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South Carolina Energy Overview

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S.C. energy statistics

- Spend over \$20 billion on energy annually
- 15th highest in total energy consumption per capita

Source: South Carolina Energy Office

Electricity in S.C.

South Carolina:

- Spent **\$6 billion** on electricity in 2008
- Ranks **18th** in electricity consumption per capita
- Ranks **27th** in residential price per kWh
- Ranks **26th** in commercial price per kWh
- Ranks **37th** in industrial price per kWh

Source: South Carolina Energy Office

Stimulus Funding for S.C.

Stimulus funding for S.C.

- \$76.5 million - Training Consortium
 - Partners: Gov's OEO, Utilities, Dept. of Commerce, tech system
 - \$11.6 million from OEO's Weatherization Assistance Program
 - \$9 million from the Workforce Investment Act
 - \$910,000 from the SC Energy Office

Source: South Carolina Energy Office

Stimulus funding for S.C.

- \$2.8 million – Industrial incentives
 - Grant program allowing businesses to improve energy efficiency or support renewable energy development at new or existing facilities.
 - Must qualify for and receive Council on Economic Development incentives.
 - Eligible for additional incentives if improving energy efficiency, installing renewable energy, manufacturing equipment or product that helps end user be more energy efficient or produce/use renewable energy .
 - Support will come through local economic development agencies.

Source: South Carolina Energy Office

Stimulus funding for S.C.

- **\$2.8 million – Renewable energy grants**
 - Competitive grant program available to non-profit organizations for renewable energy projects and advanced vehicle technologies.
- **\$1.5 million - Business and institutional technical assistance**
 - Assistance for public, non-profit and private entities through energy assessments, audits, consultations on purchases, and guidance on project implementation and performance contracting.
- **\$236,000 - Agricultural technical assistance**
 - Educate extension agents about energy efficiency and energy diversification in the agricultural sector

Source: South Carolina Energy Office

Other stimulus funding for S.C.

- \$46.4 million - Weatherization Assistance Program
- \$40 million - Energy-saving projects for school districts, public colleges and universities, and state agencies
- \$22 million – Energy-saving projects for 10 most populous cities and counties
- \$5.75 million – Competitive grants for local governments
- \$4.3 million - ENERGY STAR appliance rebate program
- \$2.8 million – Energy efficiency in manufactured housing pilot project

Source: South Carolina Energy Office

Other stimulus funding for S.C.

- \$800,000 – Smart Grid expertise funding (*PSC/ORS*)
- \$611,000 – Energy emergency and assurance planning
- \$560,000 - Sub-metering energy efficiency assessment and demonstration
- \$171,000 - Public outreach for energy efficiency
- \$170,000 - Biodiesel and ethanol fuel testing

Source: South Carolina Energy Office

Certified Renewable Energy Bonds (CREBs)

- CREBs finance renewable energy projects owned by public power providers, governmental bodies or cooperative electric companies. Instead of receiving interest payments, the holder of a CREB receives a quarterly tax credit.
- Government bodies sell the tax credits to eligible taxpayers and they use the money from the sale for the project.
- Stimulus legislation increased the national bond volume limitation for new CREBs to \$2.4 billion. The previous limitation was \$800 million.
- Administered by the IRS, more information available at www.dsireusa.org.

Source: South Carolina Energy Office

Other opportunities

- Almost \$23 billion in competitive grants for:
 - Research and development
 - Commercial and industrial efficiency training, equipment, research and economic development
 - New vehicle and battery technology
 - Renewable energy demonstration projects
 - Visit www.energy.gov/recovery/funding.htm for a complete list

Source: South Carolina Energy Office

Other opportunities

- Tax credits for:
 - Renewable energy manufacturing and investment
 - Extension of renewable energy production credit – incentive based on technology and is calculated per kWh
 - Renewable energy investment - 30% tax credit
 - 30% grant towards renewable energy investment for businesses (instead of either credit)
 - Residential renewable energy and energy efficiency
 - Visit www.energy.gov/recovery/taxbreaks.htm for a complete list

Source: South Carolina Energy Office

State Tax Incentives

Solar Energy Credit

South Carolina Code allows a taxpayer a credit against income taxes equal to 25% of the costs incurred in the purchase and installation of a solar energy system, including a small hydropower system, for heating water, space heating, air cooling, energy efficient daylighting, heat reclamation, energy-efficient demand response or the generation of electricity in or on a facility (or home) in South Carolina owned by the taxpayer. The credit cannot be claimed before installation of the system is completed.

Alternative Motor Vehicle Credit

- South Carolina allows a resident taxpayer a credit against income taxes equal to 20% of the federal credit allowed under Internal Revenue Code §30B. Any unused credit can be carried forward for 5 years. The credit is claimed on Form TC-35, "Alternative Motor Vehicle Credit."

Alternative Motor Vehicle Credit (Cont.)

- For a taxpayer to qualify for the credit, the taxpayer must be eligible for the federal credit pursuant to Internal Revenue Code §30B. Internal Revenue Code §30B provides an alternative motor vehicle credit equaling the total of the: (1) qualified fuel cell motor vehicle credit, (2) advanced lean burn technology motor vehicle credit, (3) qualified hybrid motor vehicle credit, and (4) qualified alternate fuel motor vehicle credit.

Plug-In Hybrid Vehicle Credit

- South Carolina Code provides a \$2,000 income tax credit to a taxpayer purchasing or leasing a plug-in hybrid vehicle in South Carolina. Any unused credit may be carried forward 5 years. A plug-in hybrid vehicle is a vehicle that shares the same benefits as an internal combustion and electric engine with an all-electric range of 9 miles or more.

Plug-In Hybrid Vehicle Credit (Cont.)

- The credit is capped at \$200,000 per fiscal year for all eligible taxpayers; if the cap is exceeded, the credit will be allocated proportionately among all taxpayers.
- The credit is claimed on Form TC-48, "Plug-in Hybrid Vehicle Tax Credit."

Ethanol or Biodiesel Production Credits

General Provisions

South Carolina provides several income tax credits for a facility that produces ethanol or biodiesel at a plant in South Carolina at which all fermentation, distillation, and dehydration takes place.

Ethanol or Biodiesel Production Credits (Cont.)

Credit for Production. South Carolina provides a tax credit of 20¢ per gallon of **corn** based ethanol or soy based biodiesel and a tax credit of 30¢ per gallon of **noncorn** based ethanol or non-soy based biodiesel produced at an ethanol or biodiesel facility that produces at a rate of at least 25% of its "name plate design capacity" by December 31, 2011.

Ethanol or Biodiesel Production Credits (Cont.)

- In the first tax year the taxpayer is eligible to claim the credit, the credit may be claimed for the first 6 months it met the requirements in addition to qualifying production during its current tax year. The credit is allowed for 60 months beginning with the first month the facility is eligible to receive the credit and ending not later than December 31, 2016. Any unused credit may be carried forward for 10 years.

Ethanol or Biodiesel Production Credits (Cont.)

Credit for Qualified New Production Beginning January 1, 2017. South Carolina provides a tax credit of 7.5¢ a gallon of ethanol or biodiesel for "new production" by an ethanol or biodiesel facility beginning January 1, 2017.

Ethanol or Biodiesel Production Credits (Cont.)

Definitions

1. "Biodiesel facility" - a plant or facility primarily engaged in the production of plant or animal based fuels used as a substitute for diesel fuel.
2. "Ethanol facility" - a plant or facility primarily engaged in the production of ethanol or ethyl alcohol derived from renewable and sustainable bioproducts used as a substitute for gasoline fuel.

Credit Application and Allocation

- Each taxpayer must submit a request for credit to the State Energy Office by January 31st for all gallons of qualifying fuel produced in the previous calendar year. The State Energy Office will notify the taxpayer of the amount of credit it may claim by March 1st. For the State fiscal year 2008-2009, the total credit for all taxpayers is capped at \$800,000. Special rules are provided for the allocation of credits for the period July 1, 2008 to December 31, 2009.
- These credits are claimed on Form TC-40, "Ethanol or Biodiesel Production Credit."

Ethanol or Biodiesel Research and Development Credit

- South Carolina allows a taxpayer an income tax credit equal to 25% of the taxpayer's "qualified expenditures for research and development." Qualified expenditures for research and development means expenditures to develop feedstocks and processes for cellulosic ethanol and for algae-derived biodiesel, including (1) enzymes and catalysts involving cellulosic ethanol and algae-derived biodiesel; (2) best and most cost efficient feedstocks for South Carolina; or (3) product development, including fuel from lingo-cellulosic materials, including wood chips derived from noncommercial sources, corn stover, and switchgrass.

Ethanol or Biodiesel Research and Development Credit (Cont.)

- A taxpayer's total credit in all years may not exceed \$100,000. Any unused credit can be carried forward for 5 years. The credit is claimed on Form TC-49, "Cellulosic Ethanol or Algae Derived Biodiesel Tax Credit."
- Each taxpayer must submit a request for credit to the State Energy Office by January 31st for qualifying research and development expenses incurred in the previous calendar year. The State Energy Office will notify the taxpayer of the amount of credit it may claim by March 1st.

Biomass Resources Credit

- South Carolina allows a corporation a credit against income taxes or corporate license fees, or both, for 25% of the costs incurred for the purchase and installation of equipment used to create power, heat, steam, electricity, or another form of energy for commercial use from a fuel consisting of 90% or more biomass resource.

Biomass Resources Credit (Cont.)

1. "Biomass resource" - non-commercial wood, by-products of wood processing, demolition debris containing wood, agricultural or animal waste, sewage, landfill gas, and other organic materials, not including fossil fuels.
2. "Commercial use" - a use intended for the purposes of generating a profit.

Biomass Resources Credit (Cont.)

- The credit is claimed in the year the equipment is placed in service for all expenses incurred for the purchase and installation of the equipment. All costs must be certified by the State Energy Office. The taxpayer may use up to \$650,000 in a tax year. Any unused credit may be carried forward 15 years. The credit is claimed on Form TC-50, "Biomass Resource Credit."
- Each taxpayer must submit a request for credit to the State Energy Office by January 31st for qualifying expenses. The State Energy Office will notify the taxpayer of the amount of credit it may claim by March 1st.

Credit for Renewable Fuels

South Carolina Code allows a taxpayer tax credits for:
(a) placing in service property that is used for distributing or dispensing renewable fuels or (b) constructing a commercial facility that produces renewable fuels.

Credit For Renewable Fuels (Cont.)

1. Credit for Property Placed in Service at a Distribution or a Dispensing Facility.

South Carolina allows an income tax credit to a taxpayer that purchases or constructs and installs property that is placed in service at a new or existing commercial fuel distribution or dispensing facility in South Carolina that is used for distributing or dispensing renewable fuel. The credit is equal to 25% of the cost of purchasing, constructing and installing the property.

Credit For Renewable Fuels (Cont.)

Eligible property includes pumps, storage tanks, and related equipment, that is used directly and exclusively for distribution, dispensing, or storing renewable fuel.

The credit must be taken in 3 equal annual installments beginning with the tax year the property is placed in service.

"Renewable fuel" is E70 or greater ethanol fuel dispensed at the retail level for use in motor vehicles and pure ethanol or biodiesel fuel dispensed by a distributor or facility that blends these non-petroleum liquids with gasoline fuel or diesel fuel for use in motor vehicles.

Credit For Renewable Fuels (Cont.)

2. Credit for a Production Facility. South Carolina allows an income tax credit to a taxpayer that constructs and places in service in South Carolina a commercial facility for the production of renewable fuels. The credit is equal to 25% of the cost of constructing or renovating the building and equipping the facility. The credit is taken in 7 equal annual installments beginning with the tax year the facility is placed in service.

Credit For Renewable Fuels (Cont.)

"Renewable fuel" is liquid nonpetroleum based fuels that can be placed in motor vehicle fuel tanks and used as a fuel in highway vehicles, and includes all forms of fuel known as biodiesel and ethanol. Production of renewable fuel includes intermediate steps such as milling, crushing, and handling of feedstock and the distillation and manufacture of the final product.

Credit For Renewable Fuels (Cont.)

1. Any unused portion of the unexpired credit may be carried forward for 10 tax years.
2. These credits are claimed on Form TC-41, "Renewable Fuels Tax Credits."
3. Each taxpayer must submit a request for credit to the State Energy Office by January 31st for all qualifying property or qualifying facility, as appropriate, placed in service in the previous year. The State Energy Office will notify the taxpayer of the amount of credit it may claim by March 1st. Special rules are provided for the allocation of credits from July 1, 2008 through December 31, 2009.



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PRACTICE AREAS

- Banking and Finance
- Economic Development
- Governmental Representation
- Innovation
- Tax

EDUCATION

- University of North Carolina, B.A.
- University of South Carolina, J.D.
- Emory University, LL.M. in Taxation

Burnie Maybank is a member in the firm's banking and finance practice group. He returned to the firm's Columbia office in 2006 after serving as Director of the South Carolina Department of Revenue under Governor Mark Sanford from 2003 through 2005. He also served in that position under Governor David Beasley from 1995 to 1999.

Mr. Maybank's practice focuses on:

- Economic Development incentives
- State and Local Tax Controversy Work
- Exempt Organizations and Charitable Giving, including Conservation Easements
- Alcohol Beverage Control
- Regulatory Work before the Public Service Commission
- Public Finance

Maybank received national press in 2005 regarding the Department of Revenue's investigation of potentially abusive conservation easement donations, as well as the Department's investigation under IRS Circular 230 of tax professionals who were involved in tax shelters.

CAREER HIGHLIGHTS

- Director of the SC Department of Revenue (2003-2005)
- South Carolina's first Director of the Department of Revenue and Taxation (1995-1999)
- Member of the Coordinating Council for Economic Development and Chair of the Enterprise Zone Subcommittee (1995-99 and 2003-05)
- Legal Counsel to SC Governor Carroll Campbell
- Commissioner on the SC Public Service Commission
- Member of the Board of South Carolina's Department of Health and

continued

Burnet R. Maybank, III, *continued*

- Environmental Control
- Received Order of the Palmetto from both Governor Campbell and Governor Beasley
- SC Deputy Securities Commissioner in SC Secretary of State's Office
- General Counsel in the SC Secretary of State's Office
- Received the Compleat Lawyer Award from USC School of Law
- (1998)
- Past and Current Board Member, South Carolina Economic Developers Association (SCEDA)
- L.H. "Sonny" Siau Award of Excellence from the South Carolina Association of Auditors, Treasurers, and Tax Collectors
- Past President, S.C. Agency Directors Organization.
- Mr. Maybank served on the Transition Teams for both Governor Mark Sanford and State Treasurer Thomas Ravenel (Chair).

Publications

Mr. Maybank is co-author of a number of books and law review articles including *South Carolina Tax Incentives for Economic Development; Local, State, and Federal Tax Incentives for Conservation Easements*; and *State Tax Crimes*, all published by the Department of Revenue; as well as *South Carolina Limited Liability Companies & Limited Liability Partnerships* (1st & 3rd Editions); *The Law of Automobile Insurance* (1st-5th Editions); and *South Carolina Nonprofit Corporate Practice Manual* (2007), published by the South Carolina Bar.