

COMMITTEE REPORT

February 20, 2019

S. 362

Introduced by Senators Verdin, Reese, McElveen and Rice

S. Printed 2/20/19--S. [SEC 2/21/19 11:33 AM]

Read the first time January 10, 2019.

THE COMMITTEE ON FINANCE

To whom was referred a Bill (S. 362) to amend Article 25, Chapter 6, Title 12 of the 1976 Code, relating to income tax credits, by adding Section 12-6-3775, etc., respectfully

REPORT:

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

HUGH K. LEATHERMAN, SR. for Committee.

STATEMENT OF ESTIMATED FISCAL IMPACT

Explanation of Fiscal Impact

Introduced on January 10, 2019

State Expenditure

This bill adds Section 12-6-3775, which allows a solar energy property tax credit similar to the credit in Section 12-6-3770 that was repealed December 31, 2017.

Given the similarity to the prior tax credit, we expect any expenses for the modification of tax forms to be handled within the Department of Revenue's annual updates to tax forms. Therefore, the bill is not expected to impact expenditures.

State Revenue

This bill adds Section 12-6-3775, which allows a solar energy property tax credit similar to the credit in Section 12-6-3770 that was repealed December 31, 2017. The bill allows a taxpayer who constructs, purchases, or leases solar energy property to claim an income tax credit equal to 25 percent of the cost, including the cost of installation of the property. The credit is limited to property that is located on the Environmental Protection Agency's (EPA) Priority List, National Priority List of Equivalent Sites, a list of related removal actions, as certified by the Department of Health and Environmental Control (DHEC), or land that is subject to a Voluntary Cleanup Contract with DHEC as of December 31, 2017.

The credit is earned in the year in which the solar energy property is placed in service, but must be taken in five equal annual installments. Unused credits may be carried forward for five taxable years. A credit for each installation of solar energy property placed in service may not exceed \$2,500,000. The credit is allowed on a first-come, first-served basis, and the total amount of credits may not exceed \$2,500,000 for all taxpayers in a taxable year. A taxpayer who claims any other state credit allowed with respect to solar energy property may not take the credit allowed in this section with respect to the same property. The type of equipment is limited to non-residential solar energy equipment with a nameplate capacity of at least 1,900 kw AC that uses solar radiation as a substitute for traditional energy water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. Also included are devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy. This bill takes effect in income tax years beginning after 2018. The provisions of the bill are repealed on December 31, 2021. However, if a credit is earned before the repeal, the provisions of the bill continue to apply until the credits have been fully claimed.

In 2016, there was significant interest in building a solar energy site at the former Arkwright Dump in Spartanburg County. Two companies submitted bids, however the city council voted against the measure in 2018. The Department of Revenue reports that no companies claimed the credit in 2016 or 2017.

However, we expect other projects qualifying for the tax credit may be implemented. According to DHEC, there are 564 potential site locations eligible for the credit. Given the costs associated with constructing, purchasing, and/or leasing solar energy property, taxpayers could potentially claim credits up to the \$2,500,000 threshold. Since the tax credits must be taken in five installments and unused credits may be carried forward, we expect general fund income tax revenue will be reduced by up to \$2,500,000 beginning in FY 2019-20 through FY 2025-26, when any carryforward credit will expire.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

A BILL

TO AMEND ARTICLE 25, CHAPTER 6, TITLE 12 OF THE 1976 CODE, RELATING TO INCOME TAX CREDITS, BY ADDING SECTION 12-6-3775, TO PROVIDE FOR AN INCOME TAX CREDIT TO AN INDIVIDUAL OR BUSINESS THAT CONSTRUCTS, PURCHASES, OR LEASES CERTAIN SOLAR ENERGY PROPERTY AND THAT PLACES IT IN SERVICE IN THIS STATE, AND TO DEFINE NECESSARY TERMS.

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

SECTION 1. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

"Section 12-6-3775. (A) For the purposes of this section, 'solar energy property' means any nonresidential solar energy equipment with a nameplate capacity of at least one thousand nine hundred kilowatts (1,900 kw AC) that uses solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. The term also includes related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy.

(B)(1) A taxpayer is allowed an income tax credit equal to twenty-five percent of the cost, including the cost of installation, of a solar energy property if he constructs, purchases, or leases a solar energy property that is located in the State of South Carolina and if:

- (a) the property is located on:
 - (i) the Environmental Protection Agency's National Priority List;
 - (ii) the Environmental Protection Agency's National Priority List Equivalent Sites;
 - (iii) a list of related removal actions, as certified by the Department of Health and Environmental Control; or

(iv) land that is subject to a Voluntary Cleanup Contract with the Department of Health and Environmental Control as of December 31, 2017; and

(b) he places it in service in this State during the taxable year.

(2) The credit is earned in the year in which the solar energy property is placed in service but must be taken in five equal annual installments, beginning in the year in which the solar energy property is placed in service. Unused credit may be carried forward for five taxable years from the year that the credit was able to be taken. A lessor shall give a taxpayer who leases solar energy property from him a statement that describes the solar energy property and states the cost of the property upon request. A credit is not allowed pursuant to this section if the cost of the solar energy property is provided by public funds. For the purposes of this section, 'public funds' does not include federal grants or tax credits.

(C) If the solar energy property with respect to which the credit was claimed is disposed of, taken out of service, or moved out of the State in a year in which the installment of a credit accrues, then the credit expires and the taxpayer may not take any remaining installments of the credit.

(D) A credit for each installation of solar energy property placed in service may not exceed two million five hundred thousand dollars. The credit is allowed on a first-come, first-served basis, and the total amount of credits available to be taken, pursuant to the five equal annual installments, for all taxpayers in a taxable year, may not exceed two million five hundred thousand dollars in the aggregate.

(E) A taxpayer who claims any other state credit allowed with respect to solar energy property may not take the credit allowed in this section with respect to the same property. A taxpayer may not take the credit allowed in this section for solar energy property that the taxpayer leases from another unless the taxpayer obtains the lessor's written certification that the lessor will not claim a credit pursuant to this section with respect to the property.

(F) The department may promulgate regulations necessary to implement the provisions of this section."

SECTION 2. Upon approval by the Governor, this act takes effect in income tax years beginning after 2018. The provisions of this act are repealed on December 31, 2021, except that if the credit allowed by Section 12-6-3775, as added by this act, is earned before the repeal, then the provisions of Section 12-6-3775 continue to apply until the credits have been fully claimed.

