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COMMITTEE AMENDMENT ADOPTED

May 29, 2014

**H. 3644**

Introduced by Reps. Loftis, Gagnon, Herbkersman, Lowe, Lucas, D.C. Moss, H.L. Ott, Pitts, Toole and Bowers

S. Printed 5/29/14--S.

Read the first time February 5, 2014.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 13‑1‑390 SO AS TO ESTABLISH WITHIN THE DIVISION OF STATE DEVELOPMENT OF THE DEPARTMENT OF COMMERCE THE CLEAN ENERGY INDUSTRY MARKET DEVELOPMENT ADVISORY COUNCIL AND PROVIDE FOR ITS MEMBERSHIP AND FUNCTIONS; TO AMEND SECTION 12‑6‑3588, RELATING TO THE RENEWABLE ENERGY TAX CREDIT INCENTIVE PROGRAM, SO AS TO REDESIGNATE THE PROGRAM THE SOUTH CAROLINA CLEAN ENERGY TAX INCENTIVE PROGRAM, TO REVISE DEFINITIONS TO EXTEND THE CREDIT TO ADDITIONAL FORMS OF ENERGY PRODUCTION AND OPERATIONS, TO DECREASE INVESTMENT THRESHOLDS AND DECREASE JOB CREATION THRESHOLDS FOR QUALIFYING FOR THE CREDIT AND MAKE THE CREDIT, PREVIOUSLY DUE TO EXPIRE DECEMBER 31, 2015, AVAILABLE THROUGH 2019 AND TO REVISE CREDIT ADMINISTRATION PROCEDURES; AND TO AMEND SECTION 12‑6‑3600, AS AMENDED, RELATING TO THE INCOME TAX CREDIT FOR CORN‑BASED ETHANOL OR SOY‑BASED BIODIESEL PRODUCTION IN THIS STATE, SO AS TO EXTEND THE CREDIT TO ALL LIQUID FUELS DERIVED FROM RENEWABLE SOURCES, MAKE CONFORMING DEFINITIONS, REDUCE THE AMOUNT OF LIQUID FUEL ELIGIBLE FOR THE CREDIT, AND TO EXTEND THE PERIOD DURING WHICH THE CREDIT MAY BE CLAIMED THROUGH 2019.

Amend Title To Conform

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

SECTION 1. A. Section 12‑6‑3588 of the 1976 Code is amended to read:

“Section 12‑6‑3588. (A) The General Assembly has determined to enact the ‘South Carolina ~~Renewable~~ Clean Energy Tax Incentive Program’ as contained in this section to encourage business investment that will produce high quality employment opportunities and enhance this state’s position as a center for production and use of ~~renewable~~ clean energy products. The program accomplishes this goal by providing tax incentives to companies in the solar, wind, geothermal, and other ~~renewable~~ clean energy industries ~~who~~ which are expanding or locating in South Carolina.

(B) As used in this section:

(1) ‘Capital investment’ means an expenditure to acquire, lease, or improve property that is used in operating a business, including land, buildings, machinery, and fixtures.

(2) ‘Manufacturing’ means fabricating, producing, or manufacturing raw or unprepared materials into usable products, imparting new forms, qualities, properties, and combinations. Manufacturing does not include generating electricity for off‑site consumption.

(3) ‘Qualifying investment’ means investment in land, buildings, machinery, and fixtures for expansion of an existing facility or establishment of a new facility in this State. Qualifying investment does not include relocating an existing facility in this State to another location in this State without additional capital investment.

(4) ‘~~Renewable~~ Clean energy operations’ are limited to manufacturers of systems ~~and~~ or components that are used or useful in manufacturing ~~renewable~~ or operation of clean energy equipment for the generation, storage, testing and research and development, and transmission or distribution of electricity from ~~renewable~~ clean energy sources, including specialized packaging for the ~~renewable~~ clean energy equipment manufactured at the facility. A clean energy operation does not include generating electricity for off‑site consumption.

(C) A business or corporation meeting the requirements of this section ~~beginning in 2010~~ is eligible to receive a ten percentnonrefundable income tax credit of the cost of the company’s total qualifying investments in plant and equipment in this State for ~~renewable~~ clean energy operations.

(D) The business or corporation ~~must~~ shall:

(1) manufacture ~~renewable~~ clean energy systems ~~and~~ or components in South Carolina for solar, wind, geothermal, or other ~~renewable~~ clean energy uses in order to be eligible for the tax credit authorized by this section;

(2) invest at least ~~five hundred~~ fifty million dollars in a Tier IV county, at least one hundred million dollars in a Tier III county, at least one hundred fifty million dollars in a Tier II county, and at least two hundred million dollars in a Tier I county according to the county ranking and designation system as provided pursuant to Section 12‑6‑3360(B) in the year the tax credit is claimed in new qualifying plant and equipment; and

(3) have created at least one ~~and one‑half~~ full‑time job for every ~~five hundred thousand~~ one million dollars of capital investment qualifying for the credit that each pays at least one hundred twenty‑five percent of this state’s average annual median wage as defined by the Department of Commerce.

(E) The income tax credit ~~program~~ is ~~for a five‑year period~~ allowed for up to sixty months beginning ~~January 1, 2010, and ending~~ with the first taxable year for which the business or corporation is eligible to receive the credit, so long as the business or corporation becomes eligible to receive the credit no later than the tax year ending on December 31, ~~2015~~ 2020.

(F) A taxpayer may separately qualify for new facilities in separate locations or for separate expansions of existing facilities located in this State.

(G) A taxpayer’s total credit for all expenditures allowed pursuant to this section must not exceed five hundred thousand dollars for any year and five million dollars total for all years. Unused credits may be carried forward for fifteen years after the tax year in which a qualified expenditure was made. The credit is nonrefundable.

(H) For any credit awarded after tax year 2014, to obtain the amount of the credit available to a taxpayer, each taxpayer shall notify the Department of Revenue, in writing, of its intention to claim the tax credit. The Department of Revenue shall determine the proof necessary to meet the requirements of subsections (D)(1) and (D)(2). Expenditures qualifying for ~~a~~ the tax credit allowed by this section must be certified by the ~~State Energy Office~~ Department of Revenue. The ~~State Energy Office may~~ Department of Revenue must consult with the Department of Commerce, the State Energy Office, or any other appropriate state and federal officials on standards for certification.

~~(I)~~ ~~To obtain the amount of the credit available to a taxpayer, each~~ Each taxpayer ~~must~~ shall submit a request for the credit to the ~~State Energy Office~~ Department of Revenue by January thirty‑first for qualifying expenses incurred in the previous calendar year and the ~~State Energy Office~~ Department of Revenue must notify the taxpayer that the submitted expenditures qualify for the credit and the amount of credit allocated to such taxpayer by March first of that year. A taxpayer may claim the maximum amount of the credit for its taxable year which contains the December thirty‑first of the previous calendar year.

(I) To obtain the amount of the credit available to a taxpayer, the Department of Commerce also must certify to the ~~State Energy Office~~ Department of Revenue that the taxpayer has met the job creation requirements of subsection (D)(3).

(J) The credits authorized by this section are in lieu of any other applicable income tax credits or abatements allowed by state law, and in the event of an overlap or conflict in available credits or abatements to a taxpayer, the taxpayer must select the credit or abatement ~~he~~ the taxpayer desires in the manner prescribed by the Department of Revenue to the extent the credits or abatements conflict or overlap.”

B. This SECTION takes effect upon approval by the Governor and applies to tax years beginning after 2013.

SECTION 2. Section 12‑6‑3620 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

“( ) Notwithstanding subsections (A) or (D)(1), for any credit requested after tax year 2013, to obtain the maximum amount of credit available to a taxpayer, a taxpayer must submit a request for credit to the Department of Revenue by January thirty‑first for all qualifying equipment placed in service in the previous calendar year and the department must notify the taxpayer that it qualifies for the credit and the amount of credit allocated to the taxpayer by March first of that year. A taxpayer may claim the maximum amount of the credit for its taxable year which contains the December thirty‑first of the previous calendar year. The Department of Revenue may require any documentation that it deems necessary to administer the credit, including, but not limited to, documentation relating to certifying the costs incurred by a taxpayer. The Department of Revenue shall consult with the State Energy Office or any other appropriate state and federal officials on standards for certification.”

SECTION 3. A. Section 12‑20‑105(B) of the 1976 Code is amended by adding an appropriately numbered item to read:

“(3) In a county in which at least five million dollars in state accommodations tax imposed pursuant to Section 12‑36‑920 has been collected in at least one fiscal year, a county or municipality‑owned multiuse sports and recreational complex is considered an ‘eligible project’ promoting economic development for all purposes of the credit allowed pursuant to this section.”

B. Section 12‑20‑105 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

“( ) For the purposes of this section, for a qualifying project pursuant to subsection (B)(3), infrastructure includes all applicable provisions of subsection (C) applying to the development and construction of the sports and recreational complex and further includes costs of land acquisition and preparation, construction of facilities and venues in the complex, improvements and upgrades to existing facilities and venues, and any other capital costs incurred in the acquisition, construction, and operation of the complex.”

C. This SECTION takes effect upon approval by the Governor and applies for contributions made for a multiuse sports and recreational complex placed in service after 2011.

SECTION 4. Except where provided otherwise, this act takes effect upon approval by the Governor.

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