

House Bill 840

By: Representatives Drenner of the 86th, Gardner of the 57th, Ashe of the 56th, Kaiser of the 59th, Randall of the 138th, and others

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Title 46 of the Official Code of Georgia Annotated, relating to public utilities, so
2 as to provide for voluntary portfolio standard goals for renewable energy; to provide for
3 legislative intent and purpose; to provide for definitions; to provide for reports, incentives,
4 penalties, and rules and regulations; to provide for a renewable energy credits trading
5 program; to provide for a registry of producers of renewable energy in this state; to provide
6 for credits for landfill gas or other renewable energy in the form of gas supplied by a
7 producer of renewable energy and sold to a customer or gas distribution system; to provide
8 for a reporting system to monitor compliance; to encourage integrated resource plans to
9 include sufficient renewable energy resources to meet the portfolio standard goals for
10 renewable energy; to amend Code Section 50-23-4 of the Official Code of Georgia
11 Annotated, relating to definitions concerning the Georgia Environmental Facilities Authority,
12 so as to include in the definition of "project" renewable energy facilities such that the
13 Georgia Environmental Facilities Authority may issue bonds to finance such projects; to
14 provide for related matters; to repeal conflicting laws; and for other purposes.

15 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

16 **SECTION 1.**

17 Title 46 of the Official Code of Georgia Annotated, relating to public utilities, is amended
18 in Article 1 of Chapter 3, relating to generation and distribution of electricity, by adding a
19 new part as follows:

20 "Part 4

21 46-3-70.

22 (a) It is the intent of the legislature to recognize the economic, environmental, and fuel
23 diversity benefits of renewable energy resources, to encourage further development of
24 these resources, and to encourage the establishment of a market for renewable energy in

1 Georgia using the state's renewable energy resources. These efforts can reduce the
2 consumption of fossil fuels for the generation of electricity and reduce the state's
3 dependence on finite, nonrenewable resources. Accordingly, the legislature finds that it
4 should establish goals for electric utilities to guide them in incorporating renewable
5 resources into their resource portfolios.

6 (b) The purpose of this part is to lessen Georgia's dependence on fossil fuels and the
7 exposure of Georgia's consumers to volatile and rising prices for coal and natural gas by
8 encouraging the greater use of renewable energy by establishing goals for electric utility
9 companies in implementing portfolio standards for renewable energy.

10 46-3-71.

11 As used in this part, the term:

12 (1) 'Biomass material' means organic matter, excluding fossil fuels and black liquor,
13 including agricultural crops, plants, trees, wood, wood wastes and residues, sawmill
14 waste, sawdust, wood chips, bark chips, and forest thinning, harvesting, or clearing
15 residues; wood waste from pallets or other wood demolition debris; peanut shells; cotton
16 plants; corn stalks; and plant matter, including aquatic plants, grasses, stalks, vegetation,
17 and residues, including hulls, shells, or cellulose containing fibers.

18 (2) 'Commission' means the Georgia Public Service Commission.

19 (3) 'Electric membership corporation' means a corporation organized under Article 2 of
20 this chapter.

21 (4) 'Electric service provider' means any electric utility company, electric membership
22 corporation, or municipal electric provider engaged in the business of distributing
23 electricity to retail or wholesale electric customers in this state.

24 (5) 'Electric utility company' means an electric utility as defined in Code Section 46-1-1.

25 (6) 'Low impact hydropower' means a dam and powerhouse that:

26 (A) Is certified as low impact by the Low Impact Hydropower Institute; or

27 (B) Is evaluated by the commission as compliant with the following standards:

28 (i) Providing river flows that are healthy for fish, wildlife, and water quality,
29 including seasonal flow fluctuations where appropriate;

30 (ii) Protecting water quality in the river;

31 (iii) Providing effective fish passage and protecting fish from entrainment;

32 (iv) Taking sufficient action to protect, mitigate, and enhance environmental
33 conditions in the watershed;

34 (v) Avoiding negative impact on species classified as threatened or endangered by the
35 federal or state government;

36 (vi) Avoiding inappropriate impact on cultural resources;

1 (vii) Providing free access to the water and accommodating recreational activities on
2 the river; and

3 (viii) Avoiding recommendation for removal by a federal or state agency due to
4 adverse environmental impact.

5 (7) 'Municipal electric provider' means an electrical service provider owned or operated
6 by a municipal corporation.

7 (8) 'Renewable energy' means electrical energy produced from or by any of the
8 following: wind; solar energy; low impact hydropower; geothermal resources; ocean
9 thermal energy; wave or tidal energy; biofuels derived entirely from organic sources other
10 than coal, petroleum, or natural gas; the combustion of landfill gas; methane gas resulting
11 from the anaerobic decomposition of organic materials; plasma arc; pyrolysis;
12 gasification; biomass materials and geothermal resources; postconsumer waste paper;
13 forest related sources, including mill residues, waste pallets, crates, and dunnage; or
14 forest and agricultural biomass sources including orchard tree crops, vineyard, grain,
15 legumes, sugar, switchgrass, other crop by-products or residues, and precommercial
16 thinning, slash, brush or landscape trimmings, but not including old-growth timber.

17 (9) 'Renewable energy credit' means a tradeable instrument created as an attribute of
18 renewable energy in accordance with rules and regulations promulgated in accordance
19 with Code Section 46-3-74.

20 46-3-72.

21 (a) Each electric service provider is encouraged to establish a renewable energy sources
22 energy portfolio standard goal of:

- 23 (1) One half of 1 percent of its annual net electricity sales by December 31, 2010;
- 24 (2) One percent of its annual net electricity sales by December 31, 2011;
- 25 (3) Two percent of its annual net electricity sales by December 31, 2012;
- 26 (4) Three percent of its annual net electricity sales by December 31, 2013;
- 27 (5) Four percent of its annual net electricity sales by December 31, 2014;
- 28 (6) Five percent of its annual net electricity sales by December 31, 2015;
- 29 (7) Six percent of its annual net electricity sales by December 31, 2016;
- 30 (8) Seven percent of its annual net electricity sales by December 31, 2017;
- 31 (9) Eight percent of its annual net electricity sales by December 31, 2018;
- 32 (10) Nine percent of its annual net electricity sales by December 31, 2019; and
- 33 (11) Ten percent of its annual net electricity sales by December 31, 2020.

34 (b) When an electric service provider has reached the standard goal of 10 percent of annual
35 net electricity sales, the electric service provider is encouraged to maintain a renewable
36 energy portfolio of at least 10 percent of its annual net electricity sales.

1 46-3-73.

2 (a) The commission may provide incentives to encourage electric service providers to
3 exceed the energy portfolio standard goals in Code Section 46-3-72 or to meet such goals
4 early, or both.

5 (b) For electric service providers subject to rate determination by the commission, the cost
6 of purchases of energy and energy credits to meet energy portfolio standard goals or to
7 meet such goals early shall not be included in the rate base as expenses of the electric
8 service provider in such rate determination.

9 46-3-74.

10 (a) No later than January 1, 2008, the commission shall adopt rules and regulations to
11 implement, administer, and enforce this part.

12 (b) At a minimum, the rules and regulations shall:

13 (1) Require that proposed capacity additions shall meet the emissions requirements of
14 the more stringent of the following:

15 (A) The Georgia rules and regulations for air quality; or

16 (B) The best achievable control technology;

17 (2) Establish a renewable energy credits trading program, allowing any electrical service
18 provider to purchase sufficient energy credits to meet the goals established in Code
19 Sections 46-3-72;

20 (3) Establish a registry of producers of renewable energy in this state. Electric service
21 providers may purchase renewable energy or renewable energy credits directly from
22 producers on the Georgia registry. In promulgating rules and regulations in accordance
23 with this paragraph, the commission shall provide for such procedures and processes to
24 utilize renewable energy credits from producers on the Georgia registry and from
25 producers outside the state so as to achieve the maximum benefit to the state in terms of
26 the state's economy, environment, and fuel diversity. The commission may establish and
27 support other mechanisms for direct marketing of renewable energy and energy credits
28 by Georgia producers of such renewable energy;

29 (4) Provide that an electric service provider may credit toward satisfaction of the goals
30 set out in Code Sections 46-3-72 any production or acquisition of renewable energy in
31 the form of gas sold to a customer or to a gas distribution system or credits based on such
32 gas, based on conversion to kilowatt hours of the thermal energy content in British
33 thermal units of the renewable energy and using for the conversion factor the
34 system-wide average heat rate of the gas-fired units of the electric service provider's
35 system as measured in British thermal units per kilowatt hour; provided, however, that

for co-firing renewable and nonrenewable fuels, only the renewable portion of British thermal units per kilowatt hour shall be allowed as a credit;

(5) Provide for a reporting system to monitor voluntary compliance with this part. The reporting system shall require electric service providers to report whether they are subject to energy portfolio requirements in more than one state, the amount of such requirements if applicable, and to indicate the sources of energy or energy credits used to voluntarily comply with the energy portfolio goals in Georgia and the requirements of other applicable states;

(6) Provide for annual reporting by all electric service providers of any renewable energy credits purchased, including whether such purchases were made inside or outside of the state, how the renewable generation costs compared to cost from other generation sources, and the average price paid for the renewable energy credits; and

(7) Require that an electric service provider certify that any of its renewable energy credits sold meet state standards."

SECTION 3.

Said title is further amended in Code Section 46-3A-1, relating to definitions relative to integrated resource planning, by revising paragraph (7) as follows:

"(7) 'Plan' means an integrated resource plan which contains the utility's electric demand and energy forecast for at least a 20 year period, contains the utility's program for meeting the requirements shown in its forecast in an economical and reliable manner, contains the utility's analysis of all capacity resource options, including both demand-side and supply-side options, and sets forth the utility's assumptions and conclusions with respect to the effect of each capacity resource option on the future cost and reliability of electric service. The plan shall also:

- (A) Contain the size and type of facilities which are expected to be owned or operated in whole or in part by such utility and the construction of which is expected to commence during the ensuing ten years or such longer period as the commission deems necessary and shall identify all existing facilities intended to be removed from service during such period or upon completion of such construction;
- (B) Contain practical alternatives to the fuel type and method of generation of the proposed electric generating facilities and set forth in detail the reasons for selecting the fuel type and method of generation;
- (C) Contain a statement of the estimated impact of proposed and alternative generating plants on the environment and the means by which potential adverse impacts will be avoided or minimized;

- (D) Indicate in detail the projected demand for electric energy for a 20 year period and the basis for determining the projected demand;
 - (E) Describe the utility's relationship to other utilities in regional associations, power pools, and networks;
 - (F) Identify and describe all major research projects and programs which will continue or commence in the succeeding three years and set forth the reasons for selecting specific areas of research;
 - (G) Identify and describe existing and planned programs and policies to discourage inefficient and excessive power use; ~~and~~
 - (H) Identify and describe existing and planned renewable energy resources sufficient to voluntarily comply with energy portfolio standard goals set out in Code Section 46-3-71:
 - (I) Identify and describe existing and planned renewable generation sources used by the utility; and
 - (J) Provide any other information as may be required by the commission."

SECTION 4.

Code Section 50-23-4 of the Official Code of Georgia Annotated, relating to definitions concerning the Georgia Environmental Facilities Authority, is amended by revising paragraph (12) as follows:

"(12) 'Project' means the acquisition, construction, installation, modification, renovation, repair, extension, renewal, replacement, or rehabilitation of land, interest in land, buildings, structures, facilities, or other improvements and the acquisition, installation, modification, renovation, repair, extension, renewal, replacement, rehabilitation, or furnishing of fixtures, machinery, equipment, furniture, or other property of any nature whatsoever used on, in, or in connection with any such land, interest in land, building, structure, facility, or other improvement, all for the essential public purpose of providing environmental facilities and services, including but not limited to renewable energy generation facilities, so as to meet public health and environmental standards, protect the state's valuable natural resources, or aid the development of trade, commerce, industry, agriculture, and employment opportunities or projects authorized by the Georgia Regional Transportation Authority created by Chapter 32 of this title as defined in such chapter, where the authority has been directed to issue revenue bonds, bonds, notes, or other obligations to finance such project or the cost of a project in whole or in part, provided that the authority's power with respect to such projects authorized by the Georgia Regional Transportation Authority shall be limited to providing such financing and related matters as authorized by the Georgia Regional Transportation Authority."

1

SECTION 5.

2 All laws and parts of laws in conflict with this Act are repealed.