



South Carolina General Assembly  
116th Session, 2005-2006

## Act #83 (2007) – S.243

Be it enacted by the General Assembly of the State of South Carolina:

### Hydrogen

Section [11-46-10](#). This chapter may be cited as the 'South Carolina Hydrogen Infrastructure Development Act'.

Section [11-46-20](#). (A) There is established in the State Treasury a separate and distinct fund known as the 'South Carolina Hydrogen Infrastructure Development Fund'. The revenues of the fund must be distributed in the form of grants by the South Carolina Research Authority (authority) and used for the purpose of promoting the development and deployment of hydrogen production, storage, distribution, and dispensing infrastructure and related products and services that enable the growth of hydrogen and fuel cell technologies in the State, either by the authority or a grantee. Unexpended revenues in this fund carry forward into succeeding fiscal years through June 30, 2012, and earnings in this fund must be credited to it.

(B) The General Assembly must not appropriate more than a total of fifteen million dollars in grants as provided for in Section [11-46-30\(B\)](#). Grants may not be made after June 30, 2012. Revenues remaining in the fund after that date, regardless of source, lapse to the general fund of the State.

(C) The authority shall implement and manage the application for grants. The authority shall administer the fund and provide grants for any purpose that furthers the creation of a sustainable foundation upon which a hydrogen economy may develop across the State including, but not limited to, a demonstration project, pilot project, and the purchase of machinery and equipment. The authority may charge an applicant a maximum of three percent of the total amount of the grant for the administrative costs of managing the grant process. The authority, upon consultation with the South Carolina Hydrogen and Fuel Cell Alliance, the University of South Carolina's Fuel Cell Center of Excellence, Clemson University, South Carolina State University's Clyburn Transportation Center, the Savannah River National Laboratory, the Center for Hydrogen Research, the Medical University of South Carolina, and the Columbia Innovation Center, shall establish guidelines for the application for and approval of grants, including specific objectives that an applicant must meet to receive a grant. The executive committee of the authority has the ultimate authority to determine any matter relating to the fund and to the application of fund proceeds including, but not limited to, the approval of grants.

(D) Grants distributed from the fund are subject to the procurement procedures followed by the authority.

(E) Appropriations made to the fund pursuant to Section [11-46-30](#)(B) may be distributed as grants only to the extent that there is a dollar-for-dollar match, in cash or in kind, from a source other than the State. However, the executive committee of the authority, based on the merits of a grant proposal and its projected economic benefit, may reduce or eliminate the matching requirement on a case-by-case basis.

(F) The authority shall make and implement all final decisions concerning any matter provided for in this chapter; however, a grant must not be made to the authority without approval by the Secretary of Commerce.

Section [11-46-30](#). (A) The South Carolina Hydrogen Infrastructure Development Fund may receive donations, grants, and any other funding as provided by law. A taxpayer making a contribution to the fund is allowed a tax credit provided pursuant to Section [12-6-3630](#).

(B) The South Carolina Hydrogen Infrastructure Development Fund may receive appropriations from the general fund of the State up to the following amounts in the fiscal years indicated:

- (1) seven million dollars for the fiscal year 2007-2008;
- (2) five million dollars for fiscal year 2008-2009;
- (3) three million dollars for fiscal year 2009-2010.

Section [11-46-40](#). The South Carolina Research Authority shall submit an annual report to the Governor and the General Assembly containing at a minimum the following:

- (1) the total amount of monies placed in the fund in a fiscal year and the total amount of monies granted from the fund in a fiscal year;
- (2) a list of the applicants that received grants and the applicants' stated objectives;
- (3) an audit of the activities conducted by the applicants;
- (4) the monies used by the authority for administration and management, which may not exceed two hundred thousand dollars annually, and the percentage of each grant used for administration and management;
- (5) the progress achieved by the authority and the fund in creating a sustainable foundation upon which a hydrogen economy may develop across the State; and
- (6) the certified gross profits earned by grant recipients provided pursuant to Section [11-46-60](#).

Section [11-46-50](#). Each state agency head shall require the agency's procurement officer, or other state employee authorized to purchase equipment or machinery for the agency, to consider purchasing equipment or machinery operated by hydrogen or fuel cells, or both of them, if available and cost-effective.

Section [11-46-60](#). Two percent of the gross profits derived from the sale of hydrogen and fuel cell products or services developed from a grant to a grant recipient, organized and operating as a for-profit business entity, must be annually remitted to the fund through June 30, 2012, until the full amount of the original grant has been repaid to the fund. Thereafter, if the full amount of the original grant has not been repaid, two percent of such gross profits must be annually remitted to the State Treasurer and transferred to the general fund of the State until repaid. The Department of Revenue shall promulgate regulations to determine and certify gross profits.

Section [11-46-70](#). The authority or a nonprofit affiliate designated by the authority may implement the provisions of this chapter. A designated nonprofit affiliate shall establish a separate and distinct fund. Monies provided to the affiliate fund must be subject to the same conditions and requirements provided by law that apply to a fund established by the authority. Grants from the affiliate fund must be made with the consent of the executive committee of the authority. The provisions of this chapter and Section [12-6-3630](#) apply to the affiliate fund."

### **Income tax credit; hydrogen research contributions**

SECTION 3. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

"Section [12-6-3630](#). (A) For taxable years beginning after 2007, and before 2012, a taxpayer is allowed a credit against the income tax imposed pursuant to Chapter 6 or 11 of this title, license fees imposed pursuant to Chapter 20 of this title, or insurance premium tax imposed pursuant to Chapter 7, Title 38, or a combination of them, for a qualified contribution made by a taxpayer to the South Carolina Hydrogen Infrastructure Development Fund established pursuant to Chapter 46, Title 11. A contribution is not a qualified contribution if it is subject to a condition or limitation regarding the use of the contribution.

(B) The credit is equal to twenty-five percent of a qualified contribution made by a taxpayer to the fund. The credit must be used against the taxpayer's liability on income taxes, premium insurance taxes, or license fees after the application of all other credits applicable to the taxpayer's tax liability. Unused credits may be carried forward for ten years after the tax year in which a qualified contribution was made. The credit is nonrefundable.

(C) A taxpayer who claims a credit for a qualified contribution pursuant to this section may not claim a deduction for the same qualified contribution.

(D) A taxpayer who claims a credit pursuant to this section must attach to his tax return a copy of a form provided by the authority identifying the taxpayer's qualified contribution. The Department of Revenue may require from the taxpayer additional information identifying the taxpayer's qualified contribution as it considers appropriate."

### **Sales tax exemption; hydrogen fuel cells**

SECTION 4. A. Section [12-36-2120](#) of the 1976 Code, as last amended by Act 386 of 2006, is further amended by adding appropriately numbered items to read:

"( ) any device, equipment, or machinery operated by hydrogen or fuel cells, any device, equipment, or machinery used to generate, produce, or distribute hydrogen and designated specifically for hydrogen applications or for fuel cell applications, and any device, equipment, or machinery used predominantly for the manufacturing of, or research and development involving hydrogen or fuel cell technologies. For purposes of this item:

(a) 'fuel cells' means a device that directly or indirectly creates electricity using hydrogen (or hydrocarbon-rich fuel) and oxygen through an electro-chemical process; and

(b) 'research and development' means laboratory, scientific, or experimental testing and development of hydrogen or fuel cell technologies. Research and development does not include efficiency surveys, management studies, consumer surveys, economic surveys, advertising, or promotion, or research in connection with literary, historical, or similar projects.

( ) any building materials used to construct a new or renovated building or any machinery or equipment located in a research district. However, the amount of the sales tax that would be assessed without the exemption provided by this section must be invested by the taxpayer in hydrogen or fuel cell machinery or equipment located in the same research district within twenty-four months of the purchase of an exempt item.

'Research district' means land owned by the State, a county, or other public entity that is designated as a research district by the University of South Carolina, Clemson University, the Medical University of South Carolina, South Carolina State University, or the Savannah River National Laboratory."

B. This section takes effect October 1, 2007.