**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3628**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Brady, Toole, Harrison, Agnew, Sellers, Merrill, Herbkersman, Erickson, Bowen, Cato, Bowers, R.L. Brown, Funderburk, Harvin, Umphlett, Hutto and Miller

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Introduced in the House on February 26, 2009

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

Summary: Renewable Energy Plan

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/26/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\02-26-09.docx)‑108

2/26/2009 House Referred to Committee on **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2009\02-26-09.docx)‑109

3/10/2009 House Member(s) request name added as sponsor: Umphlett

4/29/2009 House Member(s) request name added as sponsor: Hutto

4/30/2009 House Member(s) request name added as sponsor: Miller

**VERSIONS OF THIS BILL**

[2/26/2009](file:///p:\pprever\2009-10\3628_20090226.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 12 TO CHAPTER 52, TITLE 48 SO AS TO CREATE THE SOUTH CAROLINA RENEWABLE ENERGY PLAN, SO AS TO AUTHORIZE THE PUBLIC SERVICE COMMISSION TO APPROVE RENEWABLE ENERGY PROJECTS TO DEMONSTRATE THE FEASIBILITY AND VIABILITY OF CLEAN ENERGY SYSTEMS; TO PROVIDE FULL COST RECOVERY FOR CERTAIN COSTS INCURRED BY A PROVIDER FOR A RENEWABLE ENERGY PROJECT; TO REQUIRE EACH MUNICIPAL ELECTRIC UTILITY, EACH RURAL ELECTRIC COOPERATIVE, AND THE PUBLIC SERVICE AUTHORITY TO DEVELOP STANDARDS FOR PROMOTION, ENCOURAGEMENT, AND EXPANSION OF RENEWABLE ENERGY RESOURCES AND TO REQUIRE REPORTING REQUIREMENTS FOR THIS INFORMATION; TO LIMIT REGULATION OF A SOLAR COLLECTOR BY A MUNICIPALITY OR COUNTY; TO DECLARE A DEED RESTRICTION, COVENANT, OR SIMILAR BINDING AGREEMENT THAT WOULD PROHIBIT OR RESTRICT INSTALLATION OF A SOLAR COLLECTOR FOR CERTAIN PURPOSES, AND TO PROVIDE EXCEPTIONS; AND TO ESTABLISH THE SOUTH CAROLINA RENEWABLE ENERGY INFRASTRUCTURE DEVELOPMENT FUND IN THE STATE TREASURY; TO CREATE THE SOUTH CAROLINA RENEWABLE ENERGY REVOLVING LOAN PROGRAM TO PROVIDE A LOW INTEREST LOAN TO AN INDIVIDUAL OR ORGANIZATION TO BUILD A QUALIFIED RENEWABLE ENERGY PRODUCTION FACILITY; TO CREATE THE SOUTH CAROLINA RENEWABLE ENERGY GRANT PROGRAM TO PROVIDE A GRANT TO A PRIVATE OR PUBLIC ENTITY IN THIS STATE TO HELP THE ENTITY BECOME MORE COMPETITIVE IN OBTAINING GRANTS TO GENERATE RENEWABLE ENERGY‑RELATED RESEARCH AND PROJECTS TO DIRECTLY BENEFIT THIS STATE; TO PROVIDE AN OVERSIGHT COMMITTEE TO APPROVE A DISBURSEMENT FROM THE FUND; TO PROVIDE THE COMPOSITION OF THE COMMITTEE; AND TO DEFINE CERTAIN TERMS, AMONG OTHER THINGS.

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

SECTION 1. Chapter 52, Title 48 of the 1976 Code is amended by adding:

“Article 12

South Carolina Renewable Energy Plan

Section 48‑52‑910. (A) The Public Service Commission may approve a renewable energy project to demonstrate the feasibility and viability of a clean energy system. The commission shall provide for full cost recovery of a reasonable and prudent cost incurred by a provider for a renewable energy project that is low greenhouse gas emitting at the point of generation, up to a total of 100 megawatts annually for a utility and for which the provider has secured necessary land, zoning permits, and transmission rights within the state. A cost is considered reasonable and prudent for the purpose of cost recovery if the provider uses reasonable and customary industry practices in the design, procurement, and construction of the project in a cost‑effective manner appropriate to the location of the facility. As part of a cost‑recovery proceeding, the provider shall report to the commission the construction costs, in‑service costs, operating and maintenance costs, and hourly energy production of the renewable energy project, and other information the commission considers relevant.

(B) The provisions of this section may not be construed to impede or impair a term or condition of an existing contract.

(C) The commission may adopt appropriate goals for increasing the use of existing, expanded, and new South Carolina renewable energy resources.

(D) The commission may adopt rules and regulations to administer and implement the provisions of this section.

(E) Each municipal electric utility, each rural electric cooperative, and the South Carolina Public Service Authority shall develop standards for the promotion, encouragement, and expansion of the use of renewable energy resources in their service territories. Before January 2, 2010, and annually afterward, each municipal electric utility, each rural electric cooperative, and the South Carolina Public Service Authority shall submit to the South Carolina Energy Office a report that identifies these standards.

Section 48‑52‑920. (A)(1) Except as provided in items (2) and (3) of this subsection, a municipal or county ordinance may not:

(a) prohibit or restrict, or have the effect of prohibiting or restricting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity; and

(b) deny a person permission to install a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity.

(2) This section does not prohibit a municipal or county ordinance regulating the location or screening of a solar collector described in item (1) of this subsection, provided the ordinance does not have the effect of:

(a) increasing the solar collector’s installation or maintenance cost by an amount estimated to be greater than ten percent of the total cost of the installation of the solar collector, including the cost of labor and equipment; or

(b) inhibiting the solar collector from functioning at its intended maximum efficiency.

(3) This section does not prohibit a municipal or county ordinance regulating the location or method of attachment of a solar collector on a building designated as contributing to a local historic district or as an individually listed local historic landmark, a building formally listed in the National Register of Historic Places, or a building formally found eligible for listing in the National Register of Historic Places by the State Historic Preservation Office.

(4) In a civil action arising under this section, a court with appropriate jurisdiction may award legal costs and reasonable attorneys’ fees to the prevailing party.

(B)(1) The intent of the General Assembly is to protect the public health, safety, and welfare by encouraging the development and use of solar resources and by prohibiting a deed restriction, covenant, or other similar agreement that could effectively drive the cost of owning and maintaining a residence beyond the financial means of most owners.

(2) Except as provided in items (3) and (4) of this subsection, a deed restriction, covenant, or similar binding agreement that runs with the land and would prohibit or restrict, or have the effect of prohibiting or restricting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity is void and unenforceable.

(3) This section does not prohibit a deed restriction, covenant, or similar binding agreement that runs with the land that would regulate the location or screening of solar collectors as described in item (3) of this subsection, provided the ordinance does not have the effect of:

(a) increasing the solar collector’s installation or maintenance cost by an amount which is estimated to be greater than ten percent of the total cost of the installation of the solar collector, including the cost of labor and equipment; or

(b) inhibiting the solar collectors from functioning at their intended maximum efficiency.

(4) This section does not prohibit an ordinance regulating the location or method of attachment of a solar collector on a building designated as contributing to a local historic district or as an individually listed local historic landmark, a building formally listed in the National Register of Historic Places, or a building formally found eligible for listing in the National Register of Historic Places by the State Historic Preservation Office.

(5) In a civil action arising under this section, the court may award legal costs and reasonable attorneys’ fees to the prevailing party.

Section 48‑52‑930. (A)(1) There is established in the State Treasury a separate and distinct fund known as the ‘South Carolina Renewable Energy Infrastructure Development Fund’. The revenue of the fund must be distributed by the South Carolina Renewable Energy Revolving Loan Program and the South Carolina Renewable Energy Grant Program. The South Carolina Renewable Energy Oversight Committee shall approve disbursement of these funds by the loan and grant programs. The committee must consist of seven members; one appointed by each of the following persons: the Governor, the Commissioner of Agriculture, the Secretary of Commerce, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee.

(2) The South Carolina Renewable Energy Revolving Loan Program shall provide a low interest loan to an individual or organization that plans to build a qualified renewable energy production facility. A renewable energy production facility is a facility that produces energy or transportation fuels from biomass, solar, or wind resources. A loan from the program may provide up to fifty percent of the total cost of a project, but may not exceed two hundred fifty thousand dollars for a project. The Department of Agriculture, in cooperation with the State Energy Office, shall administer the South Carolina Renewable Energy Revolving Loan Program.

(3) The South Carolina Renewable Energy Grant Program shall provide grants to private and public entities located in South Carolina for the purpose of helping the entity become more competitive in obtaining federal and other available grants that may generate renewable energy‑related research and projects to directly benefit the State. The Department of Agriculture, in cooperation with the State Energy Office and the South Carolina Research Authority, shall administer the South Carolina Renewable Energy Grant Program. Grants are available in the following three categories:

(a) a planning grant less than ten thousand dollars is available to a research institution or private organization seeking to develop a proposal to obtain a federal grant and another funding source for biomass, solar, geothermal, wind, wave, tidal, and small hydropower energy resources in this State;

(b) a matching grant less than two hundred thousand dollars is available for a research and development project related to development of biomass, solar, geothermal, wind, wave, tidal, and small hydropower energy resources in this State, provided that this grant does not exceed fifty percent of the total cost of the project; and

(c) a matching grant less than two hundred thousand dollars is available for a demonstration project that validates the effectiveness of new and future biomass, solar, geothermal, wind, wave, tidal, and small hydropower resources in this State, provided this grant does not exceed fifty percent of the total cost of the demonstration project.

(B) The Department of Agriculture may prescribe forms and procedures, issue policy documents, and distribute funds as necessary to ensure the orderly and timely implementation of a provision of this section. The Department of Agriculture shall coordinate its efforts with the efforts of the State Energy Office as necessary.”

SECTION 2. This act takes effect upon approval by the Governor.

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