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COMMITTEE REPORT

May 19, 2010

**H. 3835**

Introduced by Reps. Harrell, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Brady, Branham, Brantley, H.B. Brown, R.L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb‑Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Hamilton, Hardwick, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, D.C. Moss, Nanney, J.H. Neal, J.M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E.H. Pitts, M.A. Pitts, Rice, Scott, Sellers, Simrill, Skelton, D.C. Smith, G.M. Smith, G.R. Smith, J.E. Smith, J.R. Smith, Spires, Stavrinakis, Stewart, Thompson, Toole, Umphlett, Vick, Viers, White, Whitmire, Williams, Willis, Wylie, A.D. Young and T.R. Young

S. Printed 5/19/10--S. [SEC 6/4/10 11:40 AM]

Read the first time April 14, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3835) to amend the Code of Laws of South Carolina, 1976, by adding Article 5 to Chapter 9, Title 23 to enact the “South Carolina Hydrogen Permitting Act” so, etc., respectfully

**REPORT:**

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

PAUL G. CAMPBELL, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

A Cost of Federal and/or Other Funds (See Below)

**EXPLANATION OF IMPACT:**

The Department of Labor, Licensing and Regulation indicates enactment of this bill will have no impact on the state general fund. Existing resources and any additional revenue generated upon enactment would be dedicated to implementation of the bill’s requirements.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 9, TITLE 23 TO ENACT THE “SOUTH CAROLINA HYDROGEN PERMITTING ACT” SO AS TO CREATE THE STATE HYDROGEN PERMITTING PROGRAM AND TO STATE THE PURPOSE OF THE PROGRAM; TO PROVIDE CERTAIN DEFINITIONS; TO PROVIDE THAT ONLY THE STATE FIRE MARSHAL MAY PERMIT A HYDROGEN FACILITY IN THIS STATE, BUT MAY DELEGATE THIS AUTHORITY TO A COUNTY OR MUNICIPAL OFFICIAL IN SPECIFIC CIRCUMSTANCES; TO PROVIDE THE DUTIES AND OBLIGATIONS OF THE STATE FIRE MARSHAL UNDER THE ACT; TO PROVIDE REQUIREMENTS FOR A PARTY SEEKING TO RENOVATE OR CONSTRUCT A HYDROGEN FACILITY; TO PROVIDE THE STATE FIRE MARSHAL MAY IMPOSE CERTAIN FEES RELATED TO PERMITTING, LICENSING, AND INSPECTING UNDER THE ACT; TO PROVIDE PENALTIES FOR A PERSON WHO CONVEYS OR ATTEMPTS TO CONVEY HYDROGEN IN VIOLATION OF THE ACT; AND TO AMEND SECTION 23‑9‑20, RELATING TO DUTIES OF THE STATE FIRE MARSHAL, SO AS TO PROVIDE THE STATE FIRE MARSHAL SHALL SUPERVISE ENFORCEMENT OF THE SOUTH CAROLINA HYDROGEN PERMITTING PROGRAM.

Whereas, recognizing South Carolina must encourage a vibrant, knowledge‑based economy and establish a foundation for research and commercialization activities to create higher paying jobs and benefit all South Carolinians; and

Whereas, continuing to nurture a hydrogen and fuel cell cluster in South Carolina’s economy, which has already begun with efforts by the state’s research universities and private sector, is a public purpose that will help to further the state’s goal to encourage a knowledge‑based economy; and

Whereas, South Carolina considers hydrogen and fuel cell technology, which is an alternative means of electrical power, to be a “fuel of the future” due to its potential to create high paying jobs for the citizens of the State, its safe uses for stationary, portable, and automotive devices, and its positive environmental impacts; and

Whereas, the global demand for hydrogen technology is projected to be more than $2.6 trillion in 2021, and the United States market is expected to exceed one trillion dollars and one million jobs before 2020, while the economic potential for South Carolina and surrounding communities is estimated to be forty thousand jobs and a ten billion dollar capital investment in the State by 2020; and

Whereas, in order to capitalize on this economic opportunity, it is appropriate that the State create an ideal environment for all users and developers of hydrogen and fuel cell technology, including companies, businesses, and consumers, to further the state’s goal to create a thriving hydrogen and fuel cell cluster in South Carolina’s economy; and

Whereas, to maximize the economic opportunity afforded by hydrogen fuel, it is necessary to make hydrogen fuel easily accessible to the general public for retail purchase from multiple, convenient locations throughout the State in a manner similar to that used for dispensing gasoline and other fuels sold to power motor vehicles, most likely through the integration of safe hydrogen fuel dispensation technology in existing and new gasoline fueling stations; and

Whereas, hydrogen and fuel cell technology is advancing at a rate that has created the need for rapid revision and updating of codes and standards that will allow South Carolina to demonstrate leadership and secure a significant portion of this budding industry by efficiently adopting relevant codes and standards, and creating a uniform permitting environment that safely grows the hydrogen and fuel cell industry in the State. Now, therefore,

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

SECTION 1. Chapter 9, Title 23 of the 1976 Code is amended by adding:

“Article 5

South Carolina Hydrogen Permitting Act

Section 23‑9‑510. This article may be cited as the ‘South Carolina Hydrogen Permitting Act’.

Section 23‑9‑520. There is established the South Carolina Hydrogen Permitting Program within the Office of the State Fire Marshal. The purposes of this program are to:

(1) make hydrogen fuel easily accessible to the general public for retail purchase from multiple, convenient locations throughout the State in a manner similar to that used for dispensing gasoline and other fuels sold to power motor vehicles;

(2) promote and protect public health, safety, and welfare; (3) promote a positive business environment for the hydrogen and fuel cell industry; and

(4) demonstrate leadership as a progressive alternative energy state by ensuring that hydrogen and fuel cells are permitted on a consistent basis throughout the State and meet minimum standards of quality provided in the International Code Council’s 2006 codes or the latest state‑adopted version.

Section 23‑9‑530. As used in this article:

(1) ‘Container’ means all vessels including, but not limited to, tanks, cylinders, or pressure vessels used for storage of hydrogen.

(2) ‘Facility’ means a fueling station or a fuel cell site that will store or dispense hydrogen for use as a transportation fuel and motor vehicle fuel or in a fuel cell.

(3) ‘Fuel cell’ means an appliance that uses fuel to produce electricity through an electro‑chemical process. These fuels include, but are not limited to, hydrogen, methanol, or solid oxides.

(4) ‘Fueling station’ means a facility that dispenses gasoline, hydrogen, or other fuels intended to be used in motor vehicles.

(5) ‘Hydrogen facility’ or ‘facility’ means a fueling station or a fuel cell site that will store or dispense hydrogen for use as a transportation fuel and motor vehicle fuel or in a fuel cell.

Section 23‑9‑540. Only the State Fire Marshal may:

(1) permit a hydrogen facility in this State, although he may delegate this permitting authority to a county or municipal official if the:

(a) county or municipality served by the official has at least three hydrogen fueling stations to be renovated or constructed in its jurisdiction; and

(b) official completes prescribed training and obtains certification pursuant to Section 23‑9‑550(3).

(2) impose a fee related to the permitting, licensing, or inspection of a hydrogen fueling station under this article, in addition to the application filing fee provided in Section 23‑9‑560(B)(1). The State Fire Marshal may not delegate this authority to impose a fee.

Section 23‑9‑550. (A) The State Fire Marshal shall:

(1) ensure that the laws of this State governing gaseous and liquefied hydrogen at a hydrogen facility are executed faithfully;

(2) require conformance with fire prevention and protection standards based on nationally recognized standards prescribed by law or regulation for the prevention of fire and the protection of life and property;

(3) develop training and certification requirements a county or municipal official must satisfy to grant a permit to a hydrogen facility through a delegation of the State Fire Marshal’s authority under Section 23‑9‑540, subject to the limits in subsection B of this section;

(4) develop minimum requirements for the design, construction, location, installation, and operation of equipment for storing, handling, and dispensing hydrogen at a facility. These requirements must:

(a) reasonably be necessary to protect the health, welfare, and safety of the public and a person using these materials; and

(b) substantially conform to the generally accepted standards of safety concerning hydrogen;

(5) impose at least semi‑annual random inspections of a facility licensed under this article to determine the hydrogen’s value for fueling and the facility’s safety; and

(6) promulgate regulations necessary to carry out the requirements of this article.

(B) When a codes and standards organization certified by the American National Standards Institute develops a standard procedure for training and certifying a county or municipal official to permit to a hydrogen facility, the State Fire Marshal may adopt this procedure.

Section 23‑9‑560. (A) A party seeking to renovate or construct a facility to store or dispense hydrogen must apply to the State Fire Marshal or his certified designee by registered mail, return receipt requested, for approval before beginning the renovation construction. An application must include:

(1) a site plan;

(2) an accidental release plan;

(3) piping layout with valves and fitting details;

(4) normal and emergency ventilation designs;

(5) tank capacity and design standards;

(6) electrical plan; tank and piping support details;

(7) information concerning on‑site fire protection equipment;

(8) information concerning tank location with respect to other tanks and dikes; and

(9) other information the State Fire Marshal considers relevant for evaluating the application.

(B) The State Fire Marshal:

(1) may charge an application filing fee of ten dollars that must be paid before an application may be accepted:

(2) may conduct a hearing on an application; and

(3) shall approve or deny an application within sixty calendar days or the application automatically is considered approved.

Section 23‑9‑570. (A) A person who conveys or offers to convey hydrogen in violation of this article may be subject to an administrative fine, stop‑sale order, or both, at the discretion of the State Fire Marshal.

(B) An administrative fine must not be assessed for an amount greater than one thousand dollars unless the violation:

(1) threatens public health or safety;

(2) is committed knowingly and intentionally; or

(3) reflects a continuing and repetitive pattern of disregard for the requirements of this article.

(C) An administrative fine may not exceed ten thousand dollars for a violation.”

SECTION 2. Section 23‑9‑20 of the 1976 Code is amended to read:

“Section 23‑9‑20. The State Fire Marshal shall:

(1) supervise enforcement of the laws and regulations of the Liquefied Petroleum Gas Board and the South Carolina Hydrogen Permitting Program; and

(2) shall employ and supervise personnel necessary to carry out the duties of his office.”

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed

this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor.

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