

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**SENATE BILL 1085
Agriculture/Environment/Natural Resources Committee Substitute Adopted
8/11/05**

Short Title: Promote Renewable Energy from Biomass.

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

1 AN ACT TO PROMOTE THE DEVELOPMENT OF RENEWABLE ENERGY
2 DERIVED FROM CERTAIN FORMS OF BIOMASS IN ORDER TO MAKE THE
3 ENVIRONMENTALLY SUPERIOR DISPOSAL OF ANIMAL WASTE
4 ECONOMICALLY FEASIBLE AND IN ORDER TO PROTECT THE
5 ENVIRONMENT BY PROMOTING THE RECOVERY OF CHEMICALS USED
6 IN THE WOOD PULPING PROCESS, TO EXTEND CERTAIN TAX CREDITS
7 FOR INVESTING IN RENEWABLE ENERGY, TO REQUIRE THAT CERTAIN
8 ENTITIES THAT RECEIVE ECONOMIC DEVELOPMENT INCENTIVES
9 PARTICIPATE IN THE NC GREENPOWER PROGRAM, TO REQUIRE THE
10 UTILITIES COMMISSION TO REPORT ANNUALLY ON
11 INTERCONNECTIVITY, AND TO APPROPRIATE FUNDS TO PROMOTE THE
12 DEVELOPMENT OF BIOMASS ENERGY.
13

14 The General Assembly of North Carolina enacts:

15
16 **PART I. DEFINITIONS**

17
18 **SECTION 1.1.** As used in this act:

19 (1) "Biomass" means any of the following:

- 20 a. Livestock or poultry excreta or a mixture of excreta with feed,
21 bedding, litter, or other materials from an agricultural activity in
22 this State involving 250 or more confined swine or 30,000 or
23 more confined poultry.
24 b. Wood or wood waste that is used in the recovery of chemicals
25 from spent pulping liquor where the chemicals are used in, and
26 the spent pulping liquor is produced by, the wood pulping
27 process in this State.

1 (2) "Biomass energy" means electricity generated from burning biomass
2 in this State.

3 **SECTION 1.2.** G.S. 62-3(27a) reads as rewritten:

4 "(27a) 'Small power producer' means a person or corporation owning or
5 operating an electrical power production facility with a power
6 production capacity which, together with any other facilities located at
7 the same site, does not exceed 80 megawatts of electricity and which
8 depends upon renewable resources for its primary source of energy.
9 ~~For the purposes of this section, renewable resources shall mean:~~
10 ~~hydroelectric power.~~ A small power producer shall not include persons
11 primarily engaged in the generation or sale of electricity from other
12 than small power production facilities."
13

14 **PART II. EXTEND CREDIT FOR INVESTING IN RENEWABLE ENERGY** 15 **PROPERTY**

16
17 **SECTION 2.1.** G.S. 105-129.16A reads as rewritten:

18 **"§ 105-129.16A. Credit for investing in renewable energy property.**

19 (a) Credit. – If a taxpayer that has constructed, purchased, or leased renewable
20 energy property places it in service in this State during the taxable year, the taxpayer is
21 allowed a credit equal to thirty-five percent (35%) of the cost of the property. In the
22 case of renewable energy property that serves a single-family dwelling, the credit must
23 be taken for the taxable year in which the property is placed in service. For all other
24 renewable energy property, the entire credit may not be taken for the taxable year in
25 which the property is placed in service but must be taken in five equal installments
26 beginning with the taxable year in which the property is placed in service.

27 (b) Expiration. – If, in one of the years in which the installment of a credit
28 accrues, the renewable energy property with respect to which the credit was claimed is
29 disposed of, taken out of service, or moved out of State, the credit expires and the
30 taxpayer may not take any remaining installment of the credit. The taxpayer may,
31 however, take the portion of an installment that accrued in a previous year and was
32 carried forward to the extent permitted under G.S. 105-129.17. No credit is allowed
33 under this section to the extent the cost of the renewable energy property was provided
34 by public funds.

35 (c) Ceilings. – The credit allowed by this section may not exceed the applicable
36 ceilings provided in this subsection.

37 (1) Nonresidential Property. – A ceiling of two ~~hundred fifty million five~~
38 ~~hundred thousand~~ hundred thousand dollars ~~(\$250,000)~~ (\$2,500,000) per installation
39 applies to renewable energy property placed in service for any purpose
40 other than residential.

41 (2) Residential Property. – The following ceilings apply to renewable
42 energy property placed in service for residential purposes:

- 1 a. One thousand four hundred dollars (\$1,400) per dwelling unit
2 for solar energy equipment for domestic water ~~heating~~heating,
3 including pool heating.
4 b. Three thousand five hundred dollars (\$3,500) per dwelling unit
5 for solar energy equipment for active space heating, combined
6 active space and domestic hot water systems, and passive space
7 heating.
8 c. Ten thousand five hundred dollars (\$10,500) per installation for
9 any other renewable energy property for residential purposes.

10 (d) No Double Credit. – A taxpayer that claims any other credit allowed under
11 this Chapter with respect to renewable energy property may not take the credit allowed
12 in this section with respect to the same property. A taxpayer may not take the credit
13 allowed in this section for renewable energy property the taxpayer leases from another
14 unless the taxpayer obtains the lessor's written certification that the lessor will not claim
15 a credit under this Chapter with respect to the property.

16 (e) Sunset. – This section is repealed effective for renewable energy property
17 placed into service on or after 1 January 2011."

18 **SECTION 2.2.** G.S. 105-129.15A is repealed.

19 **SECTION 2.3.** G.S. 105-129.16 is repealed.

20 **SECTION 2.4.** G.S. 105-129.16C is amended by adding a new subsection to

21 read:

22 "(d) Sunset. – This section is repealed for taxable years beginning on or after 1
23 January 2006."

24
25 **PART III. ECONOMIC DEVELOPMENT INCENTIVES – REQUIRE**
26 **PARTICIPATION IN THE NC GREENPOWER PROGRAM**

27
28 **SECTION 3.1.** G.S. 105-129.4 is amended by adding a new subsection to

29 read:

30 "(b8) Renewable Energy. – A taxpayer is eligible for a credit allowed under this
31 Article only if the taxpayer makes a qualifying contribution to NC GreenPower
32 Corporation in the year in which the taxpayer engages in the activity that qualifies for
33 the credit and in each year it claims an installment or carryforward of a credit. For the
34 purposes of this subsection, a 'qualifying contribution' is one that funds the addition of
35 enough 100-kilowatt-hour blocks of renewable energy to North Carolina's power supply
36 in an amount equal to ten percent (10%) of the annual electricity usage of the
37 establishment that is the subject of the credit. If the taxpayer ceases to make the
38 qualifying contribution, the credit expires, and the taxpayer may not take any remaining
39 installment or carryforward of the credit."

40 **SECTION 3.2.(a)** G.S. 105-129.26(a) reads as rewritten:

41 "(a) Major Recycling Facility. – A recycling facility qualifies for the tax benefits
42 provided in this Article and in Article 5 of this Chapter for major recycling facilities if it
43 meets all of the following conditions:

- 1 (1) The facility is located in an area that, at the time the owner began
2 construction of the facility, was an enterprise tier one area pursuant to
3 G.S. 105-129.3.
- 4 (2) The Secretary of Commerce has certified that the owner will, by the
5 end of the fourth year after the year the owner begins construction of
6 the recycling facility, invest at least three hundred million dollars
7 (\$300,000,000) in the facility and create at least 250 new, full-time
8 jobs at the facility.
- 9 (3) The jobs at the recycling facility meet the wage standard in effect
10 pursuant to G.S. 105-129.4(b) as of the date the owner begins
11 construction of the facility.
- 12 (4) The owner of the facility makes a qualifying contribution to NC
13 GreenPower Corporation in the year in which the owner engages in the
14 activity that qualifies for the credit and in each year it claims a
15 carryforward of a credit. For the purposes of this subdivision, a
16 'qualifying contribution' is one that funds the addition of enough
17 100-kilowatt-hour blocks of renewable energy to North Carolina's
18 power supply in an amount equal to ten percent (10%) of the facility's
19 annual electricity usage."

20 **SECTION 3.2.(b)** G.S. 105-129.26(b) reads as rewritten:

21 "(b) Large Recycling Facility. – A recycling facility qualifies for the tax credit
22 provided in G.S. 105-129.27 for large recycling facilities if it meets all of the following
23 conditions:

- 24 (1) The facility is located in an area that, at the time the owner began
25 construction of the facility, was an enterprise tier one area pursuant to
26 G.S. 105-129.3.
- 27 (2) The Secretary of Commerce has certified that the owner will, by the
28 end of the second year after the year the owner begins construction of
29 the recycling facility, invest at least one hundred fifty million dollars
30 (\$150,000,000) in the facility and create at least 155 new, full-time
31 jobs at the facility.
- 32 (3) The jobs at the recycling facility meet the wage standard in effect
33 pursuant to G.S. 105-129.4(b) as of the date the owner begins
34 construction of the facility.
- 35 (4) The owner of the facility makes a qualifying contribution to NC
36 GreenPower Corporation in the year in which the owner engages in the
37 activity that qualifies for the credit and in each year it claims a
38 carryforward of a credit. For the purposes of this subdivision, a
39 'qualifying contribution' is one that funds the addition of enough
40 100-kilowatt-hour blocks of renewable energy to North Carolina's
41 power supply in an amount equal to ten percent (10%) of the facility's
42 annual electricity usage."

43 **SECTION 3.3.** G.S. 105-129.51(a) reads as rewritten:

1 "(a) A taxpayer is eligible for the credit allowed in this Article if it satisfies the
2 requirements of G.S. 105-129.4(b), (b2), (b3), ~~and (b4)-(b4)~~, and (b8) relating to wage
3 standard, health insurance, environmental impact, ~~and safety and health programs~~, and
4 renewable energy, respectively."

5 **SECTION 3.4.** G.S. 105-129.62 is amended by adding a new subsection to
6 read:

7 "(e1) Renewable Energy. – A taxpayer is eligible for a credit allowed under this
8 Article only if the taxpayer makes a qualifying contribution to NC GreenPower
9 Corporation in the year in which the taxpayer engages in the activity that qualifies for
10 the credit and in each year it claims an installment or carryforward of a credit. For the
11 purposes of this subsection, a 'qualifying contribution' is one that funds the addition of
12 enough 100-kilowatt-hour blocks of renewable energy to North Carolina's power supply
13 in an amount equal to ten percent (10%) of the annual electricity usage of the
14 establishment that is the subject of the credit. If the taxpayer ceases to make the
15 qualifying contribution, the credit expires, and the taxpayer may not take any remaining
16 installment or carryforward of the credit."

17 **SECTION 3.5.** G.S. 105-130.45 is amended by adding a new subsection to
18 read:

19 "(b1) Renewable Energy. – A taxpayer is eligible for a credit allowed under this
20 section only if the taxpayer makes a qualifying contribution to NC GreenPower
21 Corporation in the year in which the taxpayer engages in the activity that qualifies for
22 the credit and in each year it claims a carryforward of a credit. For the purposes of this
23 subsection, a 'qualifying contribution' is one that funds the addition of enough
24 100-kilowatt-hour blocks of renewable energy to North Carolina's power supply in an
25 amount equal to ten percent (10%) of the company's annual electricity usage in this
26 State. If the taxpayer ceases to make the qualifying contribution, the credit expires, and
27 the taxpayer may not take any remaining carryforward of the credit."

28 **SECTION 3.6.** G.S. 105-130.46 is amended by adding a new subsection to
29 read:

30 "(c1) Renewable Energy. – A taxpayer is eligible for a credit allowed under this
31 section only if the taxpayer makes a qualifying contribution to NC GreenPower
32 Corporation in the year in which the taxpayer engages in the activity that qualifies for
33 the credit and in each year it claims a carryforward of a credit. For the purposes of this
34 subsection, a 'qualifying contribution' is one that funds the addition of enough
35 100-kilowatt-hour blocks of renewable energy to North Carolina's power supply in an
36 amount equal to ten percent (10%) of the company's annual electricity usage in this
37 State. If the taxpayer ceases to make the qualifying contribution, the credit expires, and
38 the taxpayer may not take any remaining carryforward of the credit."

39 **SECTION 3.7.** G.S. 143B-437.53 is amended by adding a new subsection to
40 read:

41 "(f) Renewable Energy. – In order for a business to be eligible for a grant under
42 this Part, the business must make a qualifying contribution to NC GreenPower
43 Corporation in each year it is to receive a grant. For the purposes of this subsection, a
44 'qualifying contribution' is one that funds the addition of enough 100-kilowatt-hour

1 blocks of renewable energy to North Carolina's power supply in an amount equal to ten
2 percent (10%) of the annual electricity usage at the location that is the subject of an
3 agreement."

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5 **PART IV. UTILITIES COMMISSION REPORT ON INTERCONNECTIVITY**

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7 **SECTION 4.** The Utilities Commission shall prepare and submit on or
8 before 1 November of each year to the Joint Legislative Utility Review Committee a
9 report that sets out the technical considerations governing the interconnection of small
10 independent power producers to the electric power grid. The report shall identify
11 barriers to interconnection and actions taken or planned by the Commission to address
12 those issues. The report shall specifically address interconnection of facilities that
13 generate electricity from renewable energy sources, including biomass. The report shall
14 include any recommendations, including legislative proposals, that the Commission
15 finds advisable to facilitate improved interconnectivity.

16
17 **PART V. FUNDS TO SUPPORT THE DEVELOPMENT OF BIOMASS**
18 **ENERGY**

19
20 **SECTION 5.1.** As a condition for its receipt of the funds appropriated to it
21 by this Part, NC GreenPower Corporation shall agree to do all of the following:

- 22 (1) Actively promote the production of biomass energy by fostering the
23 development of biomass energy facilities.
- 24 (2) Actively promote the utilization of biomass energy by marketing
25 biomass energy blocks to residential, commercial, and industrial
26 consumers of electricity.
- 27 (3) Serve as the coordinating agency among producers of biomass;
28 producers of biomass energy; investor-owned electric utilities;
29 cooperative electric companies; municipal providers of electricity;
30 residential, commercial, and industrial consumers of electricity;
31 economic development commissions; the Utilities Commission and the
32 Public Staff; the Department of Environment and Natural Resources;
33 the Department of Agriculture and Consumer Services; and the
34 Department of Commerce in the development and utilization of
35 biomass energy.
- 36 (4) Actively work to increase general public awareness of the availability
37 and advantages of biomass energy.
- 38 (5) Identify barriers to the development and utilization of biomass energy
39 and recommend strategies, including legislative proposals, to
40 overcome those barriers.
- 41 (6) Identify methods to promote the development and utilization of
42 biomass energy and recommend strategies, including tax incentives
43 and other legislative proposals, to overcome those barriers.

- 1 (7) To prepare and submit, on or before 1 October of each year, to the
2 Joint Legislative Utility Review Committee, the Revenue Laws Study
3 Committee, and the Environmental Review Commission a report that
4 addresses each of the responsibilities of the Corporation under this
5 section.

6 **SECTION 5.2.** There is appropriated from the General Fund to the State
7 Energy Office in the Department of Administration the sum of one million dollars
8 (\$1,000,000) for the 2005-2006 fiscal year and the sum of one million dollars
9 (\$1,000,000) for the 2006-2007 fiscal year. The State Energy Office shall allocate the
10 funds appropriated by this section to the NC GreenPower Corporation as provided by
11 this Part. Funds appropriated by this section shall be used by NC GreenPower to
12 supplement the amount required to be paid by an electric utility as avoided cost under
13 G.S. 62-156(b) to purchase up to 100 megawatt-hours of biomass energy per fiscal year.
14 The sum of the amount paid per kilowatt-hour by the electric utility and NC
15 GreenPower shall not exceed the actual cost of production of the biomass energy.

16 **SECTION 5.3.** The public purposes of the appropriation of funds by this
17 Part are the development of renewable energy derived from biomass in order to promote
18 protection of the environment by development of economically feasible methods for
19 disposal of animal waste and for recovery and reuse of chemicals used in the wood
20 pulping process. In order to conserve funds so as to serve these purposes to the
21 maximum extent possible, the State Energy Office and NC GreenPower Corporation
22 shall expend funds appropriated by this Part in a manner that provides generators of
23 biomass a mechanism for the management and disposal of the biomass without adding
24 to any profit derived by biomass generators from the underlying activities that generate
25 the biomass.

26 **PART VI. EFFECTIVE DATES**

27 **SECTION 6.**

- 28
29 (1) Parts I, IV, and VI of this act are effective when it becomes law.
30 (2) Section 2.1 of this act is effective for taxable years beginning on or
31 after 1 January 2006. The remainder of Part II of this act is effective
32 when it becomes law.
33 (3) Section 3.7 of this act is effective when it becomes law and applies to
34 agreements entered into on or after that date. The remainder of Part III
35 of this act is effective for taxable years beginning on or after 1 January
36 2006.
37 (4) Part V of this act becomes effective 1 July 2005.
38