**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3077**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Clyburn and Hixon

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Introduced in the House on January 11, 2011

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

Summary: Property tax exemption

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/7/2010 House Prefiled

12/7/2010 House Referred to Committee on **Ways and Means**

1/11/2011 House Introduced and read first time ([House Journal‑page 35](file:///h:\hj%20archive\2011\01-11-11.docx))

1/11/2011 House Referred to Committee on **Ways and Means** ([House Journal‑page 36](file:///h:\hj%20archive\2011\01-11-11.docx))

**VERSIONS OF THIS BILL**

[12/7/2010](file:///p:\pprever\2011-12\3077_20101207.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12‑37‑221 SO AS TO PROVIDE FOR THE EXEMPTION OF A PORTION OF THE FAIR MARKET VALUE OF ALL REAL PROPERTY ASSOCIATED WITH A FACILITY FOR THE GENERATION OF ELECTRIC POWER PLACED INTO SERVICE AFTER THE EFFECTIVE DATE OF THIS SECTION AND TO SUBJECT THE REMAINING PORTION TO A STATE PROPERTY TAX AND PROVIDE FOR ITS DISTRIBUTION AMONG THE POLITICAL SUBDIVISIONS OF THIS STATE, WITH AN AGGREGATE ANNUAL CAP ON DISTRIBUTION TO A COUNTY AND SCHOOL DISTRICTS AND MUNICIPALITIES THEREIN OF TWENTY MILLION DOLLARS AND TO PROVIDE THAT AMOUNTS OVER THE AGGREGATE COUNTY CAP MUST BE DISTRIBUTED TO THE COUNTY AND SCHOOL DISTRICTS AND MUNICIPALITIES THEREIN IN WHICH THE FACILITY IS LOCATED.

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

Whereas, there is a growing demand for electrical power throughout the United States and including South Carolina; and

Whereas, this growing demand will mean that the electrical utility companies of this nation will build new generating facilities in the years and decades to come; and

Whereas, the vast majority of these new generating facilities are expected to be powered by nuclear energy, by fossil fuels such as coal and natural gas, and perhaps by alternative energy sources such as solar and wind power; and

Whereas, most of these new facilities are expected to be extremely large in scale, requiring the investment of billions of dollars; and

Whereas, in a state like South Carolina, these new plants will be located in only a few counties in the State; and

Whereas, because of the very high capital investment involved, the new generating plants, under present law, will pay extremely large ad valorem taxes, or fees‑in‑lieu of taxes, to the counties in which they are located, resulting in huge financial windfalls for these counties, amounting, in the case of one proposed ten billion dollar investment, to a potential one hundred fifty million dollars in fee‑in‑lieu of tax annual revenue, more than quadrupling the tax revenue for that county; and

Whereas, because these plants will create relatively few jobs and require a negligible amount of local services, the host counties will experience very little increase in costs of local government, thus making their revenue windfall under current laws almost all fall to the bottom line; and

Whereas, because these plants are a part of a regulated industry, the electrical customers from across the service area of the utilities are required to pay electrical costs based upon the total costs of the utility, including the costs of the ad valorem taxes, or the fees‑in‑lieu of taxes, on the generating facilities; and

Whereas, as a result of this regulated system, the electrical customers from across the service area of the utility are, in effect, paying the counties where the generating facilities are located the enormous windfalls that they will enjoy under current law; and

Whereas, because of the evolving global economy in which most manufacturing investment is being made in other countries around the work, many of our counties and school districts have not been able to attract the kind of capital investment which they need in order to generate sufficient ad valorem taxes to support their requirements; and

Whereas, many of the counties and school districts where such facilities will not be built are in desperate need of additional revenue; and

Whereas, many citizens believe that it is fundamentally inequitable for some local governments to enjoy such large windfalls while other local governments are in dire need of additional revenue; and

Whereas, if it is assumed that twenty‑five billion dollars will be spent on new generating facilities over the next fifteen years with fees‑in‑lieu of taxes calculated at four percent of fair market value and an average millage rate of three hundred mills, and that the ad valorem taxes or fees were shared on a per capita basis with all of the counties and school districts within the state, each county would receive additional annual revenue. Now, therefore,

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

SECTION 1. Article 3, Chapter 37, Title 12 of the 1976 Code is amended by adding:

“Section 12‑37‑221. (A) For purposes of ad valorem taxes imposed by a political subdivision, eighty‑five percent of the total fair market value of all real property associated with a facility for the generation of electric power placed into service after the effective date of this section, and otherwise subject to property tax, is exempt from property tax imposed by any applicable political subdivision.

(B) The eighty‑five percent of the fair market value of property qualifying for the exemption in subsection (A) is subject to a state property tax. The state property tax must be assessed at a ratio of ten and one‑half percent for school operating, county operating, and municipal operating purposes only. The millage rate for each purpose must not exceed the average annual rate imposed for that purpose throughout the State and must be set annually in the general appropriations act. The tax must be imposed by the county treasurer and collected in the same manner as other property taxes collected by the county for the same purpose and remitted upon receipt to the State Treasurer.

(C)(1) Upon receipt of the tax imposed by this section and subject to the limit imposed pursuant to item (2) of this subsection, the State Treasurer shall transfer the amount collected for school operating purposes to the Homestead Exemption Fund to be distributed in the manner provided by this fund and the State Treasurer shall transfer the amount collected for county and municipal operating purposes to the Local Government Fund to be distributed in the manner provided by this fund. A donor county is ineligible to receive a distribution pursuant to this item. For purposes of this item, a ‘donor county’ is a county, and a school district or municipality located therein, which receives property tax revenue or fee‑in‑lieu of property tax revenue, as a result of the facility’s location in the jurisdiction. Distributions otherwise due a donor county must be added pro rata to all other receiving jurisdictions.

(2) Distributions pursuant to item (1) of this subsection are subject to an aggregate annual cap of twenty million dollars to a county and the school districts and municipalities located therein. Amounts in excess of this aggregate county cap must be distributed to the taxing jurisdictions in which the facility is located in the proportion that each such jurisdiction receives property tax revenue or fee‑in‑lieu of property tax revenue from the facility.”

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

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