

# REPORT OF THE SALES AND INCOME TAX SUBCOMMITTEE

(Huggins, Simrill, G.M. Smith, Hosey & Limehouse- Staff Contact: Katie Owen)

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## HOUSE BILL 3874

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H. 3874 -- Reps. Mitchell, Cobb-Hunter, Merrill and Loftis: 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".

***Summary of Bill:***

This bill allows for an income tax credit for a taxpayer that constructs, purchases, or leases renewable energy property. The tax credit is equal to 35% of the cost with caps and stipulations provided in the legislation.

***Introduced:*** 03/19/2015

***Received by Ways and Means:*** 03/19/2015

***Estimated Fiscal Impact:***

This bill as introduced would reduce GF income tax revenue by \$3,125,628 in FY 16-17. Additionally, GF income tax revenue would be reduced by an additional \$2.5M in FY 17-18 and each year thereafter for a total of \$13,125,628 in FY 20-21.

The fiscal impact for the amendment is pending.

***Subcommittee Recommendation:***

Favorable with Amendment

***Full Committee Recommendation:***

Pending

***Other Notes/Comments:***

The bill was amended by the subcommittee to make eligible only properties in this state on the National Priorities List provided by the Environmental Protection Agency as well as adding a sunset provision for December 31, 2016.

HOUSE  
AMENDMENT

THIS AMENDMENT  
ADOPTED

ALLEN/SANDERS  
APRIL 15, 2015

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CLERK OF THE HOUSE

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THE SALES AND INCOME TAX SUBCOMMITTEE PROPOSES THE FOLLOWING AMENDMENT NO. TO H. 3874 (H-WM\STAFF\KATIE\LEGISLATION\FY 15 - 16\H. 3874 - RENEWABLE ENERGY INCOME TAX CREDIT\AMENDMENT FOR SUB):

REFERENCE IS TO PRINTER'S DATE 3/19/15-H.

**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 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 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. /**

**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.**



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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Bill Number: H. 3874  
 Author: Mitchell  
 Requestor: House Ways and Means  
 Date: April 14, 2015  
 Subject: Renewable energy property  
 RFA Analyst(s): Wren

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**Estimate of Fiscal Impact**

	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
<b>State Expenditure</b>					
General Fund	N/A	N/A	N/A	N/A	N/A
Other and Federal	N/A	N/A	N/A	N/A	N/A
Full-Time Equivalent Position(s)	0.00	0.00	0.00	0.00	0.00
<b>State Revenue</b>					
General Fund	(\$3,125,628)	(\$5,625,628)	(\$8,125,628)	(\$10,625,628)	(\$13,125,628)
Other and Federal	N/A	N/A	N/A	N/A	N/A
<b>Local Expenditure</b>	N/A	N/A	N/A	N/A	N/A
<b>Local Revenue</b>	N/A	N/A	N/A	N/A	N/A

**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 Expenditure**

N/A

**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.

**Local Expenditure**

N/A

**Local Revenue**

N/A

  
Frank A. Rainwater, Executive Director

**South Carolina General Assembly**  
121st Session, 2015-2016

**H. 3874**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Mitchell, Cobb-Hunter, Merrill and Loftis

Document Path: I:\council\bill\dk\3085sa15.docx

Introduced in the House on March 19, 2015

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

Summary: Renewable energy property

**HISTORY OF LEGISLATIVE ACTIONS**

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
3/19/2015	House	Introduced and read first time ( <a href="#">House Journal-page 31</a> )
3/19/2015	House	Referred to Committee on <b>Ways and Means</b> ( <a href="#">House Journal-page 31</a> )

View the latest [legislative information](#) at the website

**VERSIONS OF THIS BILL**

3/19/2015

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**A BILL**

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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".

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

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

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“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.



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

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

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

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

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

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

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

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

31 (F) For purposes of this section, 'renewable energy property'  
32 means any of the following machinery and equipment or real  
33 property:

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

41 (2) combined heat and power system property as defined in  
42 26 U.S.C. Section 48;

43 (3) geothermal equipment that either:

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

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

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

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

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

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

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