



# HOUSE BILL 298: Affordable and Reliable Energy Act

2013-2014 General Assembly

---

<b>Committee:</b>	House Commerce and Job Development Subcommittee on Energy and Emerging Markets	<b>Date:</b>	April 3, 2013
<b>Introduced by:</b>	Reps. Hager, Collins, Avila, Cleveland	<b>Prepared by:</b>	Heather Fennell Committee Counsel
<b>Analysis of:</b>	PCS to First Edition H298-CSTD-5[v.10]		

---

**SUMMARY:** *The PCS to House Bill 298 would revise the Renewable Energy Portfolio Standards (REPS) requirements enacted in S.L. 2007-397, and allow electric suppliers to recover all costs incurred in compliance with the REPS requirements, including the provisions repealed by this act. The REPS requirements are revised in the following ways:*

- *Repealing the REPS requirements as of 2018.*
- *Allowing all renewable resources to be used to meet the REPS requirements, including renewable energy facilities built prior to 2007 and hydroelectric facilities with capacities of more than 10 MW.*
- *Increasing the percentage by which investor owned utilities may meet the REPS requirements with energy efficiency measures to 50% from 25%.*
- *Repealing the solar set-aside.*
- *Repealing the allowance of cost recovery for renewable energy research.*
- *Allowing electric suppliers to recover all costs incurred in compliance with the REPS requirements, including the provisions repealed by this act.*

[As introduced, this bill was identical to S365, as introduced by Sen. Brock, which is currently in Rules and Operations of the Senate.]

**CURRENT LAW:** In 2007, the General Assembly enacted a Renewable Energy Portfolio Standard (REPS) requirement for electric power suppliers.<sup>1</sup> Renewable Energy Portfolio Standards (REPS) require that electric power suppliers operating within a state provide a designated amount or percentage of power from renewable energy resources as a portion of their overall provision of electricity. Iowa enacted the first REPS in 1991 and as of March 2013, REPS have been enacted by 29 states and the District of Columbia.

**Types of Renewable Energy:** Renewable energy resources that can be used to meet the REPS requirements are:

- Solar electric, solar thermal, wind, hydropower, geothermal, or ocean current or wave energy resource.
- A biomass resource, including agricultural waste, animal waste, wood waste, spent pulping liquors, combustible residues, combustible liquids, combustible gases, energy crops, or landfill methane.

---

<sup>1</sup> S.L. 2007-397, also known as "Senate Bill 3." The provisions of SB3 that are not amended by the PCS to H298 are briefly outlined in the "Background" section of this summary.



# House PCS 298

Page 2

- Waste heat derived from a renewable energy resource and used to produce electricity or useful, measurable thermal energy at a retail electric customer's facility.
- Hydrogen derived from a renewable energy resource.

"Renewable energy resource" does not include peat, a fossil fuel or nuclear energy resource.

**REPS Requirements:** The REPS requirements varies based on the type of electric supplier, and is as follows:

<b>Electric Public Utilities</b>	
<b><u>Calendar Year</u></b>	<b><u>REPS Requirement</u></b>
2012	3% of 2011 North Carolina retail sales
2015	6% of 2014 North Carolina retail sales
2018	10% of 2017 North Carolina retail sales
2021 and thereafter	12.5% of 2020 North Carolina retail sales

<b>Electric Membership Corporations and Municipalities</b>	
<b><u>Calendar Year</u></b>	<b><u>REPS Requirement</u></b>
2012	3% of 2011 North Carolina retail sales
2015	6% of 2014 North Carolina retail sales
2018 and thereafter	10% of 2017 North Carolina retail sales

All electric power suppliers may meet the REPS requirements by:

- Generating electric power at a **new** renewable energy facility.
- Reducing energy consumption through the implementation of an energy efficiency measure.
- Purchasing electric power from a **new** renewable energy facility.
- Purchasing renewable energy certificates derived from in-state or out-of-state **new** renewable energy facilities.
- Using electric power that is supplied by a new renewable energy facility or saved due to the implementation of an energy efficiency measure that exceeds the requirements for any calendar year as a credit towards meeting the requirements in the following calendar year or sell the associated renewable energy certificates.
- Reducing electricity demand with a program that is voluntary, under the real-time control of both the electric power supplier and the retail electric customer, and measured in real time, using two-way communications devices that communicate on the basis of standards.

Electric public utilities may also meet the REPS requirements by using a renewable energy resource to generate electric power at a generating facility. Electric membership corporations and municipalities may also meet the requirements by purchase electricity from renewable energy facilities, and acquiring all or part of its electric power from an electric power supplier who meets the REPS requirements.

# House PCS 298

Page 3

## Set-Asides

Part of the REPS requirements must be met with certain energy resources. Commonly known as "set-asides" these additional requirements are as follows:

### Requirement for Solar Energy Resources

At least the following percentage of the total electric power in kW hours sold to retail customers in the State must be supplied by a combination of new solar electric facilities and new solar thermal electric facilities:

2010	0.02%
2012	0.07%
2015	0.14%
2018	0.20%

### Requirement for Swine Waste Resources<sup>2</sup>

At least the following percentage of the total electric power in kW hours sold to retail customers in the State must be supplied by swine waste.

2012	0.07%
2015	0.14%
2018	0.20%

### Requirement for Poultry Waste Resources<sup>3</sup>

At least the following megawatt hours of total electric power sold to retail customers in the State must be supplied by poultry waste combined with wood shavings, straw, rice hulls, or other bedding materials.

2012	170,000 megawatt-hours
2013	700,000 megawatt-hours
2014	900,000 megawatt-hours

**Cost Cap:** Electric power suppliers are allowed to recover costs of compliance with the REPS requirements through an annual rider proceeding. The recovery of costs may not exceed an amount equal to the per-customer annual charges in the following schedule:

<u>Customer Class</u>	<u>2008-2011</u>	<u>2012-2014</u>	<u>2015 and thereafter</u>
Residential per account	\$10.00	\$12.00	\$34.00
Commercial per account	\$50.00	\$150.00	\$150.00
Industrial per account	\$500.00	\$1,000.00	\$1,000.00

<sup>2</sup> In November of 2012, the Utilities Commission issued an order that eliminated the swine waste set aside for 2012.

<sup>3</sup> In November of 2012, the Utilities Commission issued an order that delayed the poultry waste set aside for one year.

# House PCS 298

Page 4

**BILL ANALYSIS:** The PCS to House Bill 298 would revise the REPS requirements in the following ways:

**Changes in the REPS:** The REPS requirements would end in 2018, and would be as follows:

<b>Electric Public Utilities</b>	
<u>Calendar Year</u>	<u>REPS Requirement</u>
2012	3% of 2011 North Carolina retail sales
2015 – 2018	6% of 2014 North Carolina retail sales
2018 and thereafter	No requirement

<b>Electric Membership Corporations and Municipalities</b>	
<u>Calendar Year</u>	<u>REPS Requirement</u>
2012	3% of 2011 North Carolina retail sales
2015 – 2018	6% of 2014 North Carolina retail sales
2018 and thereafter	No requirement

*Additional facilities.* – Currently, part of the REPS requirements may only be met with "new" renewable energy facilities. New renewable energy facilities are facilities that meet any one of the following requirements:

- Was placed in service on or after January 1, 2007.
- Delivers or has delivered electricity under a contract with NC Green Power prior to January 1, 2007.
- Is a hydroelectric facility with a generation capacity of 10 MW or less.

The PCS to House Bill 298 would allow all renewable resources to be used to meet the REPS requirements, including renewable energy facilities built prior to 2007 and hydroelectric facilities with capacities of more than 10 MW.

*REPS compliance through energy efficiency.* – Currently, electric public utilities may meet part of the REPS requirements by reducing consumption through energy efficiency measures. Through 2021, electric public utilities may meet up to 25% of the REPS requirements through energy efficiency. After 2021, electric public utilities may meet up to 40% of the REPS requirements through energy efficiency measures. The PCS to House Bill 298 would increase this percentage to 50% for all remaining years the REPS requirements are in effect.

*Solar set-aside.* – The PCS to House Bill 298 would repeal the requirement that a certain percentage of REPS requirements be met with solar energy resources (the solar set-aside). The set-aside for poultry waste and swine waste are not repealed, but are amended to reflect the new end date of the REPS requirement.

**Research Costs:** Part of the costs that may be recovered by electric power suppliers is \$1 million per year to fund research that encourages the development of renewable energy, energy efficiency, and improved air quality. The PCS to House Bill 298 repeals this provision. Any research costs incurred prior to July 1, 2013, including costs contracted for prior to that date, may be recovered by an electric power supplier.

# House PCS 298

Page 5

**Cost Recovery:** Section 3 of the PCS to House Bill 298 is amended to allow electric power suppliers to recover all costs incurred to comply with the REPS requirements, including the requirements repealed by the PCS. Costs for compliance will be recovered in the same manner as the costs are currently recovered, through an annual rider system. Any contract entered into by an electric power supplier, after July 1, 2013, (the effective date of this act), must end by December 31, 2018, (the date of the end of the REPS requirement). Costs incurred after July 1, 2013, must be recovered prior to December 31, 2019.

**EFFECTIVE DATE:** This act becomes effective July 1, 2013.

**BACKGROUND:** S.L. 2007-397, also known as Senate Bill 3, enacted the REPS requirements that would be amended by the PCS to House Bill 298. The act also contained the following additional provisions, which are NOT amended by the PCS to House Bill 298:

**Demand-side management and energy efficiency programs.** – S.L. 2007-397 directed electric power suppliers to implement demand-side management and energy efficiency measures to establish the least cost mix of demand reduction and generation measures that meet the electricity needs of its customers.

**Cost recover for electric power suppliers.** – S.L. 2007-397 amended the cost recovery procedures for electric power suppliers to provide for:

- Recovery of additional costs under the annual fuel charge.
- Ongoing review of construction costs and the inclusion of construction costs in rates.
- Recovery of construction work in progress when reasonable and prudent and subject to an ongoing review by the Utilities Commission
- Recovery of construction costs for out-of-state electric generating facilities.
- Recovery of project development costs for nuclear facilities.

**Public Utility and EMC Regulatory Fees.** – S.L. 2007-397 adjusted the public utility and electric membership corporation regulatory fees. These fees are adjusted each year, typically in the budget.

**Sales tax of fuel.** – S.L. 2007-397 phased out the sales taxes paid by farmers and manufacturers for electricity, piped natural gas, and other fuels.

**Tax credit.** – S.L. 2007-397 provided a tax credit to a taxpayer that makes an eligible contribution to a nonprofit organization organized under section 501(c)(3) of the Code for investment in renewable energy property.