

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

CONE/MELTON
APRIL 4, 2014

CLERK OF THE HOUSE

REP. PROPOSES THE FOLLOWING AMENDMENT
No. TO H. 3834
(COUNCIL\BBM\3834C002.BBM.HTC14):

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE BILL, AS AND IF AMENDED, BY
STRIKING ALL AFTER THE ENACTING WORDS AND
INSERTING:**

**/ SECTION 1. A. ARTICLE 25, CHAPTER 6,
TITLE 12 OF THE 1976 CODE IS AMENDED BY
ADDING:**

**“SECTION 12-6-3586. (A) AS USED IN THIS
SECTION:**

(1)‘SOLAR ENERGY SYSTEM’ IS A NONRESIDENTIAL SYSTEM THAT, AS DETERMINED BY THE STATE ENERGY OFFICE, USES SOLAR RADIATION AS A SUBSTITUTE FOR TRADITIONAL ENERGY FOR WATER HEATING, ACTIVE SPACE HEATING AND COOLING, PASSIVE HEATING, DAYLIGHTING, GENERATING ELECTRICITY NOT GREATER THAN ONE MEGAWATT ALTERNATING CURRENT, 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.

(2)‘TAX LIABILITY’ INCLUDES INCOME TAXES IMPOSED PURSUANT TO THIS CHAPTER, LICENSE TAXES IMPOSED PURSUANT TO CHAPTER 20 OF THIS TITLE, BANK AND BUILDING AND LOAN TAXES IMPOSED PURSUANT TO CHAPTERS 11 AND

13 OF THIS TITLE, AND PREMIUM TAXES IMPOSED PURSUANT TO TITLE 38.

(3) 'DEPARTMENT' MEANS THE SOUTH CAROLINA DEPARTMENT OF REVENUE.

(B)(1) FOR TAX YEARS BEGINNING AFTER 2013 AND BEFORE 2017, IF A TAXPAYER THAT HAS CONSTRUCTED, PURCHASED, OR LEASED A NONRESIDENTIAL SOLAR ENERGY SYSTEM, THE TAXPAYER, SUBJECT TO THE LIMITATIONS SET FORTH IN SUBSECTION (E), IS ALLOWED A CREDIT AGAINST HIS TAX LIABILITY EQUAL TO TWENTY-FIVE PERCENT OF THE COST OF THE SYSTEM IN THE TAXABLE YEAR IN WHICH THE SYSTEM IS PLACED IN SERVICE.

(2) THE ENTIRE CREDIT MAY NOT BE TAKEN FOR THE TAXABLE YEAR IN WHICH THE SYSTEM IS PLACED IN SERVICE BUT MUST BE TAKEN IN THREE EQUAL ANNUAL INSTALLMENTS BEGINNING WITH THE TAXABLE YEAR IN WHICH THE SYSTEM IS PLACED IN SERVICE, AND SUBJECT TO THIS ANNUAL LIMIT, UNUSED CREDIT MAY BE CARRIED FORWARD FOR TAXABLE YEARS FOUR

THROUGH TEN SUCCEEDING THE YEAR THE SYSTEM WAS PLACED IN SERVICE.

(3) IF A TAXPAYER IS NOT ALLOWED ALL OR PART OF THE CREDIT, THE TAXPAYER WOULD BE AUTHORIZED TO RECEIVE, BECAUSE OF THE LIMITATIONS SET FORTH IN SUBSECTION (E), THE CARRY FORWARD YEARS PROVIDED IN ITEM (1) BEGINNING IN THE YEAR IN WHICH ALL OR PART OF THE CREDIT IS FIRST ALLOWED. HOWEVER, IF THE CREDIT IS NOT ALLOWED BEFORE TAX YEAR 2017, THE TAXPAYER IS NOT ELIGIBLE TO CLAIM THE CREDIT.

(C) IF, IN ONE OF THE YEARS IN WHICH THE INSTALLMENT OF A CREDIT ACCRUES, THE SOLAR ENERGY SYSTEM, WITH RESPECT TO WHICH THE CREDIT WAS CLAIMED, IS DISPOSED OF, TAKEN OUT OF SERVICE, OR MOVED OUT OF STATE, THE CREDIT EXPIRES AND THE TAXPAYER MAY NOT TAKE ANY REMAINING INSTALLMENT OF THE CREDIT. A DISPOSITION DOES NOT INCLUDE THE SALE OR ASSIGNMENT OF THE PARTNERSHIP INTERESTS OR LIMITED LIABILITY COMPANY INTERESTS OF A PARTNERSHIP OR LIMITED LIABILITY COMPANY THAT OWNS OR LEASES A SOLAR ENERGY SYSTEM. THE TAXPAYER, HOWEVER, MAY TAKE THE PORTION OF AN INSTALLMENT THAT ACCRUED IN A PREVIOUS YEAR AND WAS CARRIED FORWARD TO THE EXTENT PERMITTED PURSUANT TO SUBSECTION (B) OF THIS SECTION. FOR PURPOSES OF CALCULATING THE CREDIT, IF THE SOLAR ENERGY SYSTEM WAS PROVIDED, IN WHOLE OR IN PART, BY PUBLIC FUNDS, THE AMOUNT OF PUBLIC FUNDS EXPENDED ON THE SOLAR ENERGY SYSTEM SHALL NOT BE CONSIDERED A COST OF THE SYSTEM. THE AMOUNT OF ANY CREDIT ALLOWED PURSUANT TO THIS SECTION MUST BE REDUCED BY ANY CREDIT CLAIMED PURSUANT TO SECTION 12-6-3587 OR ANY OTHER CREDIT ALLOWED PURSUANT TO THIS TITLE FOR THE SOLAR ENERGY SYSTEM. PUBLIC FUNDS DOES NOT INCLUDE PROCEEDS OF THE INVESTMENT CREDIT PURSUANT TO SECTION 48 OF THE INTERNAL REVENUE CODE, OR THE GRANT IN LIEU THEREOF UNDER SECTION

1603 PROGRAM ADMINISTERED BY THE UNITED STATES DEPARTMENT OF TREASURY. IN NO CASE MAY A CREDIT ALLOWED PURSUANT TO THIS SECTION EXCEED ONE-HALF OF THE TAXPAYER'S TAX LIABILITY FOR A TAXABLE YEAR.

(D) THE CREDIT ALLOWED BY THIS SECTION MAY NOT EXCEED THREE HUNDRED THIRTY-THREE THOUSAND DOLLARS FOR EACH SOLAR ENERGY SYSTEM INSTALLATION AND THE CREDIT MAY NOT EXCEED ONE MILLION DOLLARS FOR ANY TAXPAYER.

(E)(1) THE TOTAL AMOUNT OF CREDITS ALLOCATED FOR ALL TAXPAYERS IN A TAXABLE YEAR MAY NOT EXCEED FIVE MILLION DOLLARS IN THE AGGREGATE. FOR PURPOSES OF THIS SUBSECTION, NOTWITHSTANDING SUBSECTION (B), THE ENTIRE CREDIT IS CONSIDERED TAKEN IN THE TAX YEAR IN WHICH THE SYSTEM IS PLACED IN SERVICE.

(2) IF AN ALLOCATION SET FORTH IN THIS ITEM IS NOT COMPLETELY EXHAUSTED, THE REMAINING AMOUNT MAY BE CARRIED FORWARD BY THE DEPARTMENT TO THE NEXT YEAR AND USED FOR THE SAME PURPOSE, AND IS IN ADDITION TO THE AGGREGATE AMOUNT SET FORTH IN ITEM (1). NO AMOUNT MAY BE CARRIED FORWARD BY THE DEPARTMENT BEYOND TAX YEAR 2016.

(F) IF THE TAXPAYER LEASES THE SOLAR ENERGY SYSTEM, OR PART OF THE SOLAR ENERGY SYSTEM, THE TAXPAYER MAY TRANSFER ANY APPLICABLE REMAINING CREDIT ASSOCIATED WITH THE SOLAR ENERGY SYSTEM EXPENSES INCURRED WITH RESPECT TO THAT PART OF THE SOLAR ENERGY SYSTEM TO THE LESSEE OF THE SOLAR ENERGY SYSTEM. THE PROVISIONS OF THIS SUBSECTION APPLY TO A LESSEE THAT IS AN ENTITY TAXED AS A PARTNERSHIP.

(G) TO THE EXTENT THAT THE TAXPAYER IS A PARTNERSHIP OR A LIMITED LIABILITY COMPANY TAXED AS A PARTNERSHIP, THE CREDIT MAY BE PASSED THROUGH TO THE PARTNERS OR MEMBERS AND MAY BE ALLOCATED BY THE TAXPAYER AMONG ANY OF ITS PARTNERS OR MEMBERS ON AN ANNUAL BASIS INCLUDING, WITHOUT LIMITATION, AN

ALLOCATION OF THE ENTIRE CREDIT TO ANY PARTNER OR MEMBER WHO WAS A MEMBER OR PARTNER AT ANY TIME DURING THE YEAR IN WHICH THE CREDIT IS ALLOCATED.

(H) THIS CREDIT IS IN NO WAY TO IMPLY OR ALLOW THE THIRD PARTY SALE OF ELECTRICITY BETWEEN PARTIES NOR DOES THIS SECTION MODIFY THE PROVISIONS OF TITLE 58 IN ANY WAY AND LESSEE SIMPLY REFERS TO THE FINANCIAL STRUCTURING OF THE PAYMENT FOR THE 'SOLAR ENERGY SYSTEM'.

(I)(1) AFTER THE SYSTEM IS PLACED IN SERVICE, A TAXPAYER SEEKING TO CLAIM THE CREDIT PROVIDED IN THIS SECTION MUST SUBMIT AN APPLICATION TO THE STATE ENERGY OFFICE FOR TENTATIVE APPROVAL OF THE CREDIT. WITHIN FORTY-FIVE DAYS OF RECEIPT OF THE APPLICATION, THE STATE ENERGY OFFICE MUST REVIEW THE APPLICATION AND TENTATIVELY SHALL APPROVE THE APPLICATION UPON DETERMINING THAT THE TAXPAYER QUALIFIES FOR THE CREDIT, AND ONLY IF THE AGGREGATE CREDIT, PURSUANT TO SUBSECTION (E), HAS NOT YET BEEN REACHED FOR THE TAXABLE YEAR. THE STATE ENERGY OFFICE SHALL NOTIFY THE APPLICANT WHETHER ALL OR PART OF THE CREDIT MAY BE CLAIMED AND THE AMOUNT THAT MAY BE CLAIMED IN THE CURRENT YEAR. ALSO, THE STATE ENERGY OFFICE SHALL FORWARD THE NOTICE TO THE DEPARTMENT.

(2) THE CREDIT IS ALLOWED ON A FIRST-COME, FIRST-SERVE BASIS. IN NO EVENT SHALL THE AGGREGATE AMOUNT OF TAX CREDITS APPROVED BY THE STATE ENERGY OFFICE FOR ALL TAXPAYERS IN A TAXABLE YEAR EXCEED THE LIMITATIONS SPECIFIED IN SUBSECTION (E). FOR TAX YEARS 2014 AND 2015, IN THE EVENT THE TAXPAYER TIMELY FILES AN APPLICATION FOR THE CREDIT BUT IS NOT ALLOWED ALL OR PART OF THE CREDIT THE TAXPAYER WOULD BE AUTHORIZED TO RECEIVE BECAUSE OF THE LIMITATIONS SET FORTH IN SUBSECTION (E), THE TAXPAYER MUST BE ADDED TO A PRIORITY WAITING LIST OF APPLICATIONS, PRIORITIZED BY THE DATE OF THE TAXPAYER'S FIRST FILED APPLICATION. WITH RESPECT TO THE CREDIT ALLOCATION IN

SUBSEQUENT YEARS, A TAXPAYER ON THE PRIORITY WAITING LIST SHALL HAVE PRIORITY OVER OTHER TAXPAYERS WHO APPLY FOR THE CREDIT FOR AN INSTALLATION IN THE SUBSEQUENT YEAR. FOR PURPOSES OF SUBSECTION (E), IF A TAXPAYER ON THE PRIORITY WAITING LIST IS ALLOWED THE CREDIT IN A TAXABLE YEAR AFTER THE SYSTEM IS PLACED IN SERVICE, THEN THE ENTIRE CREDIT IS CONSIDERED TAKEN IN THE YEAR IN WHICH THE CREDIT IS FIRST ALLOWED.

(J)(1) THE DEPARTMENT, IN CONSULTATION WITH THE STATE ENERGY OFFICE, SHALL DEVELOP AN APPLICATION FORM. ALSO, THE DEPARTMENT AND THE STATE ENERGY OFFICE SHALL ADOPT RULES TO PROVIDE FOR THE ADMINISTRATION OF THIS CREDIT. THE STATE ENERGY OFFICE, WITH ASSISTANCE FROM THE DEPARTMENT, SHALL CREATE A MECHANISM TO TRACK AND REPORT THE STATUS AND AVAILABILITY OF CREDITS FOR THE PUBLIC TO REVIEW ON A REGULAR BASIS, AS DETERMINED BY THE STATE ENERGY OFFICE.

(2) THERE IS A NONREFUNDABLE APPLICATION FEE EQUAL TO ONE PERCENT OF THE CREDIT APPLIED FOR, BUT NO MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS. THE FEE MUST ACCOMPANY THE APPLICATION. THE FEE SHALL BE CREDITED TO THE STATE ENERGY OFFICE AND SHALL BE USED TO MEET THE REQUIREMENTS OF THIS SECTION.

(K) IN ADDITION TO THE CARRY FORWARD OF UNUSED CREDIT ALLOWED PURSUANT TO THIS SECTION, UNUSED CREDIT MAY BE TRANSFERRED, DEVEISED, OR DISTRIBUTED, WITH OR WITHOUT CONSIDERATION, BY AN INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY COMPANY, CORPORATION, TRUST, OR ESTATE. TO BE EFFECTIVE, SUCH A TRANSFER, DEVISE, OR DISTRIBUTION REQUIRES WRITTEN NOTIFICATION TO AND APPROVAL BY THE DEPARTMENT WITH THE UNUSED CREDIT MAINTAINING ALL ITS ORIGINAL ATTRIBUTES IN THE HANDS OF THE ORIGINAL RECIPIENT INCLUDING, BUT NOT LIMITED TO, THE LIMIT ON THE AMOUNT BY WHICH THE TAXPAYER'S TAX LIABILITY

MAY BE REDUCED. WITH REGARD TO THE SALE OR EXCHANGE OF A CREDIT ALLOWED PURSUANT TO THIS SECTION, GENERAL INCOME TAX PRINCIPLES APPLY FOR PURPOSES OF THE STATE INCOME TAX.

(L) NOT LATER THAN JUNE 1, 2015, AND BY JUNE FIRST EACH YEAR THEREAFTER, THE STATE ENERGY OFFICE SHALL PREPARE A REPORT DETAILING:

(1) THE NUMBER OF TAXPAYERS APPLYING FOR THE CREDIT, THE AMOUNT APPLIED FOR, AND THE SYSTEM SIZES, INCLUDING THE TOTAL COST OF THE SYSTEM INSTALLED AGAINST WHICH THE CREDIT IS BEING CLAIMED, AND THE COUNTY IN WHICH THE SYSTEM WAS INSTALLED;

(2) THE NUMBER OF TAXPAYERS ALLOCATED THE CREDIT, THE AMOUNT ALLOCATED, AND THE SYSTEM SIZES, INCLUDING THE TOTAL COST OF THE SYSTEM INSTALLED AGAINST WHICH THE CREDIT IS BEING CLAIMED, AND THE COUNTY IN WHICH THE SYSTEM WAS INSTALLED;

(3) THE NUMBER OF TAXPAYERS DENIED THE CREDIT BASED ON AN INELIGIBILITY DETERMINATION BY THE DEPARTMENT; AND

(4) THE NUMBER OF TAXPAYERS ELIGIBLE FOR THE CREDIT, BUT PLACED ON THE WAITING LIST DUE TO THE LIMITATIONS SET FORTH IN SUBSECTION (E).

THE REPORT SHALL BE DELIVERED TO THE GOVERNOR, THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE, THE CHAIRMAN OF THE HOUSE WAYS AND MEANS COMMITTEE, THE PUBLIC UTILITIES REVIEW COMMITTEE, THE PUBLIC SERVICE COMMISSION, AND THE OFFICE OF REGULATORY STAFF. THE REPORT ALSO MUST BE MADE AVAILABLE IN A CONSPICUOUS PLACE ON THE WEBSITE MAINTAINED BY THE STATE ENERGY OFFICE.”

B. THIS SECTION APPLIES TO SOLAR ENERGY SYSTEMS PLACED IN SERVICE IN TAXABLE YEARS BEGINNING AFTER 2013 AND BEFORE 2017.

SECTION 2. A. SECTION 12-6-3587(A) OF THE 1976 CODE IS AMENDED TO READ:

“(A) THERE IS ALLOWED AS A TAX CREDIT AGAINST THE INCOME TAX LIABILITY OF A TAXPAYER IMPOSED BY THIS CHAPTER AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF THE COSTS INCURRED BY THE TAXPAYER IN THE PURCHASE AND INSTALLATION OF A SOLAR ENERGY SYSTEM OR SMALL HYDROPOWER SYSTEM FOR HEATING WATER, SPACE HEATING, AIR COOLING, ENERGY-EFFICIENT DAYLIGHTING, HEAT RECLAMATION, ENERGY-EFFICIENT DEMAND RESPONSE, OR THE GENERATION OF ELECTRICITY IN OR ON A FACILITY IN SOUTH CAROLINA AND OWNED BY THE TAXPAYER. THE TAX CREDIT ALLOWED BY THIS SECTION MUST NOT BE CLAIMED BEFORE THE COMPLETION OF THE INSTALLATION. THE CREDIT IS ALLOWED WITHOUT REGARD TO WHETHER OR NOT THE OWNER-TAXPAYER OCCUPIES THE INSTALLATION SITE. THE AMOUNT OF THE CREDIT IN ANY YEAR MAY NOT EXCEED THREE THOUSAND FIVE HUNDRED DOLLARS FOR EACH FACILITY OR FIFTY PERCENT OF THE TAXPAYER’S TAX LIABILITY FOR THAT TAXABLE YEAR, WHICHEVER IS LESS. IF THE AMOUNT OF THE CREDIT EXCEEDS THREE THOUSAND FIVE HUNDRED DOLLARS FOR EACH FACILITY, THE TAXPAYER MAY CARRY FORWARD THE EXCESS FOR UP TO TEN YEARS.”

B. SECTION 12-6-3587 OF THE 1976 CODE IS AMENDED BY ADDING A SUBSECTION AT THE END TO READ:

“(D) WITH RESPECT TO SOLAR ENERGY SYSTEMS, THIS SECTION ONLY APPLIES TO A SYSTEM PLACED IN SERVICE AFTER TAX YEAR 2005 AND BEFORE TAX YEAR 2017.”

SECTION 3. EXCEPT WHERE OTHERWISE PROVIDED, THIS ACT TAKES EFFECT UPON APPROVAL BY THE GOVERNOR. /

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

REPORT OF THE SALES AND INCOME TAX SUBCOMMITTEE

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

HOUSE BILL 3834

H. 3834 -- Reps. Loftis, W.J. McLeod, Neal, Williams, Bannister, R.L. Brown, Hosey and Ridgeway: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-6-3586 SO AS TO ALLOW AN INCOME AND OTHER SPECIFIED TAX CREDITS FOR TWENTY-FIVE PERCENT OF THE TOTAL COST OF A SOLAR ENERGY SYSTEM PLACED IN SERVICE IN 2013 THROUGH 2018, TO PROVIDE CEILINGS ON THE AMOUNT OF THE CREDIT THAT MAY BE CLAIMED IN ONE YEAR AND PROVIDE FOR THE TIMING OF CREDITS, TO PROVIDE FOR THE ALLOCATION OF THE CREDIT IN THE CASE OF CERTAIN PASS-THROUGH ENTITIES, AND TO REQUIRE THE TAXPAYER TO ELECT THE CREDIT TO APPLY IN THE CASE OF OVERLAPPING CREDITS.

Summary of Bill:

This bill AS AMENDED with S. 329 provides a solar energy tax credit for installation of non-residential solar energy system. Allows 25% of system costs placed in service between 2014 - 2016. The credit must be taken in 3 equal installments over 3 years. Caps are \$333,000/system and \$1M/taxpayer.

Introduced: 03/20/2013

Received by Ways and Means: 03/20/2013

Estimated Fiscal Impact:

This bill would reduce General Fund income tax revenue by \$333,333 in FY2014-15 and an increase in funds of the State Energy Office by \$5,000 in FY 14-15. When the credits expire in 2016, we expect an increase in GF income tax revenue by \$387,470 in FY 2018 for existing Section 12-6-3587.

Subcommittee Recommendation:

Adopted as amended

Full Committee Recommendation:

Pending

Other Notes/Comments:

[CLICK HERE](#) to Edit Notes/Comments

Statement of Estimated State Revenue Impact

Date: March 10, 2014 (As amended February 6, 2014 by the Senate Finance Committee)

Bill Number: S.B. 329

Authors: Reese and Hembree

Committee Requesting Impact: Senate Finance Committee

Bill Summary

As amended, this bill would amend the Code of Laws of South Carolina, 1976, by adding Section 12-6-3586 so as to allow an income and other specified tax credits for twenty-five percent of the total cost of a nonresidential solar energy system placed in service beginning after 2013 and before 2017, to provide limitations on the amount of tax credit per installation, per taxpayer, and the total credit for all taxpayers. Additionally, the amended bill would allow an application fee to be credited to the State Energy Office, which would be used to meet the requirements set forth by this section.

REVENUE IMPACT ^{1/}

We expect a decline in General Fund income tax revenue by \$333,333 in FY2014-15 and an increase in funds of the State Energy Office by \$5,000 in FY2014-15. When the credits expire in 2016, we expect an increase in General Fund income tax revenue by \$387,470 in FY2018 for existing Section 12-6-3587.

Explanation of Amendment (2/06/14) – By the Senate Finance Committee

This amendment would strike all after the enacting words and insert language to add Section 12-6-3586 granting an income and other specified tax credits for twenty-five percent of the cost of a nonresidential system that as determined by the State Energy Office uses solar radiation as a substitute for traditional energy used 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. Also included are related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy. The credit applies to systems placed in service beginning after 2013 and before 2017. The credit must be taken in three equal annual installments. The credit may not exceed three hundred thirty-three thousand dollars for each solar energy system installation and the credit may not exceed one million dollars for any taxpayer. The credit allowed pursuant to this section may not exceed one-half of the taxpayer's tax liability for a taxable year. The total amount of credits allocated for all taxpayers in a taxable year may not exceed five million dollars in the aggregate. The credit is allowed on a first come first serve basis and is monitored by the State Energy Office, with assistance from the Department of Revenue. Taxpayers wishing to claim the credit must submit an application to the State Energy Office for approval. There is a nonrefundable application fee equal to one percent of the credit applied for, but no more than two thousand five hundred dollars. The application fee will be credited to the State Energy Office and must be used to meet the requirements of this Section. Additionally, this amendment proposes to amend Section 12-6-3587 by adding a subsection that states the section applies to solar energy systems placed in service after tax year 2005 and before tax year 2017.

Although this amendment removes the reference relating to systems that produce six hundred kilowatts or less of power, we expect no additional impact on General Fund income tax revenue in FY2014-15. The previous estimate was based on data from the South Carolina Department of Revenue. At that

Statement of Estimated State Revenue Impact

time, we estimated that 2 commercial firms claimed the solar energy tax credit in 2012. Based upon our analysis of solar energy equipment tax credits for non-residential purposes over the past three years, we continue to estimate that 2 commercial firms will claim the tax credit in FY2014-15, for a total of \$2,000,000. Adjusting for the fact that the tax credit is to be taken in three equal annual installments and applying the fifty percent tax liability limitation, it is estimated that this bill would reduce State General Fund income tax, bank tax, license fees, or insurance premium tax revenue by an estimated \$333,333 in FY2014-15. Also, as the application fee is capped at two thousand five hundred dollars, funds of the State Energy Office would increase by \$5,000 in FY2014-15. We expect this amendment to have no impact on these estimates.

Additionally, this amendment proposes to amend Section 12-6-3587 by adding a subsection which applies to solar energy systems placed in service after tax year 2005 and before tax year 2017. Currently, Section 12-6-3587 allows for a credit not to exceed three thousand five hundred dollars for each facility, or fifty percent of the taxpayer's liability for that taxable year, whichever is less. If the amount of the credit exceeds three thousand five hundred dollars per facility, the taxpayer may carry forward the excess for up to ten years. Based on data from the South Carolina Department of Revenue, 260 taxpayers claimed the existing solar energy tax credit for a total of \$774,940 in 2012. Assuming this trend continues, we expect the same number of tax credits in 2017. We estimate fifty percent of these credits, or \$387,470, may be carried forward. Therefore, we expect an increase in General Fund income tax revenue in FY2018 by \$387,470.

Explanation of Amendment (1/23/14) – By the Sales & Income Taxation Subcommittee

This amendment (BH\329C001.BH.DG14) would strike all after the enacting words and insert language to add Section 12-6-3586 granting an income and other specified tax credits for twenty-five percent of the cost of a nonresidential solar energy system that produces less than six hundred kilowatts of power as certified by the Solar Rating and Certification Corporation or a comparable entity, as determined by the State Energy Office that uses solar radiation as a substitute for traditional energy used 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. Also included are related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy. The credit applies to systems placed in service beginning after 2013 and before 2017. The credit must be taken in three equal annual installments. The credit may not exceed three hundred thirty-three thousand dollars for each solar energy system installation and the credit may not exceed one million dollars for any taxpayer. The credit allowed pursuant to this section may not exceed one-half of the taxpayer's tax liability for a taxable year. The total amount of credits allocated for all taxpayers in a taxable year may not exceed five million dollars in the aggregate. The credit is allowed on a first come first serve basis and is monitored by the State Energy Office, with assistance from the Department of Revenue. Taxpayers wishing to claim the credit must submit an application to the State Energy Office for approval. There is a nonrefundable application fee equal to one percent of the credit applied for, but no more than two thousand five hundred dollars. The application fee will be credited to the State Energy Office and must be used to meet the requirements of this Section.

Based on data from the South Carolina Department of Revenue, we estimate 2 commercial firms claimed the solar energy tax credit in 2012. Based upon our analysis of solar energy equipment tax credits for non-residential purposes over the past three years, we estimate that 2 commercial firms will

Statement of Estimated State Revenue Impact

claim the tax credit in FY2014-15, for a total of \$2,000,000. Adjusting for the fact that the tax credit is to be taken in three equal annual installments and applying the fifty percent tax liability limitation, it is estimated that this bill would reduce State General Fund income tax, bank tax, license fees, or insurance premium tax revenue by an estimated \$333,333 in FY2014-15. Additionally, as the application fee is capped at two thousand five hundred dollars, funds of the State Energy Office would increase by \$5,000 in FY2014-15.

Explanation of Bill filed 2/5/13

This bill would add Section 12-6-3586 granting an income and other specified tax credits for twenty-five percent of the total cost of a solar energy system used for water heating, active space heating and cooling, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat placed in service by taxpayers. Additionally, devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy would be included. This applies to systems placed in service in 2013 through 2018. The credit may be claimed against a taxpayer's individual income, corporate income, bank tax, license fees, or insurance premiums taxes. The credit also applies to taxpayers who operate as a partnership or limited liability company. In this case, the credit may be passed through to the partners or members and may be allocated by the taxpayer among any of its partners or members on an annual basis, without limitation, an allocation of the entire credit to any partner or member who was a member or partner at any time during the year the credit is allocated. This bill also provides ceilings on the amount of credit that can be claimed per installation. For solar energy equipment placed into service for residential purposes, the ceilings range from \$3,500 to \$1,000,000, based upon the purpose of the solar energy equipment. For solar energy systems placed into service for any purpose other than residential, the ceiling amount equals \$1,000,000 and must be taken in three equal annual installments. Currently, Section 12-6-3587 allows the same income tax credit of twenty-five percent of certain solar energy equipment purchases and installation costs. The income tax credit pursuant to Section 12-6-3587 is capped at \$3,500 per facility or fifty-percent of the taxpayer's tax liability for that taxable year, whichever is less.

Based on data from the South Carolina Department of Revenue, 260 taxpayers claimed the existing solar energy tax credit for a total of \$774,940, or approximately \$2,980 per taxpayer, in 2012. Based upon our analysis of the solar energy equipment tax credit over the past four years, the average tax credit per tax payer is \$2,531, which equates to an average unit cost of approximately \$10,124. Therefore, we estimate that the increased ceilings for residential solar energy equipment will have no impact in FY2014-15.

Regarding non-residential installations, based on data from the South Carolina Department of Revenue, we estimate 2 commercial firms claimed the solar energy tax credit in 2012. Based upon our analysis of solar energy equipment tax credits for non-residential purposes over the past three years, we estimate that 2 commercial firms will claim the tax credit in FY2014-15, for a total of \$2,000,000. Adjusting for the fact that the tax credit is to be taken in three equal annual installments and applying the fifty percent tax liability limitation, it is estimated that this bill would reduce State General Fund income tax, bank tax, license fees, or insurance premium tax revenue by an estimated \$333,333 in FY2014-15.

The credits allowed by this section are in lieu of any other applicable income or other tax credits or abatements allowed by state law for related purposes, and if there is an overlap or conflict in available

Statement of Estimated State Revenue Impact

credits or abatements to a taxpayer, the taxpayer must elect the credit or abatement the taxpayer desires in the manner prescribed by the Department of Revenue to the extent the credits or abatements conflict or overlap.

This act takes effect upon approval by the Governor and applies for installations of solar energy systems placed in service in taxable years beginning after 2012 and ending in 2018.



Frank A. Rainwater
Chief Economist

Analyst: Wren

¹ This statement meets the requirement of Section 27-71 for a state revenue impact by the BEA

South Carolina General Assembly
120th Session, 2013-2014

H. 3834

STATUS INFORMATION

General Bill

Sponsors: Reps. Loftis, W.J. McLeod, Neal, Williams, Bannister, R.L. Brown, Hosey, Ridgeway, Stavrinakis and Merrill

Document Path: l:\council\bill\bbm\10842htc13.docx

Introduced in the House on March 20, 2013

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

Summary: Solar energy system

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
3/20/2013	House	Introduced and read first time (House Journal-page 9)
3/20/2013	House	Referred to Committee on Ways and Means (House Journal-page 9)
4/3/2014	House	Member(s) request name added as sponsor: Stavrinakis, Merrill

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VERSIONS OF THIS BILL

[3/20/2013](#)

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A BILL

11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, BY ADDING SECTION 12-6-3586 SO AS TO ALLOW
13 AN INCOME AND OTHER SPECIFIED TAX CREDITS FOR
14 TWENTY-FIVE PERCENT OF THE TOTAL COST OF A
15 SOLAR ENERGY SYSTEM PLACED IN SERVICE IN 2013
16 THROUGH 2018, TO PROVIDE CEILINGS ON THE AMOUNT
17 OF THE CREDIT THAT MAY BE CLAIMED IN ONE YEAR
18 AND PROVIDE FOR THE TIMING OF CREDITS, TO
19 PROVIDE FOR THE ALLOCATION OF THE CREDIT IN THE
20 CASE OF CERTAIN PASS-THROUGH ENTITIES, AND TO
21 REQUIRE THE TAXPAYER TO ELECT THE CREDIT TO
22 APPLY IN THE CASE OF OVERLAPPING CREDITS.

23
24 Be it enacted by the General Assembly of the State of South
25 Carolina:

26
27 SECTION 1. Article 25, Chapter 6, Title 12 of the 1976 Code is
28 amended by adding:

- 29
30 “Section 12-6-3586. (A) As used in this section:
31 (1) ‘Solar energy system’ is equipment that uses solar
32 radiation as a substitute for traditional energy for water heating,
33 active space heating and cooling, daylighting, generating
34 electricity, distillation, desalination, detoxification, or the
35 production of industrial or commercial process heat. The term also
36 includes related devices necessary for collecting, storing,
37 exchanging, conditioning, or converting solar energy to other
38 useful forms of energy.
39 (2) ‘Tax liability’ includes income taxes imposed pursuant to
40 this chapter, license taxes imposed pursuant to Chapter 20 of this
41 title, bank and building and loan taxes imposed pursuant to

1 Chapters 11 and 13 of this title, and premium taxes imposed
2 pursuant to Title 38.

3 (B) If a taxpayer that has constructed, purchased, or leased a
4 solar energy system places it in service in this State during a
5 taxable year beginning in 2013 through 2018, the taxpayer is
6 allowed a credit against the taxpayer's tax liability equal to twenty
7 five percent of the total cost of the system.

8 (C)(1) For nonresidential solar energy systems, the total credit
9 allowed pursuant to subsection (B) must be claimed in three equal
10 installments over three years beginning with the year the system is
11 placed in service.

12 (2) If, in one of the years in which the installment of a credit
13 accrues, the solar energy system with respect to which the credit
14 was claimed is disposed of, taken out of service, or moved out of
15 State, the credit expires and the taxpayer may not take any
16 remaining installment of the credit.

17 (D) The total credit allowed pursuant to this section may not
18 exceed the applicable ceilings provided in this subsection.

19 (1) A ceiling of one million dollars for each installation
20 applies to solar energy systems placed in service for any purpose
21 other than residential.

22 (2) The following ceilings apply to solar energy systems
23 placed in service for residential purposes:

24 (a) three thousand five hundred dollars for each dwelling
25 unit for solar energy systems for domestic water heating, including
26 pool heating;

27 (b) thirty five thousand dollars for each dwelling unit for
28 solar energy systems for electrical generation, active space heating,
29 combined active space and domestic hot water systems;

30 (c) one million dollars for each installation for any other
31 solar energy systems for residential purposes.

32 (3) If the taxpayer leases the solar energy system, or part of
33 the solar energy system, the taxpayer may transfer any applicable
34 remaining credit associated with the solar energy system expenses
35 incurred with respect to that part of the solar energy system lessee
36 of the solar energy system. The provisions of this item apply to a
37 lessee that is an entity taxed as a partnership or limited liability
38 company.

39 (4) To the extent that the taxpayer is a partnership or limited
40 liability company, the credit may be passed through to the partners
41 or members and may be allocated by the taxpayer among any of its
42 partners or members on an annual basis including, without
43 limitation, an allocation of the entire credit to any partner or

1 member who was a member or partner at any time during the year
2 the credit is allocated.

3 (5) This credit is in no way to imply or allow the third party
4 sale of electricity between parties and lessee simply refers to the
5 financial structuring of the payment for the 'solar energy system'.

6 (E) The credits allowed by this section are in lieu of any other
7 applicable income or other tax credits or abatements allowed by
8 state law for related purposes, and if there is an overlap or conflict
9 in available credits or abatements to a taxpayer, the taxpayer must
10 elect the credit or abatement the taxpayer desires in the manner
11 prescribed by the Department of Revenue to the extent the credits
12 or abatements conflict or overlap.”

13
14 SECTION 2. This act takes effect upon approval by the Governor
15 and applies for installations of solar energy systems placed in
16 service in taxable years beginning after 2012 and ending in 2018.

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