

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1440

Short Title: NC Renewable Energy Market Creation. (Public)

Sponsors: Representatives Harrison, K. Alexander, Cotham, Martin (Primary Sponsors);
Fisher, Hall, Insko, Luebke, and Weiss.

Referred to: Energy and Energy Efficiency, if favorable, Public Utilities, if favorable,
Finance.

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE THE DEVELOPMENT OF RENEWABLE ENERGY
MARKETS AND INDUSTRIES BY REQUIRING ELECTRIC PUBLIC UTILITIES,
ELECTRIC MEMBERSHIP CORPORATIONS, AND MUNICIPALITIES THAT SELL
ELECTRIC POWER TO RETAIL ELECTRIC POWER CUSTOMERS TO CONNECT
RENEWABLE ENERGY ELECTRICITY FACILITIES IN THE STATE TO THE GRID
AND PURCHASE ALL THE ELECTRIC POWER PRODUCED AT THESE
FACILITIES AT CERTAIN FEED-IN RATES ESTABLISHED BY THE NORTH
CAROLINA UTILITIES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-2(a) is amended by adding a new subdivision to read:

"(11) To complement the REPS provisions under G.S. 62-133.8 by further promoting the development of renewable energy through the development and implementation of a program that provides for the purchase, for a specified period of time of at least 20 years, by electric public utilities of electricity produced from renewable energy resources at certain rates."

SECTION 2. Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-133.10. Connection and purchase requirements for electricity produced from renewable energy resources.

(a) Purpose. – The purpose of this section is to promote the production and use of renewable energy by creating a transparent, objective, and nondiscriminatory process that encourages connection to the grid by providing for the purchase of electricity that is produced and that is guaranteed under contract for a specified period of time of at least 20 years at a guaranteed feed-in rate. It is the intent of the General Assembly that this process will have all of the following additional benefits:

- (1) Provide the fastest means of creating new jobs and improving economic and social well-being in rural and isolated areas of the State.
- (2) Attract and create green jobs in the State and make North Carolina a regional leader in the green economy.
- (3) By providing financial certainty, encourage the immediate investment in projects by developers, reduce risk for banks, and provide a transparent mechanism for cost recovery by the electric utilities.
- (4) Reduce harmful greenhouse gas emissions from planned fossil fuel energy sources.



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- 1 (5) Increase energy independence.
2 (6) Assist electric utilities in meeting the renewable energy portfolio standards
3 (REPS) under G.S. 62-133.8.
4 (b) Definitions. – As used in this section, the following definitions apply:
5 (1) Electric utility. – An electric public utility in the State, an electric
6 membership corporation, or a municipality that sells electric power to retail
7 electric power customers in the State.
8 (2) Eligible renewable energy resource. – A renewable energy resource that is
9 subject to REPS requirements under G.S. 62-133.8 and that the Utilities
10 Commission designates as eligible for the connection and purchase
11 requirements under this section.
12 (3) Renewable energy resource. – Defined in G.S. 62-133.8.
13 (4) Renewable energy electricity facility. – A facility that produces electricity
14 from a renewable energy resource.
15 (5) Renewable energy electricity producer. – An individual, household,
16 company, or business that owns or operates a renewable energy electricity
17 facility that generates electricity from an eligible renewable energy resource.
18 A renewable energy electricity producer includes producers that do not
19 purchase electricity from the electric utility that buys electricity from the
20 producer.
21 (c) Connection to the Grid. – Upon the written request of a renewable energy electricity
22 producer, each electric utility shall connect the renewable energy electricity facility to the
23 electricity grid and shall reinforce the grid where this is necessary in order to accept electricity
24 from that producer's facility into the grid. The producer shall pay the cost of the equipment
25 needed to connect the facility to the electricity grid at the appropriate voltage level, and the
26 electric utility shall pay the costs of any necessary reinforcement of the grid. A renewable
27 energy electricity producer shall be provided with a comprehensive and detailed estimate of the
28 costs associated with connection of the producer's facility to the grid.
29 (d) Purchase by Utility Required. – The electric utility shall purchase and transmit as a
30 priority the electricity produced from the renewable energy electricity facility that is connected
31 under subsection (c) of this section. The electric utility shall not refuse to purchase and shall
32 not refuse to transmit such electricity on the grounds of insufficient grid capacity. The electric
33 utility shall pay the renewable energy electricity producer the feed-in rate developed under
34 subsection (e) of this section for the period of time of at least 20 years to which the producer
35 and the utility previously agreed by contract.
36 (e) Schedule of Feed-in Rates. – The Utilities Commission shall develop and publish a
37 schedule of feed-in rates to be paid to renewable energy electricity producers for each kilowatt
38 hour of electricity produced. The feed-in rates shall not be graduated so as to discriminate
39 against small producers. The feed-in rates shall be based on consideration of the period of time
40 that the producer is obligated by contract to produce electricity at the facility, the type of
41 renewable energy resource used to generate the electricity, and the type of technology used to
42 generate the electricity. The feed-in rates shall be adjusted annually by the annual increase, if
43 any, in the consumer price index and may be adjusted at least every year for subsequent
44 contracts entered into under this section.
45 (f) Additional Duties of the Utilities Commission. – The Utilities Commission shall
46 establish, publish, and apply transparent, objective, and nondiscriminatory procedures and
47 processes that address each of the following:
48 (1) Connecting renewable energy electricity facilities to the grid, including
49 reinforcement and costs.
50 (2) Charging transmission and distribution fees.
51 (3) Sharing of grid system costs among all producers benefiting from them.

1 (4) Determining and allocating grid capacity.

2 (5) Terms of the contracts between the renewable energy electricity producers
3 and the electric utilities, including a provision regarding the period of time
4 the renewable energy electricity producer is obligated to produce electricity
5 and the electric utility is obligated to purchase the electricity so produced.

6 (g) Report. – No later than October 1 of each year, the Utilities Commission shall report
7 on the program under this section to the Governor, the Environmental Review Commission,
8 and the Joint Legislative Utility Review Committee. This report shall include the schedule of
9 feed-in rates developed under subsection (e) of this section; the number of renewable energy
10 electricity producers that participate in this program, indicating which renewable energy
11 resource is employed by each producer, how much electricity is generated at the producer's
12 facility, and the type of technology used at each facility; and the total costs of the program to
13 the electric utilities and to the ratepayers.

14 (h) It is the intent of the General Assembly that this section complement G.S. 62-133.8;
15 accordingly, this section is subject to the provisions of G.S. 62-133.8, including its costs
16 limitations, its cost recovery provisions, and its REPS requirements and schedules."

17 **SECTION 3.** The first report due under G.S. 62-133.10 shall be submitted no later
18 than October 1, 2010. This first report shall include a report on the progress made in developing
19 and implementing the program under G.S. 62-133.10, as enacted by Section 2 of this act.

20 **SECTION 4.** This act becomes effective January 1, 2010.