

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 135

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

Sponsors: Representatives Keever, Parfitt, and R. Moore (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Public Utilities, if favorable, Finance.

February 21, 2011

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 PUBLIC BENEFIT LOAN FUND 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, a rate structure for all residential, commercial, public, and industrial customers of electric power generated by electric public utilities. The rate structure shall include all of the following elements:

- (1) 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.
- (2) 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.
- (3) Separate inverted tiered block rate structures shall be developed for residential, commercial, public, and industrial customers.
- (4) The number of inverted tiered blocks for residential, commercial, public, and industrial customers 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.



- 1 (5) The inverted tiered block rate structure for residential customers shall be
2 designed to avoid a negative economic impact on low-income families and
3 rental units.
- 4 (6) The inverted tiered block rate structure for residential customers shall be
5 scaled to achieve a forty percent (40%) to sixty percent (60%) statewide
6 reduction in electricity consumption from 2010 levels within 10 years.
- 7 (7) The inverted tiered block rate structure for industrial and commercial
8 customers shall be tailored on a case-by-case basis to maximize the financial
9 benefit of investing in energy efficiency and job creation.
- 10 (8) All inverted tiered block rate structures shall be designed to guarantee
11 electric public utilities regulated by the provisions of this Chapter will
12 receive a reasonable rate of return on their capital expenditures."

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

15 **"§ 62-155.2. Energy Efficiency Public Benefit Loan Fund.**

16 (a) Loan Fund Created. – The Energy Efficiency Public Benefit Loan Fund is created.
17 The Commission shall contract with a third-party administrator or an independent government
18 agency to administer this Loan Fund. The Loan Fund shall consist of funds from any of the
19 following sources:

- 20 (1) The proceeds from the avoidable pollution tax levied on the sale of energy
21 inefficient household products under Article 5H of Chapter 105 of the
22 General Statutes.
- 23 (2) The difference in revenues collected from the highest tiered block of the
24 tiered rate structure developed under G.S. 62-155.1 and the revenues that
25 would have been due based upon the next lower tiered rate block of the
26 tiered rate structure.
- 27 (3) The difference in the rate of return on capital expenditures for an electric
28 public utility prior to the closure of a peak demand electric power facility or
29 other peak demand electric power generating source for that utility and the
30 rate of return on capital expenditures for the utility after the closure.
- 31 (4) Any interest paid on loans made from the Energy Efficiency Public Benefit
32 Loan Fund.

33 (b) Purpose of Loan Fund. – The purpose of the Energy Efficiency Public Benefit Loan
34 Fund is to issue loans, subject to subsection (e) of this section, to customers to be used to invest
35 in energy efficiency and renewable energy projects in order to promote energy efficiency,
36 energy conservation, and a reduction in electric energy consumption.

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

41 (d) Eligible Projects. – The only efficiency and renewable energy projects that are
42 eligible for loans under this section are projects that can be shown to the satisfaction of the
43 administrator of the Energy Efficiency Public Benefit Loan Fund to result in a lower utility bill
44 for that customer when the utility bill includes the loan payment amount due under subsection
45 (c) of this section.

46 (e) Grants to Low-Income Households. – The Energy Efficiency Public Benefit Loan
47 Fund may be used to issue grants to low-income ratepayers to be used to invest in energy
48 efficiency and renewable energy projects.

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

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

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

5 "Article 5H.

6 "Avoidable Pollution Tax for Certain Energy Inefficient Products.

7 "**§ 105-187.70. Definitions.**

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

14 "**§ 105-187.71. Tax imposed.**

15 A privilege tax is imposed on an energy inefficient product retailer for each new energy
16 inefficient product that is sold by the retailer. An excise tax is imposed on a new energy
17 inefficient product outside the State for storage, use, or consumption in this State. The rate of
18 the privilege tax and the excise tax is five percent (5%) of the sales price of the energy
19 inefficient product. These taxes are in addition to all other taxes.

20 "**§ 105-187.72. Administration.**

21 The privilege tax this Article imposes on an energy inefficient product retailer is an
22 additional State sales tax, and the excise tax this Article imposes on the storage, use, or
23 consumption of a new energy inefficient product in this State is an additional State use tax.
24 Except as otherwise provided in this Article, these taxes shall be collected and administered in
25 the same manner as the State sales and use taxes imposed by Article 5 of this Chapter. As under
26 Article 5 of this Chapter, the additional State sales tax paid when an energy inefficient product
27 is sold at retail is a credit against the additional State use tax imposed on the storage, use, or
28 consumption of the same energy inefficient product.

29 "**§ 105-187.73. Exemptions and refunds.**

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

32 "**§ 105-187.74. Use of tax proceeds.**

33 The Secretary must credit the taxes collected under this Article, less the Department of
34 Revenue's allowance for administrative expenses, to the Energy Efficiency Public Benefit Loan
35 Fund created in G.S. 62-155.2. The Secretary may retain the Department's cost of collection,
36 not to exceed four hundred twenty-five thousand dollars (\$425,000) a year, as reimbursement
37 to the Department.

38 "**§§ 105-187.75 through 105-187.79: Reserved for future codification purposes.**"

39 **SECTION 4.** This act becomes effective January 1, 2012.