

Regular Session, 2013

SENATE BILL NO. 231

BY SENATOR MARTINY

TAX/TAXATION. Deletes the tax credit for wind energy systems and changes the credit for solar "energy" systems to a tax credit for both solar "electric" systems and solar "thermal" systems. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 47:6030, relative to tax credits; to repeal the tax credit for wind  
3 energy systems; to establish a tax credit for certain solar energy systems; to provide  
4 authorization for a credit against taxes in which the credit can be claimed; to provide  
5 the manner in which the credit may be claimed; to provide for a refund of any credit  
6 in excess of the tax liability; to provide for the promulgation of rules and regulations;  
7 to provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:6030 is hereby amended and reenacted to read as follows:

10 §6030. ~~Wind or solar~~ **Solar** energy systems tax credit

11 A. There shall be a credit against the income, **corporation franchise, and**  
12 **sales,** tax for the cost of purchase and installation of a ~~wind energy~~ **solar electric**  
13 system or solar ~~energy~~ **thermal** system, or both, by a taxpayer at his residence  
14 located in this state, ~~by the owner of a residential rental apartment project;~~ or by a  
15 taxpayer who purchases and installs such a system in a residence ~~or a residential~~  
16 ~~rental apartment project~~ which is located in Louisiana. The credit may be claimed  
17 in cases where the resident individual purchases a newly constructed home with such

1 a system already installed or where such a system is purchased and installed at an  
2 existing home, ~~or where such systems are installed in new or existing apartment~~  
3 ~~projects. Only one such tax credit shall be available for any eligible system. **Each**~~  
4 ~~**eligible system shall be installed in the immediate vicinity of the residence to**~~  
5 ~~**which the electrical, mechanical, or thermal energy is delivered. With respect**~~  
6 ~~**to each residence, only one credit for a solar electric system and one credit for**~~  
7 ~~**a solar thermal system shall be authorized.**~~ Once a tax credit authorized pursuant  
8 to this Section is claimed by a taxpayer for a particular system, that same system  
9 shall not be eligible for any other tax credit pursuant to this Section. If the  
10 residential property or system is sold, the taxpayer who claimed the tax credit shall  
11 disclose his use of the tax credit to the purchaser.

12 B.(1)(a) The credit **for each solar electric system** shall be equal to fifty  
13 percent of ~~the first twenty-five thousand dollars~~ of the cost of **purchase for** each  
14 ~~wind energy system or solar energy **electric**~~ system, including installation costs, that  
15 is purchased and installed on or after January 1, 2008, **and before December 31,**  
16 **2016, by a taxpayer at his residence.**

17 (b) **The credit for each solar electric system shall be equal to thirty-five**  
18 **percent of the cost of purchase for each solar electric system, including**  
19 **installation costs, that is purchased and installed on or after January 1, 2017,**  
20 **and before December 31, 2020, by a taxpayer at his residence.**

21 (2)(a) **The credit for each solar electric system shall be equal to fifty**  
22 **percent of the first twenty-five thousand dollars of the cost of purchase for each**  
23 **solar electric system, including installation costs, that is purchased and installed**  
24 **on or after January 1, 2008, and before December 31, 2016, by a third-party**  
25 **taxpayer at a residence in this state through a lease with the owner of the**  
26 **residence.**

27 (b) **The credit for each solar electric system shall be equal to thirty-five**  
28 **percent of the first twenty-five thousand dollars of the cost of purchase for each**  
29 **solar electric system, including installation costs, that is purchased and installed**

1 on or after January 1, 2017, and before December 31, 2020, by a third party  
2 taxpayer at a residence in this state through a lease with the owner of the  
3 residence.

4 (3)(a) The credit for each solar thermal system shall be equal to fifty  
5 percent of the first ten thousand dollars of the cost of purchase for each solar  
6 thermal system, including installation costs, that is purchased and installed on  
7 or after January 1, 2013, and before December 31, 2016, by a taxpayer at his  
8 residence or by a third-party taxpayer at a residence in this state through a  
9 lease with the owner of the residence.

10 (b) The credit for each solar thermal system shall be equal to thirty-five  
11 percent of the first ten thousand dollars of the cost of purchase for each solar  
12 thermal system, including installation costs, that is purchased and installed on  
13 or after January 1, 2017, and before December 31, 2020, by a taxpayer at his  
14 residence or by a third-party taxpayer at a residence in this state through a  
15 lease with the owner of the residence.

16 (4)(a)(i) To be eligible for the credit, the cost of purchase for a solar  
17 electric system installed by a taxpayer at his residence shall be capped so as to  
18 not exceed the greater of the total energy needs of the residence or twelve  
19 kilowatts and a cost basis of four dollars and fifty cents per watt for a single  
20 residence.

21 (ii) To be eligible for the credit, the cost of purchase for a solar thermal  
22 system installed by a taxpayer at his residence shall be capped so as to not  
23 exceed ten thousand dollars or a cost basis of four dollars and fifty cents per btu  
24 equivalent watt for a single residence.

25 (b)(i) To be eligible for the credit, the cost of purchase for a solar electric  
26 system installed by a third-party taxpayer at a residence utilizing a lease or  
27 similar option with the owner of the residence shall be capped so as to not  
28 exceed the greater of the total energy needs of the residence or a cost basis of  
29 four dollars and fifty cents per watt for a single residence.

1                    **(ii) To be eligible for the credit, the cost of purchase for a solar thermal**  
2                    **system installed by a third-party taxpayer at his residence shall be capped so as**  
3                    **to not exceed ten thousand dollars or a cost basis of four dollars and fifty cents**  
4                    **per btu equivalent watt for a single residence.**

5                    **(c) Whenever, in return for the purchase price or as an inducement to**  
6                    **make a purchase, marketing rebates or incentives are offered, the cost of**  
7                    **purchase shall be reduced by the fair market value of the marketing rebate or**  
8                    **incentive received. Marketing rebates or incentives include but are not limited**  
9                    **to cash rebates, prizes, gift certificates, trips, additional energy efficiency items**  
10                   **or services, or any other thing of value given by the seller, installer, or**  
11                   **equipment manufacturer to the taxpayer as an inducement to purchase a solar**  
12                   **electric or solar thermal system.**

13                   **(5)** The credit may be used in addition to any federal tax credits earned for  
14                   the same system. A taxpayer shall not receive any other state tax credit, exemption,  
15                   exclusion, deduction, or any other tax benefit for property for which the taxpayer has  
16                   received a tax credit under this Section.

17                   ~~(2)~~ **(6)** In the case of a taxpayer who purchases and installs such a system in  
18                   a residence ~~or a residential rental apartment project~~ which is located in Louisiana,  
19                   the tax credit shall be claimed on the return for the taxable year in which such system  
20                   is completed and placed in service. In the case of a taxpayer who purchases a newly  
21                   constructed home ~~or newly constructed residential rental apartment project~~ with such  
22                   a system, the tax credit shall be claimed on the return for the taxable year in which  
23                   the act of sale takes place. **In the case of a taxpayer claiming a tax credit on a**  
24                   **sales tax return, the tax credit shall be claimed on any return due for a period**  
25                   **in the taxable year in which the system is completed or in which the act of sale**  
26                   **of the residence takes place.**

27                   C. Notwithstanding any other provision of law to the contrary, any excess  
28                   of allowable credit over the aggregate tax liabilities against which such credit may  
29                   be applied, as provided in this Section, shall constitute an overpayment, as defined

1 in R.S. 47:1621(A), and the secretary shall make a refund of such overpayment from  
2 the current collections of the taxes imposed by Chapter 1, ~~or Chapter 2, Chapter~~  
3 **2-A, Chapter 2-B,** Chapter 5 of Subtitle II of this Title, together with interest as  
4 provided in R.S. 47:1624. The right to a credit or refund of any such overpayment  
5 shall not be subject to the requirements of R.S. 47:1621(B). All credits and refunds,  
6 together with interest thereof, must be paid or disallowed within one year of receipt  
7 by the secretary of any such claim for refund or credit. Failure of the secretary to  
8 pay or disallow, in whole or in part, any claim for a credit or a refund shall entitle the  
9 aggrieved taxpayer to proceed with the remedies provided in R.S. 47:1625.

10 D. As used in this Section:

11 (1) ~~"Wind energy system" means a system of apparatus and equipment with~~  
12 ~~the primary purpose of intercepting and converting wind energy into mechanical or~~  
13 ~~electrical energy and transferring this form of energy by a separate apparatus to the~~  
14 ~~point of use or storage.~~ **"Solar electric system" means a system consisting of**  
15 **photovoltaic panels with the primary purpose of converting sunlight to**  
16 **electrical energy and all equipment and apparatus necessary to connect, store,**  
17 **and process the electrical energy for connection to and use by an electrical load.**  
18 **"Solar electric system" shall include grid-connected net metering systems,**  
19 **grid-connected net metering systems with battery backup, stand-alone**  
20 **alternating current (AC) systems, and stand-alone direct current (DC) systems.**  
21 **The eligible system components for a solar electric system include the following:**

22 **(a) For grid-connected, net metering solar electric systems, the**  
23 **components include photovoltaic panels, mounting systems, inverters, charge**  
24 **controllers, batteries, battery cases, alternating current (AC) and direct current**  
25 **(DC) disconnects, lightning and ground fault protection, junction boxes, remote**  
26 **metering display devices, and related electrical wiring materials from the**  
27 **photovoltaic panels to point of interconnection with the residence or electrical**  
28 **load.**

29 **(b) For stand-alone solar electric AC systems, the components include**

1 photovoltaic panels, mounting systems, inverters, charge controllers, batteries,  
2 battery cases, AC and DC disconnects, lightning and ground fault protection,  
3 junction boxes, remote metering display devices, and related electrical wiring  
4 materials from the photovoltaic panels to point of interconnection with the  
5 residence or electrical load.

6 (c) For stand-alone solar electric DC systems, the components include  
7 photovoltaic panels, mounting systems, charge controllers, batteries, battery  
8 cases, DC disconnects, lightning and ground fault protection, junction boxes,  
9 remote metering display devices, and related electrical wiring materials from  
10 the photovoltaic panels to point of interconnection with the residence or  
11 electrical load.

12 ~~(2) "Solar energy system" means an energy system with the primary purpose~~  
13 ~~of collecting or absorbing sunlight for conversion into electricity or an energy system~~  
14 ~~with the primary purpose of collecting or absorbing solar energy for conversion into~~  
15 ~~heat for the purposes of space heating, space cooling, or water heating. "Solar~~  
16 ~~thermal system" means a system consisting of a solar energy collector with the~~  
17 ~~primary purpose of converting sunlight to thermal energy and all devices and~~  
18 ~~apparatus necessary to transfer and store the collected thermal energy for the~~  
19 ~~purposes of heating water, space heating, or space cooling. The eligible system~~  
20 ~~components for a solar thermal system include solar thermal collectors,~~  
21 ~~mounting systems, solar hot water storage tanks, timers, pumps, heat~~  
22 ~~exchangers, drain back tanks, expansion tanks, controllers, sensors, valves,~~  
23 ~~freeze protection devices, air elimination devices, photovoltaic panels for PV~~  
24 ~~systems, piping, insulation, and other related materials from the solar thermal~~  
25 ~~collectors to the solar hot water storage tanks.~~

26 (3) "Cost of purchase" means the reasonable and prudent costs for the  
27 equipment and installation of the solar electric or solar thermal systems.

28 E. Credits may be claimed in accordance with the following:

29 (1) Any entity taxed as a corporation for Louisiana income tax and franchise

1 tax purposes shall claim any credit authorized according to the provisions of this  
2 Section on its corporation income and franchise tax return.

3 (2) Any individual, estate, or trust shall claim any credit authorized  
4 according to the provisions of this Section on its income tax return.

5 (3) Any entity not taxed as a corporation shall claim any credit authorized  
6 according to the provisions of this Section on the returns of the partners or members  
7 as follows:

8 (a) Corporate partners or members shall claim their share of the credit on  
9 their corporation income tax or franchise tax returns.

10 (b) Individual partners or members shall claim their share of the credit on  
11 their individual income tax or franchise tax returns.

12 (c) Partners or members that are estates or trusts shall claim their share of the  
13 credit on their fiduciary income tax returns.

14 **(4) Entities or individuals subject to sales tax shall claim any credit**  
15 **authorized according to the provisions of this Section on their sales tax returns.**

16 F. The secretary of the Department of Revenue ~~in consultation with the~~  
17 ~~secretary of the Department of Natural Resources~~ shall promulgate such rules and  
18 regulations in accordance with the Administrative Procedure Act as may be  
19 necessary to carry out the provisions of this Section. The rules and regulations shall  
20 be promulgated within ninety days of the effective date of this Section.

21 Section 2. Nothing in this Act shall affect or defeat any claim, assessment, appeal,  
22 suit, right, or cause of action for taxes or refunds due or accrued under the income tax laws  
23 of this state before the date on which this Act becomes effective, whether such claims,  
24 assessments, appeals, suits, or actions have been instituted before the date on which this Act  
25 becomes effective or are instituted thereafter if the claim, assessment, appeal, suit, or action  
26 relates to a taxable period ending on or before the effective date of this Act.

27 Section 3. This Act shall become effective upon signature by the governor or, if not  
28 signed by the governor, upon expiration of the time for bills to become law without signature  
29 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
2 effective on the day following the approval.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Riley Boudreaux.

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#### DIGEST

Present law provides for a tax credit for the purchase and installation of a wind energy system or solar energy system.

Proposed law deletes the tax credit for wind energy systems and changes the tax credit for solar energy systems to a tax credit for both "solar electric systems" and "solar thermal systems".

Present law provides that the credit for solar energy systems is 50% of the first \$25,000 of the cost of each system, including installation costs, which is purchased and installed on or after Jan. 1, 2008.

Proposed law establishes the following tax credits for the costs of purchase and installation of both "solar electric systems" and "solar thermal systems."

Each solar "electric" system has the following credits:

1. 50% for all the costs before December 31, 2016 by a taxpayer at his residence.
2. 50% of the first \$25,000 of the costs before December 31, 2016 by a "third-party" taxpayer at a residence in this state through a lease with the owner of the residence.
3. 35% for all the costs on or after January 1, 2017 and before December 31, 2020 by a taxpayer at his residence.
4. 35% of the first \$25,000 of the costs on or after January 1, 2017 and before December 31, 2020 by a "third-party" taxpayer at a residence in this state through a lease with the owner of the residence.

Each solar "thermal" system has the following credits:

1. 50% of the first \$10,000 of the costs before December 31, 2016 by a taxpayer at his residence or by a "third-party" taxpayer at a residence in this state through a lease with the owner of the residence.
2. 35% of the first \$10,000 of the costs on or after January 1, 2017 and before December 31, 2020 by a taxpayer at his residence or by a "third-party" taxpayer at a residence in this state through a lease with the owner of the residence.

Proposed law defines "solar electric system" as a system consisting of photovoltaic panels with the primary purpose of converting sunlight to electrical energy and all equipment and apparatus necessary to connect, store, and process the electrical energy for connection to and use by an electrical load. "Solar electric system" is defined to include grid-connected net metering systems, grid-connected net metering systems with battery backup, stand-alone alternating current (AC) systems, and stand-alone direct current (DC) systems.

Proposed law further defines the eligible system components for a solar electric system to include the following:



- (1) For grid-connected, net metering solar electric systems, the components include photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, alternating current (AC) and direct current (DC) disconnects, lightning and ground fault protection, junction boxes, remote metering display devices, and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load.
- (2) For stand-alone solar electric AC systems, the components include photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC and DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices, and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load.
- (3) For stand-alone solar electric DC systems, the components include photovoltaic panels, mounting systems, charge controllers, batteries, battery cases, DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices, and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load.

Proposed law defines "solar thermal system" as a system consisting of a solar energy collector with the primary purpose of converting sunlight to thermal energy and all devices and apparatus necessary to transfer and store the collected thermal energy for the purposes of heating water, space heating, or space cooling. Defines the eligible system components for a solar thermal system to include solar thermal collectors, mounting systems, solar hot water storage tanks, timers, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping, insulation, and other related materials from the solar thermal collectors to the solar hot water storage tanks.

Proposed law defines "cost of purchase" as the reasonable and prudent costs for the equipment and installation of the solar electric or solar thermal systems.

Proposed law removes the allowance of a tax credit in present law for installations in a residential rental apartment project.

Proposed law requires each eligible system to be installed in the immediate vicinity of the residence to which the electrical, mechanical, or thermal energy is delivered.

Proposed law authorizes, with respect to each residence, only one credit for a solar electric system and one credit for a solar thermal system.

Proposed law provides that, to be eligible for the credit, the cost of purchase for a solar "electric" system installed by a taxpayer at his residence shall be capped so as to not exceed the greater of the total energy needs of the residence or twelve kilowatts and a cost basis of \$4.50 per watt for a single residence. If installed by a third-party taxpayer at a residence utilizing a lease or similar option with the owner of the residence, it is capped so as to not exceed the greater of the total energy needs of the residence or a cost basis of \$4.50 per watt for a single residence.

Proposed law provides that, to be eligible for the credit, the cost of purchase for a solar "thermal" system installed by a taxpayer at his residence shall be capped so as to not exceed \$10,000 or a cost basis of \$4.50 per btu equivalent watt for a single residence. If installed by a third-party taxpayer at his residence, it is capped so as to not exceed \$10,000 or a cost basis of \$4.50 per btu equivalent watt for a single residence.

Proposed law provides that whenever, in return for the purchase price or as an inducement to make a purchase, marketing rebates or incentives are offered, the cost of purchase shall be reduced by the fair market value of the marketing rebate or incentive received. Marketing

rebates or incentives include but are not limited to cash rebates, prizes, gift certificates, trips, additional energy efficiency items or services, or any other thing of value given by the seller, installer, or equipment manufacturer to the taxpayer as an inducement to purchase a solar electric or solar thermal system.

Present law requires the secretary of the Dept. of Revenue, in consultation with the secretary of the Dept. of Natural Resources, to promulgate such rules and regulations as may be necessary to carry out the provisions of present law.

Proposed law retains present law but repeals the requirement that the rules be promulgated in consultation with the secretary of the Dept. of Natural Resources.

Proposed law provides that nothing in it is to affect or defeat any claim, assessment, appeal, suit, right, or cause of action for taxes or refunds due or accrued under the income tax laws of this state before the date on which proposed law becomes effective, whether such claims, assessments, appeals, suits, or actions have been instituted before the date on which proposed law becomes effective or are instituted thereafter if such claim, assessment, appeal, suit, or action relates to a taxable period ending on or before the effective date of proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 47:6030)