**South Carolina General Assembly**

119th Session, 2011-2012

**S. 719**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Matthews and Leventis

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Introduced in the Senate on March 22, 2011

Currently residing in the Senate Committee on **Judiciary**

Summary: Establish a renewable energy and efficiency portfolio standard for electric power suppliers

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/22/2011 Senate Introduced and read first time ([Senate Journal‑page 12](file:///h:\sj%20archive\2011\03-22-11.docx))

3/22/2011 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 12](file:///h:\sj%20archive\2011\03-22-11.docx))

1/9/2012 Senate Referred to Subcommittee: Rankin (ch), Hutto, Campbell

**VERSIONS OF THIS BILL**

[3/22/2011](file:///p:\pprever\2011-12\719_20110322.docx)

**A** **BILL**

TO AMEND TITLE 58 OF THE 1976 CODE, RELATING TO PUBLIC UTILITIES, SERVICES, AND CARRIERS, BY ADDING CHAPTER 39 TO ESTABLISH A RENEWABLE ENERGY AND EFFICIENCY PORTFOLIO STANDARD FOR ELECTRIC POWER SUPPLIERS, TO ACCOUNT FOR INCREMENTAL COSTS INCURRED BY AN ELECTRIC POWER SUPPLIERS, TO PROVIDE THAT THE PUBLIC SERVICE COMMISSION MUST ENFORCE THE STANDARD, MONITOR COMPLIANCE WITH THIS CHAPTER, AND CARRY OUT CERTAIN OTHER DUTIES, TO PROVIDE THAT THE COMMISSION MUST MAKE AN ANNUAL REPORT OF ENFORCEMENT ACTIONS AND COMPLIANCE, TO PROVIDE STANDARDS FOR BIOMASS COMBUSTION PROCESSES AT NEW RENEWABLE ENERGY FACILITIES THAT DELIVER ELECTRIC POWER TO AN ELECTRIC POWER SUPPLIER, AND TO PROVIDE FOR PENALTIES FOR NON‑COMPLIANCE, TO AMEND CHAPTER 31, TITLE 58 BY ADDING SECTION 58‑31‑610 TO PROVIDE THAT THE PUBLIC SERVICE AUTHORITY MUST COMPLY WITH THE STANDARDS ESTABLISHED IN THIS ACT; TO AMEND CHAPTER 49, TITLE 33 BY ADDING SECTION 33‑49‑150 TO PROVIDE THAT CERTAIN ELECTRIC COOPERATIVES MUST COMPLY WITH THE STANDARDS ESTABLISHED IN THIS ACT; AND TO DEFINE NECESSARY TERMS.

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

SECTION 1. Title 58 of the 1976 Code is amended by adding:

“Chapter 39

Renewable Energy

and Energy Efficiency Portfolio Standard

Section 58‑39‑10. The General Assembly finds and declares that:

(1) In order to attain a target of generating twenty percent of total retail sales of electricity in South Carolina from eligible renewable energy resources by December 31, 2022, and for the purposes of increasing the diversity, reliability, public health, and environmental benefits of the energy mix, it is the intent of the General Assembly that the South Carolina Public Service Commission, the South Carolina Public Service Authority, and any electrical cooperative regulated pursuant to Title 33, Chapter 49 implement the South Carolina Renewable Energy Portfolio Standards described in this article.

(2) Increasing South Carolina’s reliance on eligible renewable energy resources will promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.

(3) The development of eligible renewable energy resources in South Carolina will foster the development of new ‘green’ jobs and forestry‑related jobs, as well as more efficient utilization of South Carolina’s abundant forest resources.

(4) The development of eligible renewable energy resources and the delivery of the electricity generated by those resources to customers in South Carolina will ameliorate air quality problems throughout the State and improve public health by reducing the burning of fossil fuels and the associated environmental impacts and by reducing in‑state fossil fuel consumption.

(5) The South Carolina Renewable Energy Portfolio Standards are intended to complement the Energy Supply and Efficiency Program established pursuant to Title 58, Chapter 37 and the South Carolina Energy Efficiency Act administered by the State Energy Office.

(6) New and modified electric transmission facilities will be necessary to facilitate the State achieving its renewable energy portfolio standards.

Section 58‑39‑20. (A) As used in this chapter:

(1) ‘Combined heat and power system’ means a system that uses waste heat to produce electricity or useful, measurable thermal or mechanical energy at a retail electric customer’s facility.

(2) ‘Commission’ means the South Carolina Public Service Commission.

(3) ‘Demand‑side management’ means a program conducted or proposed by a producer, supplier, or distributor of energy for the reduction or more efficient use of energy requirements of the producer’s, supplier’s, or distributor’s customers, including, but not limited to, conservation and energy efficiency, load management, cogeneration, and renewable energy technologies.

(4) ‘Electric power supplier’ means any electrical utility, as defined in Section 58‑27‑10, the South Carolina Public Service Authority, any electric membership cooperative, any municipality, or any other entity located in the State that sells electric power to retail electric power customers.

(5) ‘Energy efficiency measure’ means an equipment, physical, or program change implemented after July 1, 2011, that results in less energy used to perform the same function. ‘Energy efficiency measure’ includes, but is not limited to, energy produced from a combined heat and power system that uses nonrenewable energy resources. ‘Energy efficiency measure’ does not include demand‑side management.

(6) ‘Renewable energy certificate’ means a tradable instrument that is equal to one megawatt hour of electricity or equivalent energy supplied by a renewable energy facility or reduced by implementation of an energy efficiency measure that is used to track and verify compliance with the requirements of this chapter as determined by the commission. A ‘renewable energy certificate’ does not include the related emission reductions, including, but not limited to, reductions of sulfur dioxide, oxides of nitrogen, mercury, or carbon dioxide.

(7) ‘Renewable energy facility’ means a facility with a generation capacity of more than one megawatt that was placed into service on or after July 1, 2011, and that:

(a) generates electric power by the use of a renewable energy resource;

(b) generates useful, measurable combined heat and power derived from a renewable energy resource; or

(c) is a solar thermal energy facility.

(8) ‘Renewable energy resource’ means a solar electric, solar photovoltaic, solar thermal, wind, hydropower, geothermal, or ocean current or wave energy resource; a biomass resource, including agricultural byproduct, animal byproduct, wood including bark, wood chips, sawdust, and lignin in spent pulping liquors, energy crops, algae, and landfill or biologically derived methane; fuel cells utilizing renewable fuels; waste heat derived from a renewable energy resource and used to produce electricity or useful, measurable thermal energy at a retail electric customer’s facility; or hydrogen derived from a renewable energy resource. ‘Renewable energy resource’ does not include peat, a fossil fuel, or nuclear energy resource.

Section 58‑39‑30. (A) Each electric power supplier in the State shall be subject to a Renewable Energy and Energy Efficiency Portfolio Standard according to the following schedule measured as a percentage of annual retail sales:

Calendar Year REPS Requirement

2015 4%

2016 7%

2017 10%

2018 12%

2019 14%

2020 16%

2021 18%

2022 and thereafter 20%

(B) An electric power supplier meets the requirements of this chapter by:

(1) generating electric power at a renewable energy facility;

(2) reducing energy consumption through the implementation of an energy efficiency measure; provided, however, that an electric public utility subject to the provisions of this chapter may meet up to twenty‑five percent of the requirements of this chapter through savings due to implementation of energy efficiency measures;

(3) purchasing electric power from a renewable energy facility. Electric power purchased from a renewable energy facility located outside the geographic boundaries of the State shall meet the requirements of this chapter if the electric power is delivered to a public utility that provides electric power to retail electric customers in the State; provided, however, the electric public utility shall not sell the renewable energy certificates created pursuant to this paragraph to another electric public utility;

(4) purchasing renewable energy certificates derived from in‑state renewable energy facilities. If an electric power supplier sells electricity in any other state and is subject to renewable energy portfolio requirements in that state, they shall list any such requirement and shall indicate how it satisfied those renewable energy portfolio requirements. To prevent double counting, the electric distribution supplier or electric generation company shall not satisfy South Carolina’s alternative energy portfolio requirements using alternative energy used to satisfy another state’s portfolio requirements; or

(5) using electric power that is supplied by a renewable energy facility or saved due to the implementation of an energy efficiency measure that exceeds the requirements of this chapter for any calendar year as a credit towards the requirements of this chapter in the following calendar year or sell the associated renewable energy certificates.

Section 58‑39‑40. (A) For purposes of this section, the term ‘incremental costs’ means all reasonable and prudent costs incurred by an electric power supplier to:

(1) comply with the requirements of Section 58‑39‑30 that are in excess of the electric power supplier’s avoided costs other than those costs recovered pursuant to Article 7, Chapter 27, Title 58 and Section 58‑31‑30(A)(13);

(2) fund research that encourages the development of renewable energy, energy efficiency, or improved air quality, provided those costs do not exceed one million dollars per year; and

(3) comply with any federal mandate that is similar to the requirements of Section 58‑39‑30 that exceed the costs the electric power supplier would have incurred under that section in the absence of the federal mandate.

(B) All reasonable and prudent costs incurred by an electric power supplier to comply with any federal mandate that is similar to the requirements of Section 58‑39‑30, including, but not limited to, the avoided costs associated with a federal mandate that exceeds the avoided costs the electric power supplier would have incurred pursuant to Section 58‑39‑30 in the absence of the federal mandate, shall be recovered by the electric power supplier in an annual rider charge assessed in accordance with a schedule to be determined by the commission that may be increased by the commission on a pro rata basis to allow for full and complete recovery of all reasonable and prudent costs incurred to comply with the federal mandate.

Section 58‑39‑50. The commission shall promulgate regulations to implement the provisions of this chapter which shall:

(1) provide for the monitoring of compliance with and enforcement of the requirements of this chapter;

(2) ensure that energy credited toward compliance with the provisions of this chapter not be credited toward any other purpose, including another renewable energy portfolio standard or voluntary renewable energy purchase program in this State or any other state;

(3) establish standards for interconnection of renewable energy facilities and other nonutility owned generation to an electric public utility’s distribution system; provided, however, that the commission shall adopt, if appropriate, federal interconnection standards;

(4) ensure that the owner and operator of each renewable energy facility that delivers electric power to an electric power supplier is in substantial compliance with all federal and state laws, regulations, and rules for the protection of the environment and conservation of natural resources;

(5) consider whether it is in the public interest to adopt rules for electric public utilities for net metering of renewable energy facilities with a generation capacity of one megawatt or less;

(6) develop procedures to track and account for renewable energy certificates, including ownership of renewable energy certificates that are derived from a customer owned renewable energy facility as a result of any action by a customer of an electric power supplier that is independent of a program sponsored by the electric power supplier.

Section 58‑39‑60. The commission must annually report concerning activities taken by it to implement, and by electric power suppliers to comply with, the requirements of this chapter. The report must be submitted no later than January thirty first to the General Assembly, the State Energy Office, and the Joint Legislative Committee on Energy. The report shall include any public comments received regarding direct, secondary, and cumulative environmental impacts of the implementation of the requirements of this chapter. Electric power suppliers must annually file a report with the commission, on a date set by the commission, concerning their activities taken to comply with the requirements of this chapter.

Section 58‑39‑70. As used in this section, ‘reasonably available control technology’ means an emissions limitation based upon control technology that is reasonably available and both technologically and economically feasible. A biomass combustion process at any new renewable energy facility that delivers electric power to an electric power supplier shall meet the more stringent of either applicable federal or state emissions standards or reasonably available control technology. The South Carolina Department of Health and Environmental Control may adopt regulations to implement this section.

Section 58‑39‑80. No later than January 1, 2013, the commission shall develop, implement, and maintain an Internet web site that allows online tracking of renewable energy certificates in order to verify the compliance of electric power suppliers with the renewable energy and energy efficiency portfolio standard requirements contained in this chapter and to facilitate the establishment of a market for the purchase and sale of renewable energy certificates.

Section 58‑39‑90. If, after notice and hearing, the commission determines that an electric power supplier has failed to comply with the renewable energy and energy efficiency portfolio standard requirements contained in this chapter, the commission shall impose an alternative compliance payment on that electric power supplier. The alternative compliance payment is equal to forty‑five dollars multiplied by the number of additional alternative energy credits needed in order to comply with the renewable energy and energy efficiency portfolio standard requirements contained in this chapter. The alternative compliance payments shall be utilized solely for projects that will increase the amount of the renewable energy and energy efficiency portfolio standards within the State from renewable resources.”

SECTION 2. Chapter 31, Title 58 of the 1976 Code is amended by adding:

“Section 58‑31‑610. The Public Service Authority shall comply with the standards and reporting requirements contained in the Renewable Energy and Energy Efficiency Portfolio Standard pursuant to Chapter 39, Title 58.”

SECTION 3. Chapter 49, Title 33 of the 1976 Code is amended by adding:

“Section 33‑49‑150. Each electric cooperative subject to this act that sells electric power to retail electric power customers shall comply with the standards and reporting requirements contained in the Renewable Energy and Energy Efficiency Portfolio Standard pursuant to Chapter 39, Title 58.”

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

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