

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

ALLEN/TURNER
APRIL 11, 2019

CLERK OF THE HOUSE

Sales and Use and Income Tax Subcommittee

PROPOSES THE FOLLOWING AMENDMENT

No. TO S. 362 (COUNCIL\SA\362C001.RT.SA19):

REFERENCE IS TO PRINTER'S DATE 2/20/19--S.

**AMEND THE BILL, AS AND IF AMENDED, SECTION
1, PAGE 2, BY STRIKING SECTION 12-6-
3775(B)(1)(A)(IV) AND INSERTING:**

**/ (IV) LAND THAT IS SUBJECT TO A
VOLUNTARY CLEANUP CONTRACT WITH THE
DEPARTMENT OF HEALTH AND ENVIRONMENTAL
CONTROL AS OF DECEMBER 31, 2017 OR TO
CORRECTIVE ACTION UNDER THE FEDERAL
RESOURCE CONSERVATION AND RECOVERY ACT
OF 1976; AND /**

**RENUMBER SECTIONS TO CONFORM.
AMEND TITLE TO CONFORM.**

"THE BELOW CONSTITUTED SUMMARY IS PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND IS NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. IT IS STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND IS NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT".

REPORT OF THE SALES AND INCOME TAX SUBCOMMITTEE

(Clemmons, Hosey, Stavrinakis, Whitmire & Moss - Staff Contact: Michael Jackson)

SENATE BILL 362

S. 362 -- Senators Verdin, Reese, McElveen, Rice and Johnson: A BILL TO AMEND ARTICLE 25, CHAPTER 6, TITLE 12 OF THE 1976 CODE, RELATING TO INCOME TAX CREDITS, BY ADDING SECTION 12-6-3775, TO PROVIDE FOR AN INCOME TAX CREDIT TO AN INDIVIDUAL OR BUSINESS THAT CONSTRUCTS, PURCHASES, OR LEASES CERTAIN SOLAR ENERGY PROPERTY AND THAT PLACES IT IN SERVICE IN THIS STATE, AND TO DEFINE NECESSARY TERMS.

Received by Ways and Means: March 7, 2019

Summary of Bill: This bill allows a South Carolina taxpayer who constructs, purchases or leases solar energy property to claim an income tax credit equal to 25 percent of the cost, including the cost of installation of the property. The credit is earned in the actual year in which the solar energy property is placed in service, but must be taken in five equal annual years. To qualify for the tax credit, the solar energy property must be located in the state of South Carolina and listed on the Environmental Protection Agency's National Priority List or environmental equivalent sites. The property must also be on list of related removal actions, as certified by the Department of Health and Environmental Control (DHEC), or land that is subject to a Voluntary Cleanup Contract with DHEC as of December 31, 2017.

Estimated Revenue Impact: The bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds. This bill will reduce the General Fund income tax revenue by up to \$2,500,000 beginning in FY 2019-20 as a result of the 25 percent tax credit for installation of non-residential solar energy equipment.

Subcommittee Recommendation: Favorable with amendment

Full Committee Recommendation: Pending

Other Notes/Comments:

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SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
(803)734-0640 • RFA.SC.GOV/IMPACTS

Bill Number:	S. 0362	Amended by House Ways and Means Subcommittee on April 11, 2019
Author:	Verdin	
Subject:	Income Tax Credit	
Requestor:	House Ways and Means	
RFA Analyst(s):	Gallagher	
Impact Date:	April 29, 2019	

Fiscal Impact Summary

This bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds. This bill will reduce General Fund income tax revenue by up to \$2,500,000 beginning in FY 2019-20 as a result of the 25 percent tax credit for installation of non-residential solar energy equipment. Since the tax credits must be taken in five installments and unused credits may be carried forward, we expect General Fund income tax revenue will be reduced by up to \$2,500,000 through FY 2025-26, when any carryforward credit will expire.

Explanation of Fiscal Impact

Amended by House Ways and Means Subcommittee on April 11, 2019

State Expenditure

This bill adds Section 12-6-3775, which allows a solar energy property tax credit similar to the credit in Section 12-6-3770 that was repealed December 31, 2017.

Given the similarity to the prior tax credit, we expect any expenses for the modification of tax forms to be handled within the Department of Revenue's annual updates to tax forms. Therefore, the bill is not expected to impact expenditures.

State Revenue

This bill adds Section 12-6-3775, which allows a solar energy property tax credit similar to the credit in Section 12-6-3770 that was repealed December 31, 2017. The bill allows a taxpayer who constructs, purchases, or leases solar energy property to claim an income tax credit equal to 25 percent of the cost, including the cost of installation of the property. The credit is limited to property that is located on the Environmental Protection Agency's (EPA) Priority List, National Priority List of Equivalent Sites, a list of related removal actions, as certified by the Department of Health and Environmental Control (DHEC), land that is subject to a Voluntary Cleanup Contract with DHEC as of December 31, 2017, or land that is subject to corrective action under the Federal Resource Conservation and Recovery Act of 1976.

The credit is earned in the year in which the solar energy property is placed in service, but must be taken in five equal annual installments. Unused credits may be carried forward for five taxable years. A credit for each installation of solar energy property placed in service may not exceed \$2,500,000. The credit is allowed on a first-come, first-served basis, and the total amount of credits may not exceed \$2,500,000 for all taxpayers in a taxable year. A taxpayer who claims

any other state credit allowed with respect to solar energy property may not take the credit allowed in this section with respect to the same property. The type of equipment is limited to non-residential solar energy equipment with a nameplate capacity of at least 1,900 kw AC that uses solar radiation as a substitute for traditional energy water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. Also included are devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy. This bill takes effect in income tax years beginning after 2018. The provisions of the bill are repealed on December 31, 2021. However, if a credit is earned before the repeal, the provisions of the bill continue to apply until the credits have been fully claimed.

In 2016, there was significant interest in building a solar energy site at the former Arkwright Dump in Spartanburg County. Two companies submitted bids, however the city council voted against the measure in 2018. The Department of Revenue reports that no companies claimed the credit in 2016 or 2017.

However, we expect other projects qualifying for the tax credit may be implemented. According to DHEC, there are 629 potential site locations eligible for the credit. Given the costs associated with constructing, purchasing, and/or leasing solar energy property, taxpayers could potentially claim credits up to the \$2,500,000 threshold. Since the tax credits must be taken in five installments and unused credits may be carried forward, we expect General Fund income tax revenue will be reduced by up to \$2,500,000 beginning in FY 2019-20 through FY 2025-26, when any carryforward credit will expire.

Local Expenditure

N/A

Local Revenue

N/A

Introduced on January 10, 2019

State Expenditure

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of Health and Environmental Control (DHEC), or land that is subject to a Voluntary Cleanup Contract with DHEC as of December 31, 2017.

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However, we expect other projects qualifying for the tax credit may be implemented. According to DHEC, there are 564 potential site locations eligible for the credit. Given the costs associated with constructing, purchasing, and/or leasing solar energy property, taxpayers could potentially claim credits up to the \$2,500,000 threshold. Since the tax credits must be taken in five installments and unused credits may be carried forward, we expect General Fund income tax revenue will be reduced by up to \$2,500,000 beginning in FY 2019-20 through FY 2025-26, when any carryforward credit will expire.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director

South Carolina General Assembly
123rd Session, 2019-2020

S. 362

STATUS INFORMATION

General Bill

Sponsors: Senators Verdin, Reese, McElveen, Rice and Johnson
Document Path: I:\s-res\dbv\003sola.sp.dbv.docx

Introduced in the Senate on January 10, 2019

Introduced in the House on March 7, 2019

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

Summary: Income tax credit

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
1/10/2019	Senate	Introduced and read first time (Senate Journal-page 6)
1/10/2019	Senate	Referred to Committee on Finance (Senate Journal-page 6)
2/20/2019	Senate	Committee report: Favorable Finance (Senate Journal-page 12)
2/21/2019		Scrivener's error corrected
2/28/2019	Senate	Read second time (Senate Journal-page 24)
2/28/2019	Senate	Roll call Ayes-37 Nays-2 (Senate Journal-page 24)
3/5/2019	Senate	Read third time and sent to House (Senate Journal-page 17)
3/7/2019	House	Introduced and read first time (House Journal-page 82)
3/7/2019	House	Referred to Committee on Ways and Means (House Journal-page 82)

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VERSIONS OF THIS BILL

[1/10/2019](#)
[2/20/2019](#)
[2/21/2019](#)

1 COMMITTEE REPORT
2 February 20, 2019

3
4 **S. 362**

5
6 Introduced by Senators Verdin, Reese, McElveen and Rice

7
8 S. Printed 2/20/19--S. [SEC 2/21/19 11:33 AM]
9 Read the first time January 10, 2019.

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11
12 **THE COMMITTEE ON FINANCE**

13 To whom was referred a Bill (S. 362) to amend Article 25,
14 Chapter 6, Title 12 of the 1976 Code, relating to income tax credits,
15 by adding Section 12-6-3775, etc., respectfully

16 **REPORT:**

17 That they have duly and carefully considered the same and
18 recommend that the same do pass:

19
20 HUGH K. LEATHERMAN, SR. for Committee.

21
22
23 **STATEMENT OF ESTIMATED FISCAL IMPACT**

24 **Explanation of Fiscal Impact**

25 **Introduced on January 10, 2019**

26 **State Expenditure**

27 This bill adds Section 12-6-3775, which allows a solar energy
28 property tax credit similar to the credit in Section 12-6-3770 that
29 was repealed December 31, 2017.

30 Given the similarity to the prior tax credit, we expect any
31 expenses for the modification of tax forms to be handled within the
32 Department of Revenue's annual updates to tax forms. Therefore,
33 the bill is not expected to impact expenditures.

34 **State Revenue**

35 This bill adds Section 12-6-3775, which allows a solar energy
36 property tax credit similar to the credit in Section 12-6-3770 that
37 was repealed December 31, 2017. The bill allows a taxpayer who
38 constructs, purchases, or leases solar energy property to claim an
39 income tax credit equal to 25 percent of the cost, including the cost
40 of installation of the property. The credit is limited to property that
41 is located on the Environmental Protection Agency's (EPA) Priority
42 List, National Priority List of Equivalent Sites, a list of related

[362-1]

1 removal actions, as certified by the Department of Health and
2 Environmental Control (DHEC), or land that is subject to a
3 Voluntary Cleanup Contract with DHEC as of December 31, 2017.

4 The credit is earned in the year in which the solar energy property
5 is placed in service, but must be taken in five equal annual
6 installments. Unused credits may be carried forward for five taxable
7 years. A credit for each installation of solar energy property placed
8 in service may not exceed \$2,500,000. The credit is allowed on a
9 first-come, first-served basis, and the total amount of credits may
10 not exceed \$2,500,000 for all taxpayers in a taxable year. A taxpayer
11 who claims any other state credit allowed with respect to solar
12 energy property may not take the credit allowed in this section with
13 respect to the same property. The type of equipment is limited to
14 non-residential solar energy equipment with a nameplate capacity
15 of at least 1,900 kw AC that uses solar radiation as a substitute for
16 traditional energy water heating, active space heating and cooling,
17 passive heating, daylighting, generating electricity, distillation,
18 desalination, detoxification, or the production of industrial or
19 commercial process heat. Also included are devices necessary for
20 collecting, storing, exchanging, conditioning, or converting solar
21 energy to other useful forms of energy. This bill takes effect in
22 income tax years beginning after 2018. The provisions of the bill are
23 repealed on December 31, 2021. However, if a credit is earned
24 before the repeal, the provisions of the bill continue to apply until
25 the credits have been fully claimed.

26 In 2016, there was significant interest in building a solar energy
27 site at the former Arkwright Dump in Spartanburg County. Two
28 companies submitted bids, however the city council voted against
29 the measure in 2018. The Department of Revenue reports that no
30 companies claimed the credit in 2016 or 2017.

31 However, we expect other projects qualifying for the tax credit
32 may be implemented. According to DHEC, there are 564 potential
33 site locations eligible for the credit. Given the costs associated with
34 constructing, purchasing, and/or leasing solar energy property,
35 taxpayers could potentially claim credits up to the \$2,500,000
36 threshold. Since the tax credits must be taken in five installments
37 and unused credits may be carried forward, we expect general fund
38 income tax revenue will be reduced by up to \$2,500,000 beginning
39 in FY 2019-20 through FY 2025-26, when any carryforward credit
40 will expire.

41

42 Frank A. Rainwater, Executive Director
43 Revenue and Fiscal Affairs Office

[362-2]

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A BILL

11 TO AMEND ARTICLE 25, CHAPTER 6, TITLE 12 OF THE 1976
12 CODE, RELATING TO INCOME TAX CREDITS, BY ADDING
13 SECTION 12-6-3775, TO PROVIDE FOR AN INCOME TAX
14 CREDIT TO AN INDIVIDUAL OR BUSINESS THAT
15 CONSTRUCTS, PURCHASES, OR LEASES CERTAIN SOLAR
16 ENERGY PROPERTY AND THAT PLACES IT IN SERVICE IN
17 THIS STATE, AND TO DEFINE NECESSARY TERMS.

18
19 Be it enacted by the General Assembly of the State of South
20 Carolina:

21
22 SECTION 1. Article 25, Chapter 6, Title 12 of the 1976 Code is
23 amended by adding:

24
25 "Section 12-6-3775. (A) For the purposes of this section, 'solar
26 energy property' means any nonresidential solar energy equipment
27 with a nameplate capacity of at least one thousand nine hundred
28 kilowatts (1,900 kw AC) that uses solar radiation as a substitute for
29 traditional energy for water heating, active space heating and
30 cooling, passive heating, daylighting, generating electricity,
31 distillation, desalination, detoxification, or the production of
32 industrial or commercial process heat. The term also includes
33 related devices necessary for collecting, storing, exchanging,
34 conditioning, or converting solar energy to other useful forms of
35 energy.

36 (B)(1) A taxpayer is allowed an income tax credit equal to
37 twenty-five percent of the cost, including the cost of installation, of
38 a solar energy property if he constructs, purchases, or leases a solar
39 energy property that is located in the State of South Carolina and if:

- 40 (a) the property is located on:
41 (i) the Environmental Protection Agency's National
42 Priority List;

1 (ii) the Environmental Protection Agency's National
2 Priority List Equivalent Sites;

3 (iii) a list of related removal actions, as certified by the
4 Department of Health and Environmental Control; or

5 (iv) land that is subject to a Voluntary Cleanup Contract
6 with the Department of Health and Environmental Control as of
7 December 31, 2017; and

8 (b) he places it in service in this State during the taxable
9 year.

10 (2) The credit is earned in the year in which the solar energy
11 property is placed in service but must be taken in five equal annual
12 installments, beginning in the year in which the solar energy
13 property is placed in service. Unused credit may be carried forward
14 for five taxable years from the year that the credit was able to be
15 taken. A lessor shall give a taxpayer who leases solar energy
16 property from him a statement that describes the solar energy
17 property and states the cost of the property upon request. A credit is
18 not allowed pursuant to this section if the cost of the solar energy
19 property is provided by public funds. For the purposes of this
20 section, 'public funds' does not include federal grants or tax credits.

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

26 (D) A credit for each installation of solar energy property placed
27 in service may not exceed two million five hundred thousand
28 dollars. The credit is allowed on a first-come, first-served basis, and
29 the total amount of credits available to be taken, pursuant to the five
30 equal annual installments, for all taxpayers in a taxable year, may
31 not exceed two million five hundred thousand dollars in the
32 aggregate.

33 (E) A taxpayer who claims any other state credit allowed with
34 respect to solar energy property may not take the credit allowed in
35 this section with respect to the same property. A taxpayer may not
36 take the credit allowed in this section for solar energy property that
37 the taxpayer leases from another unless the taxpayer obtains the
38 lessor's written certification that the lessor will not claim a credit
39 pursuant to this section with respect to the property.

40 (F) The department may promulgate regulations necessary to
41 implement the provisions of this section."

42

1 SECTION 2. Upon approval by the Governor, this act takes effect
2 in income tax years beginning after 2018. The provisions of this act
3 are repealed on December 31, 2021, except that if the credit allowed
4 by Section 12-6-3775, as added by this act, is earned before the
5 repeal, then the provisions of Section 12-6-3775 continue to apply
6 until the credits have been fully claimed.

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