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SENATE DRS45229-MHxf-71* (03/03)

Short Title: Efficient and Affordable Energy Rates. (Public)

Sponsors: Senators Woodard, Foushee, and Van Duyn (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT (1) TO REQUIRE THE NORTH CAROLINA UTILITIES COMMISSION TO ESTABLISH TIERED ELECTRICITY RATES FOR RESIDENTIAL, COMMERCIAL, PUBLIC, AND INDUSTRIAL CUSTOMERS TO ENCOURAGE ENERGY CONSERVATION AND ENERGY EFFICIENCY; (2) TO CREATE THE ENERGY EFFICIENCY BANK TO BE USED FOR LOANS TO CUSTOMERS FOR THE COSTS OF CERTAIN ENERGY EFFICIENCY OR RENEWABLE ENERGY PROJECTS; AND (3) TO CREATE AN INCENTIVE FOR CONSUMERS TO PURCHASE ENERGY STAR QUALIFIED HOUSEHOLD PRODUCTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-155.1. Electric power tiered rates established.

The Commission shall develop, for the purpose of promoting energy conservation and energy efficiency, rate structures for residential, commercial, public, and industrial customers of electric power generated by electric public utilities as set forth in this section. The rate structure shall include all of the following elements:

(1) The rate structure for residential, commercial, and public customers shall have the following characteristics:

a. The rate structure shall be inverted. Under the inverted rate structure, the use of larger quantities of electricity shall result in a higher price per kilowatt hour for the customer; lower usage shall result in a lower price.

b. The rate structure shall be in the form of tiered blocks. The inverted tiered block rate structure shall allow that, when energy usage within a month or other billing period exceeds one tiered block, the customer shall begin to pay a higher rate for energy use in the next higher tiered block. Electricity used during peak demand periods, as that term is defined by the Commission, shall be charged at a higher tiered rate for the purpose of leveling out peak demand and minimizing the need for excess polluting generating capacity.

c. The number of inverted tiered blocks and the cost thresholds the tiered blocks represent shall be developed for the purpose of achieving the goals of promoting energy conservation and energy efficiency as provided in this section.



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- 1 (2) In addition to the characteristics set forth in subdivision (1) of this section,
2 the inverted tiered rate structure for residential customers shall have the
3 following additional characteristics:
- 4 a. The rate structure shall be designed to avoid a negative economic
5 impact on low-income families living in rental units. There will be a
6 system of exemptions from higher tiered rates for families living in
7 rental units who have an annual income of less than one hundred fifty
8 percent (150%) of the federally defined poverty level. Previous year
9 state or federal tax returns, Social Security statements,
10 unemployment insurance statements or other documents deemed as
11 proof of income by the determining state agency shall be acceptable
12 in granting exemptions from higher tiered rates for low-income
13 families living in rental units.
- 14 b. The rate structure shall be scaled to achieve a forty percent (40%) to
15 sixty percent (60%) statewide reduction in electricity consumption
16 from 2015 levels within 10 years.
- 17 (3) The inverted tiered block rate structure for industrial customers shall be
18 tailored on a case-by-case basis to maximize the financial benefit of
19 investing in energy efficiency and job creation. Energy use thresholds for
20 each industry shall be determined through the use of a comprehensive,
21 standardized energy-audit form developed by the Commission in order to
22 determine the minimum energy use required to fulfill the industry's needs
23 and the efficiency with which the industry is using energy. Each industrial
24 customer shall be responsible for submitting a completed energy-audit form
25 every three years to the Commission for rate determination. A determination
26 that the industry is operating at ninety percent (90%) or greater of maximum
27 efficiency potential as determined by the Commission will result in lower
28 tier rates for that customer. A determination that the industry is operating at
29 an efficiency lower than ninety percent (90%) will result in higher tier rates
30 for the portion of energy use in excess of usage had the industry operated
31 with energy efficiency greater than ninety percent (90%).
- 32 (4) All inverted tiered block rate structures shall be designed to guarantee
33 electric public utilities regulated by the provisions of this Chapter will
34 receive a reasonable rate of return on their capital expenditures as
35 determined by the Commission through a rate-case.
- 36 (5) The Commission shall require each electric public utility in the State to
37 provide all ratepayers a summary of the changes in the rate structure
38 imposed by this section on each monthly utility bill for one year prior to the
39 implementation of the inverted, tiered-block rate structure. The information
40 provided to customers under this subdivision shall include the following:
- 41 a. A comparison of rates that ratepayers will pay in the event they
42 consume a similar, greater or lesser amount of energy in the
43 following year.
- 44 b. Information on the availability of low-interest loans from the Energy
45 Efficiency Bank for energy efficiency projects, rooftop or
46 stand-alone solar energy systems, residential wind energy systems,
47 micro-hydro energy systems, or co-generation systems.
- 48 (6) The Commission shall adopt rules to implement this section. The rules shall
49 include a fine of no less than fifty thousand dollars (\$50,000) for any
50 industrial customer submitting a deliberately falsified energy-audit form
51 under subdivision (3) of this section."

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

3 **"§ 62-155.2. Energy Efficiency Bank.**

4 (a) Loan Fund Created. – The Energy Efficiency Bank is created. The Commission
5 shall contract with a third-party administrator or an independent government agency to
6 administer this Bank. The Bank shall consist of funds from any of the following sources:

7 (1) The proceeds from the avoidable pollution tax levied on the sale of energy
8 inefficient household products under Article 5H of Chapter 105 of the
9 General Statutes.

10 (2) The difference in revenues collected from the highest tiered block of the
11 tiered rate structure developed under G.S. 62-155.1 and the revenues that
12 would have been due based upon the next lower tiered rate block of the
13 tiered rate structure.

14 (3) The difference in the rate of return on capital expenditures for an electric
15 public utility prior to the closure of a peak demand electric power facility or
16 other peak demand electric power generating source for that utility and the
17 rate of return on capital expenditures for the utility after the closure.

18 (4) Any interest paid on loans made from the Energy Efficiency Bank.

19 (b) Purpose of Bank. – The purpose of the Energy Efficiency Bank is to issue loans,
20 subject to subsection (e) of this section, to customers to be used to invest in energy efficiency
21 and renewable energy projects in order to promote energy efficiency, energy conservation, and
22 a reduction in electric energy consumption.

23 (c) Loan Payments. – Loan payments due to be paid by the customer shall be integrated
24 within each monthly, or other billing period, utility bill and shall reflect the savings that result
25 from the energy efficiency and renewable energy made by the customer as previously
26 determined at the time the customer entered into the loan agreement.

27 (d) Eligible Projects. – The only efficiency and renewable energy projects that are
28 eligible for loans under this section are projects that can be shown to the satisfaction of the
29 administrator of the Energy Efficiency Bank to result in a lower utility bill for that customer
30 when the utility bill includes the loan payment amount due under subsection (c) of this section.

31 (e) Grants to Low-Income Households. – The Energy Efficiency Bank may be used to
32 issue grants to low-income ratepayers to be used to invest in energy efficiency and renewable
33 energy projects.

34 (f) Definitions. – As used in this section, "renewable energy resources" has the same
35 meaning as in G.S. 62-133.8.

36 (g) Authority to Adopt Rules. – The Commission may adopt rules to implement this
37 section."

38 SECTION 3. Chapter 105 of the General Statutes is amended by adding a new
39 Article to read:

40 "Article 5J.

41 "Avoidable Pollution Tax for Certain Energy Inefficient Products.

42 **"§ 105-187.91. Definitions.**

43 The definitions in G.S. 105-164.3 apply to this Article, except that the term "sale" does not
44 include lease or rental. The term "energy inefficient product" means a product that (i) is placed
45 in service for residential purposes, (ii) belongs to a product category that is evaluated by the
46 United States Environmental Protection Agency and the United States Department of Energy
47 for purposes of setting energy efficiency guidelines and of qualifying products within the
48 category for the Energy Star label, and (iii) does not qualify for the Energy Star label.

49 **"§ 105-187.92. Tax imposed.**

50 A privilege tax is imposed on an energy inefficient product retailer for each new energy
51 inefficient product that is sold by the retailer. An excise tax is imposed on a new energy

1 inefficient product sold outside the State for storage or use in this State. The rate of the
2 privilege tax and the excise tax is five percent (5%) of the sales price of the energy inefficient
3 product. These taxes are in addition to all other taxes.

4 **"§ 105-187.93. Administration.**

5 The privilege tax this Article imposes on an energy inefficient product retailer is an
6 additional State sales tax, and the excise tax this Article imposes on the storage or use of a new
7 energy inefficient product in this State is an additional State use tax. Except as otherwise
8 provided in this Article, these taxes shall be collected and administered in the same manner as
9 the State sales and use taxes imposed by Article 5 of this Chapter. As under Article 5 of this
10 Chapter, the additional State sales tax paid when an energy inefficient product is sold at retail is
11 a credit against the additional State use tax imposed on the storage or use of the same energy
12 inefficient product.

13 **"§ 105-187.94. Exemptions and refunds.**

14 Except for the exemption for sales a state cannot constitutionally tax, the exemptions and
15 refunds allowed in Article 5 of this Chapter do not apply to the taxes imposed by this Article.

16 **"§ 105-187.95. Use of tax proceeds.**

17 The Secretary must credit the taxes collected under this Article, less the Department of
18 Revenue's allowance for administrative expenses, to the Energy Efficiency Bank Fund created
19 in G.S. 62-155.2. The Secretary may retain the Department's cost of collection, not to exceed
20 four hundred twenty-five thousand dollars (\$425,000) a year, as reimbursement to the
21 Department."

22 **SECTION 4.** This act becomes effective January 1, 2016.