet this threshold requirement are Beaufort, Charleston, and Horry counties.

Act 187 of 2012 increased the maximum aggregate credit that may be claimed by a single company to \$400,000 in any tax year. Although there are five electric utilities that directly serve the three eligible counties, any electric utility provider that has not reached the maximum aggregate credit amount may make a cash contribution to an eligible project. There is currently one project in Horry County that meets the amended definition of an eligible project of a county or municipality owned multiuse sports and recreational complex. The new facility is expected to expand sports tourism in the North Grand Strand Area. The complex is targeting college and youth baseball and softball events with plans to expand to other events in the future. Plans also include an amphitheater, a veteran's memorial, and a lakefront area with water sports attractions. The projected \$19,000,000 multiuse complex is comprised of \$12,000,000 in hospitality fee revenue and revenue from a one-cent sales tax for tourism,

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and \$7,000,000 in state funding for the land purchase.

Based on information from the Department of Revenue in a statutorily-issued report summarizing the history of the tax credits allowed pursuant to this section, there is additional capacity in the tax credits claimed by electric utilities each year. We expect that one or two companies will meet the amended criterion each fiscal year, but not up to the maximum credit contribution limit. This section, therefore, is expected to reduce state corporate license tax revenue by an estimated \$500,000 in FY2014-15. This act takes effect upon approval by the Governor and applies for contributions made for a multiuse sports and recreational complex placed in service after 2011.

Section 4. Except where provided otherwise, this act takes effect upon approval by the Governor.

Explanation of Amendment (April 10, 2013) – By the Economic Dev. & Natural Res. 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:

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”

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to “clean” energy products. The Clean Energy Tax Incentive Program was established to provide tax incentives 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.

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

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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.



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¹¹ 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 or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.