**South Carolina General Assembly**

118th Session, 2009-2010

**H. 4683**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Erickson, Herbkersman, Chalk, Wylie, Sottile, Bowen, Bannister, Brady, Harrison, Stringer, Loftis and Long

Document Path: l:\council\bills\dka\3906dw10.docx

Introduced in the House on March 3, 2010

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

Summary: Renewable Energy and Energy Efficiency Financing District Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/3/2010 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2010\03-03-10.docx)‑87

3/3/2010 House Referred to Committee on **Ways and Means** [HJ](file:///h:\HJ%20Archive\2010\03-03-10.docx)‑87

3/10/2010 House Member(s) request name added as sponsor: Loftis

3/16/2010 House Member(s) request name added as sponsor: Long

**VERSIONS OF THIS BILL**

[3/3/2010](file:///p:\pprever\2009-10\4683_20100303.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 39 TO TITLE 6 SO AS TO CREATE THE “SOUTH CAROLINA RENEWABLE ENERGY AND ENERGY EFFICIENCY FINANCING DISTRICT ACT”; TO PROVIDE DEFINITIONS; TO AUTHORIZE A MUNICIPALITY OR A COUNTY TO ESTABLISH A DISTRICT TO PROMOTE, ENCOURAGE, AND FACILITATE RENEWABLE ENERGY AND ENERGY DEVELOPMENT WITH A MUNICIPALITY OR COUNTY; TO AUTHORIZE THE IMPOSITION OF AN ASSESSMENT FOR THE PURPOSE OF FINANCING RENEWABLE ENERGY TECHNOLOGY AND ENERGY EFFICIENCY IMPROVEMENTS; TO AUTHORIZE THE ISSUANCE OF SPECIAL DISTRICT BONDS OR REVENUE BONDS; AND TO REQUIRE CERTAIN PROVISIONS IN ORDINANCES AUTHORIZING THE CREATION OF A DISTRICT.

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

SECTION 1. Title 6 of the 1976 Code is amended by adding:

“CHAPTER 39

South Carolina Renewable Energy and

Energy Efficiency Financing District

Section 6‑39‑10. This chapter may be cited the ‘South Carolina Renewable Energy and Energy Efficiency Financing District Act’.

Section 6‑39‑20. As used in this chapter:

(1) ‘Assessment’ means a charge against the real property belonging to an owner within a district created pursuant to this chapter. The assessment must be made upon real property located within the district. An assessment imposed in this chapter remains valid and enforceable even if there is a later sale or transfer of property or a part of it. The rates of assessments within a district need not be uniform. The owner and the governing body shall agree upon the rates of assessment across different sections of, or uses within, the district.

(2) ‘District’ means a renewable energy and energy financing district formed pursuant to this chapter by a municipality or county. A district may be comprised of noncontiguous parcels of land. A district may include, but not be limited to, residential, commercial, industrial, institutional, or a combination of these.

(3) ‘Energy efficiency improvements’ include technologies and procedures that reduce the overall consumption of electricity, gas, or water, including, but not limited to, high efficiency HVAC, programmable thermostats, improved insulation, weatherization, water heater insulation, or duct sealing. An improvement that permanently is not affixed to the real property must be conveyed with the property if a transfer of ownership occurs. Technologies and procedures must be approved by a member of the county or municipality’s staff in conjunction with an energy efficiency audit performed on the property. Costs incurred during the auditing process may be included in the amount requested from the district. Energy efficiency auditing costs must not exceed what is ‘fair and reasonable’ for a property of similar size and complexity.

(4) ‘Governing body’ or ‘board’ means, as appropriate, the county council or the municipal council or councils with authority over the geographic area in which the district lies and acting pursuant to the provisions of this chapter. A school board is not included within the definition of ‘governing body’ as provided by this chapter.

(5) ‘Owner’ means a person who is eighteen years of age or older, or the proper legal representative for a person who is younger than eighteen years of age, or a person who is incapacitated, and a firm or corporation that owns legal title to a present possessory interest in real estate equal to a life estate or greater, expressly excluding leaseholds, easements, equitable interests, inchoate rights, dower rights, and future interests, and that owns, at the date of the petition and whose name appears on the county tax records as an owner of real estate, and a duly organized group who total interest is equal to at least a one‑tenth interest in a single tract.

(6) ‘Private placement’ means a loan or debt arrangement with a private financial institution that may reside or be based in or out of the State.

(7) ‘Renewable energy technologies’ includes technologies, fixtures, products, systems, devices or groups of devices that produces energy from resources including, but not limited to, solar, wind, geothermal, biomass, and tidal as authorized by the board.

(8) ‘Senior lien’ means the assessment on the real property has precedence over all claims, including the mortgage.

Section 6‑39‑30. (A) The governing body of a municipality or county may establish a district in order to promote, encourage, and facilitate renewable energy and energy efficiency development within the municipality or county. The district only shall include the property whose owners have voluntarily executed an agreement consenting to the inclusion of their property within the district in addition to the imposition of a special assessment on their property for the purpose of financing renewable energy technologies and energy efficiency improvement.

(B) Nothing contained in this chapter may be construed to limit or restrict the existing powers of an owner, county, or municipality. The authorization contained in this chapter is in addition to their powers and is provided as an additional means for the provisions of improvements related to new development of renewable energy and energy efficiency.

(C) The district has the authority to impose a special assessment on all district members for the purpose of financing renewable energy technologies and energy efficiency improvements.

(D) The amount of the assessment must be based on actual costs of the technologies and improvements or reasonable estimates of those costs, to include, but not be limited to, interest expense, bond issuance costs, architectural and engineering costs, energy audit costs, and costs associated with the administration of the district.

(E) The assessment must be levied and collected at the same time and in the same manner as property taxes are levied and collected. The assessment must be secured by a senior lien on the property for the amount of money borrowed.

(F) A governing body that has not adopted a comprehensive plan pursuant to Chapter 29 of this title may not impose an assessment. A governing body that has adopted a comprehensive plan only may impose an assessment pursuant to this chapter.

(G) A governing body shall prepare and publish an annual report describing, for each district, the amount of all assessments collected, appropriated, or spent during the preceding year. An annual summary must be available to public at the time that property tax bills are disseminated to property owners within the district.

(H) Bonds issued by the county or municipality pursuant to this chapter do not count for the purposes of calculating the bond‑borrowing limit pursuant to Article X of the Constitution of this State.

(I)(1) The governing body of a government entity may issue its special district bonds or revenue bonds of the government entity under the terms and conditions as the governing body may determine by ordinance subject to the following:

(a) the bonds may be sold at public or private sale for a price as determined by the governing body;

(b) the bonds may be secured by a pledge of and be payable from the assessments authorized in this chapter or another source of funds not constituting a general tax as may be available and authorized by the governing body;

(c) the bonds may be issued pursuant to and secured under the terms of a trust agreement of indenture with a corporate trustee and the ordinance authorizing the bonds or trust agreement or indenture pertaining to it may contain provisions for the establishment of a reserve fund; and

(d) other funds or accounts as are determined by the governing body to be appropriate to be held by the governing body or the trustee.

(2) The proceeds of the bonds may be applied to the payment of the costs of any renewable energy technologies or energy efficiency improvements, or both, including capitalized interest, expenses associated with the issuance and sale of the bonds, and any costs for planning and designing the improvements or planning or arranging for the financing, and any engineering, architectural surveying, energy audit, or similar cost or expense necessary or appropriate for the planning, designing, and construction or implementation of a plan in connection with the improvements.

(J) The governing body may provide by resolution for the payment of the cost of the technologies installed and improvements performed by assessments, by the issuance of special district bonds or other obligations secured by assessments, from general revenues from a source not restricted from the use by law, or from any combination of the financing sources as may be provided in the improvement plan.

(K) An ordinance authorizing the creation of a district must:

(1) include a description of technologies and improvements proposed by each property; and

(2) provide a methodology for the imposition, apportionment, adjustment, and termination of the assessment.

(L) If necessary, applicants shall provide documentation of approval for proposed technologies and improvements by all historic and architectural review boards.”

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

‑‑‑‑XX‑‑‑‑