**South Carolina General Assembly**

120th Session, 2013-2014

**H. 3425**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. J.E. Smith, Loftis, Cobb‑Hunter, Horne, M.S. McLeod, Funderburk, W.J. McLeod, Powers Norrell, Rutherford, King, Neal, R.L. Brown and Alexander

Document Path: l:\council\bills\agm\19807ab13.docx

Companion/Similar bill(s): 536

Introduced in the House on January 24, 2013

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Energy System Freedom of Ownership Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/24/2013 House Introduced and read first time ([House Journal‑page 29](file:///h:\HJ%20Archive\2013\01-24-13.docx))

1/24/2013 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 29](file:///h:\HJ%20Archive\2013\01-24-13.docx))

1/29/2013 House Member(s) request name added as sponsor: King

2/6/2013 House Member(s) request name added as sponsor: Neal

2/20/2013 House Member(s) request name added as sponsor: Whipper, R.L.Brown

2/26/2013 House Member(s) request name added as sponsor: Alexander

**VERSIONS OF THIS BILL**

[1/24/2013](file:///p:\pprever\2013-14\3425_20130124.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “ENERGY SYSTEM FREEDOM OF OWNERSHIP ACT” BY ADDING ARTICLE 14 TO CHAPTER 52, TITLE 48 SO AS TO PROVIDE THAT A THIRD PARTY MAY SELL ELECTRICITY PRODUCED BY A RENEWABLE ENERGY FACILITY AS DEFINED IN THIS ACT, TO DEFINE CERTAIN TERMS, TO PROVIDE THAT THE SALE OF ELECTRICITY FROM A RENEWABLE ENERGY FACILITY BY THIRD PARTIES DOES NOT SUBJECT THE SELLER TO REGULATION AS A PUBLIC UTILITY, TO PROVIDE RELATED RESPONSIBILITIES OF THE STATE ENERGY OFFICE, TO IMPOSE CERTAIN REQUIREMENTS ON FEES CHARGED BY A UTILITY TO A RENEWABLE ENERGY FACILITY; AND TO PROVIDE THAT THE STATE ENERGY OFFICE MAY PROMULGATE NECESSARY REGULATIONS; AND BY ADDING SECTION 58‑27‑25 SO AS TO EXEMPT RENEWABLE ENERGY FACILITIES FROM PROVISIONS GOVERNING ELECTRIC UTILITIES AND ELECTRIC COOPERATIVES.

Whereas, limited competition in currently protected electricity markets will promote the development of local, indigenous energy resources; and

Whereas, reliable and affordable technology has developed to enable consumers of electricity to produce electrical power from renewable sources; and

Whereas, the development of customer‑producer resources will foster private investment that would create new tax bases and jobs throughout the State; and

Whereas, distributed renewable energy sources can greatly reduce the strain on the State’s transmission and distribution infrastructure; and

Whereas, increasing low‑cost electrical generation by customer‑producers would result in lower overall energy costs for consumers in South Carolina; and

Whereas, permitting a third party who owns or operates a renewable energy facility on a customer’s property to sell electricity to the property owner increases affordability of renewable energy facilities to those who are not able to acquire and implement technology needed to generate electricity for their own use. Now, therefore,

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

SECTION 1. This act must be known as the “Energy System Freedom of Ownership Act”.

SECTION 2. Chapter 52, Title 48 of the 1976 Code is amended by adding:

“Article 14

Renewable Energy Facilities

Section 48‑52‑1100. The State Energy Office shall develop standards for the sale of electricity that a customer of a utility company generates from a renewable energy facility owned or provided by a third party but located on the customer’s property and primarily intended to offset part or all of the electricity requirements of the customer.

Section 48‑52‑1120. For the purposes of this article:

(1) ‘Customer’ means a user of electrical energy from an electric utility regulated under Title 58.

(2) ‘Customer‑producer’ means a customer who produces electricity from a renewable energy facility provided by a third party who may sell the electricity.

(3) ‘Nameplate capacity’ means the intended maximum full‑load sustained output of a power generating source under ideal conditions.

(4) ‘Electric utility’ means an electric utility regulated under Title 58.

(5) ‘Renewable energy facility’ or ‘facility’ means a facility that generates energy from a renewable resource and is:

(a) owned or provided by a third party;

(b) located on the site owned or leased by an electric utility customer;

(c) primarily intended and designed to offset part or all of the electricity requirements of the customer; and

(d) connected to the distribution system of the electric utility from which the customer may purchase or acquire electrical power.

(6) ‘Power purchase agreement’ means a contract between two parties, one who generates electricity for the purpose of sale and one who is looking to purchase electricity. A power purchase agreement is a key instrument of project finance because it defines the revenue and credit quality of a generating project.

(7) ‘Site’ means all contiguous property owned or leased by the customer without regard to easements, public thoroughfares, or other similar interruptions capable of dividing parcels of property under common ownership.

(8) ‘Third party’ means an entity that owns or provides a renewable energy facility to a customer of an electric utility, and then sells electricity produced by that renewable energy facility to the customer. A third party is neither the electric utility or the utility customer whose property is the site of a renewable energy facility, but a distinct and separate third party.

Section 48‑52‑1130. The provisions of this article apply to a customer regardless of whether the customer finances the renewable energy facility by purchase, lease, loan, or other form of financing, including a power purchase agreement.

Section 48‑52‑1140. A third party who owns or operates a renewable energy facility located on the site of the customer‑producer may sell electricity produced by the facility to the customer regardless of the means of financing used by the customer to secure use of the facility. Such a sale does not subject the third party to regulation as a public utility under Title 58 unless the nameplate capacity of the energy facility on the site of the customer exceeds:

(1) the maximum nameplate capacity allowed as estimated by the State Energy Office;

(2) two megawatts; or

(3) both (1) and (2).

Section 48‑52‑1150. The State Energy Office shall:

(1) estimate the annual peak demand of a customer who seeks to become a customer‑producer by adding a renewable energy facility to an existing building, a building under construction, or a newly constructed building;

(2) establish the maximum capacity that must be the nameplate capacity of a renewable energy facility of a customer‑producer based on the peak demand estimated in item (1);

(3) register and track third party installations by capacity; and

(4) prevent further third party installations once the combined capacity of all third party installations in a utility’s service territory reaches two percent of the peak demand of that utility.

Section 48‑52‑1160. (A) The owner of a renewable energy facility shall register the facility with the State Energy Office on forms provided by the office. This registration information must include the name of the owner, the location of the facility, and the mailing address and telephone number of the owner.

(B) The office shall maintain a registry of facilities registered pursuant to subsection (A). This information must be available for inspection by the public and is subject to the South Carolina Freedom of Information Act.

(C) The State Energy Office may impose and collect a fee equal to ten dollars for each kilowatt of generation capacity for the initial registration of a facility under this section. Revenue from the collection of this fee must be used to offset the cost of carrying out the provisions of this article.

Section 48‑52‑1170. Notwithstanding another provision of law, an electric utility shall not require a renewable energy facility to pay a monthly fee or standby charge, use specific equipment, maintain insurance, or satisfy any other requirement that the utility does not apply to a customer who is not a renewable energy facility.

Section 48‑52‑1180. The State Energy Office may promulgate regulations to carry out the provisions of this article.”

SECTION 2. Article 1, Chapter 27, Title 58 of the 1976 Code is amended by adding:

“Section 58‑27‑25. The provisions of this chapter do not apply to a Renewable Energy Facility as found in Article 14, Chapter 52, Title 48.”

SECTION 3. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑