**South Carolina General Assembly**

118th Session, 2009-2010

**A81, R121, S12**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Leatherman, Alexander, Ford, Rankin, O'Dell, Cleary, Leventis, Elliott, Lourie, Malloy and Setzler

Document Path: l:\s-res\hkl\001real.dag.docx

Companion/Similar bill(s): 3415

Introduced in the Senate on January 13, 2009

Introduced in the House on February 26, 2009

Last Amended on June 16, 2009

Passed by the General Assembly on June 16, 2009

Governor's Action: June 30, 2009, Signed

Summary: S.C. Taxation Realignment Commission

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/10/2008 Senate Prefiled

12/10/2008 Senate Referred to Committee on **Finance**

1/13/2009 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑77

1/13/2009 Senate Referred to Committee on **Finance** [SJ](file:///h:\SJ%20Archive\2009\01-13-09.docx)‑77

1/14/2009 Senate Referred to Subcommittee: O'Dell (ch), Peeler, Reese, Fair, Elliott

2/4/2009 Senate Committee report: Favorable with amendment **Finance** [SJ](file:///h:\SJ%20Archive\2009\02-04-09.docx)‑2

2/5/2009 Scrivener's error corrected

2/18/2009 Senate Special order, set for February 18, 2009 [SJ](file:///h:\SJ%20Archive\2009\02-18-09.docx)‑15

2/19/2009 Senate Debate interrupted [SJ](file:///h:\SJ%20Archive\2009\02-19-09.docx)‑12

2/25/2009 Senate Committee Amendment Amended and Adopted [SJ](file:///h:\SJ%20Archive\2009\02-25-09.docx)‑48

2/25/2009 Senate Amended [SJ](file:///h:\SJ%20Archive\2009\02-25-09.docx)‑48

2/25/2009 Senate Read second time [SJ](file:///h:\SJ%20Archive\2009\02-25-09.docx)‑48

2/26/2009 Senate Read third time and sent to House [SJ](file:///h:\SJ%20Archive\2009\02-26-09.docx)‑14

2/26/2009 Scrivener's error corrected

2/26/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\02-26-09.docx)‑114

2/26/2009 House Referred to Committee on **Ways and Means** [HJ](file:///h:\HJ%20Archive\2009\02-26-09.docx)‑114

3/31/2009 House Committee report: Favorable with amendment **Ways and Means** [HJ](file:///h:\HJ%20Archive\2009\03-31-09.docx)‑17

4/1/2009 House Requests for debate‑Rep(s). Cooper [HJ](file:///h:\HJ%20Archive\2009\04-01-09.docx)‑68

4/2/2009 House Debate adjourned until Tuesday, April 21, 2009 [HJ](file:///h:\HJ%20Archive\2009\04-02-09.docx)‑41

4/2/2009 Scrivener's error corrected

4/21/2009 House Debate adjourned until Wednesday, April 22, 2009 [HJ](file:///h:\HJ%20Archive\2009\04-21-09.docx)‑41

4/22/2009 House Debate adjourned [HJ](file:///h:\HJ%20Archive\2009\04-22-09.docx)‑30

4/22/2009 House Requests for debate‑Rep(s). Ott, White, Rice, Loftis, Cobb‑Hunter, Neilson, JR Smith, TR Young, King, Jefferson, GR Smith, JH Neal, Gunn, and Kennedy [HJ](file:///h:\HJ%20Archive\2009\04-22-09.docx)‑67

4/22/2009 House Debate adjourned until Thursday, April 24, 2009 [HJ](file:///h:\HJ%20Archive\2009\04-22-09.docx)‑94

4/22/2009 House Roll call Yeas‑75 Nays‑35 [HJ](file:///h:\HJ%20Archive\2009\04-22-09.docx)‑94

4/29/2009 House Amended [HJ](file:///h:\HJ%20Archive\2009\04-29-09.docx)‑234

4/29/2009 House Debate adjourned until Thursday, April 30, 2009 [HJ](file:///h:\HJ%20Archive\2009\04-29-09.docx)‑240

4/30/2009 House Amended [HJ](file:///h:\HJ%20Archive\2009\04-30-09.docx)‑74

4/30/2009 House Read second time [HJ](file:///h:\HJ%20Archive\2009\04-30-09.docx)‑87

4/30/2009 House Roll call Yeas‑67 Nays‑30 [HJ](file:///h:\HJ%20Archive\2009\04-30-09.docx)‑87

5/1/2009 Scrivener's error corrected

5/12/2009 House Read third time and returned to Senate with amendments [HJ](file:///h:\HJ%20Archive\2009\05-12-09.docx)‑46

5/13/2009 Senate Non‑concurrence in House amendment [SJ](file:///h:\SJ%20Archive\2009\05-13-09.docx)‑68

5/14/2009 House House insists upon amendment and conference committee appointed Reps. White, Battle, and Merrill [HJ](file:///h:\HJ%20Archive\2009\05-14-09.docx)‑4

5/14/2009 Senate Conference committee appointed Setzler, Alexander, and Shoopman [SJ](file:///h:\SJ%20Archive\2009\05-14-09.docx)‑84

6/16/2009 House Conference report received and adopted [HJ](file:///h:\HJ%20Archive\2009\06-16-09.docx)‑152

6/16/2009 House Roll call Yeas‑86 Nays‑20 [HJ](file:///h:\HJ%20Archive\2009\06-16-09.docx)‑152

6/16/2009 Senate Conference report adopted [SJ](file:///h:\SJ%20Archive\2009\06-16-09.docx)‑90

6/16/2009 Senate Ordered enrolled for ratification [SJ](file:///h:\SJ%20Archive\2009\06-16-09.docx)‑98

6/24/2009 Ratified R 121

6/30/2009 Signed By Governor

7/7/2009 Effective date 06/30/09

7/7/2009 Act No. 81

**VERSIONS OF THIS BILL**

[12/10/2008](file:///p:\pprever\2009-10\12_20081210.docx)

[2/4/2009](file:///p:\pprever\2009-10\12_20090204.docx)

[2/5/2009](file:///p:\pprever\2009-10\12_20090205.docx)

[2/25/2009](file:///p:\pprever\2009-10\12_20090225.docx)

[2/26/2009](file:///p:\pprever\2009-10\12_20090226.docx)

[3/31/2009](file:///p:\pprever\2009-10\12_20090331.docx)

[4/2/2009](file:///p:\pprever\2009-10\12_20090402.docx)

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[5/1/2009](file:///p:\pprever\2009-10\12_20090501.docx)

[6/16/2009](file:///p:\pprever\2009-10\12_20090616.docx)

(A81, R121, S12)

**AN ACT TO ESTABLISH THE SOUTH CAROLINA TAXATION REALIGNMENT COMMISSION, TO PROVIDE FOR THE COMMISSION’S MEMBERSHIP, POWERS, DUTIES, AND RESPONSIBILITIES, TO PROVIDE THAT THE COMMISSION SHALL CONDUCT A COMPREHENSIVE STUDY OF THE STATE’S TAX SYSTEM AND SUBMIT A REPORT OF ITS RECOMMENDED CHANGES TO FURTHER THE GOAL OF MAINTAINING AND ENHANCING THE STATE AS AN OPTIMUM COMPETITOR IN THE EFFORT TO ATTRACT BUSINESSES AND INDIVIDUALS TO LOCATE, LIVE, WORK, AND INVEST IN THE STATE, TO PROVIDE A SCHEDULE OF REPORTING AND REQUIRE THE COMMISSION TO CONCLUDE ITS BUSINESS BY JANUARY 1, 2011, UNLESS EXTENDED BY LAW, TO PROVIDE FOR PROCEDURES GOVERNING THE CONSIDERATION OF LEGISLATION RESULTING FROM THE COMMISSION’S RECOMMENDATIONS, TO LIMIT RECEIPT BY THE COMMISSION OF INFORMATION FROM LOBBYISTS TO FORMAL PRESENTATIONS TO THE COMMISSION IN A SCHEDULED MEETING AND PROVIDE A PENALTY FOR VIOLATIONS; AND TO AMEND ACT 388 OF 2006, RELATING TO TAXATION, SO AS TO DELETE PROVISIONS ESTABLISHING THE JOINT SALES TAX EXEMPTIONS REVIEW COMMITTEE.**

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

**South Carolina Taxation Realignment Commission created**

SECTION 1. (A) There is created the South Carolina Taxation Realignment Commission to be comprised of eleven members appointed as follows:

(1) one member each appointed by the President Pro Tempore of the Senate, the Senate Finance Committee Chairman, the Senate Majority Leader, and the Senate Minority Leader;

(2)(a) two members appointed by the Speaker of the House;

(b) two members appointed by Chairman of the House Ways and Means Committee;

(3) two members appointed by the Governor; and

(4) the Director of the Department of Revenue, to serve ex officio.

Members of the General Assembly may not be appointed to the commission. Members of the commission must have substantial academic or professional experience or specialization in one or more areas of public finance, government budgeting and administration, tax administration, economics, accounting, business, or tax law. Members of the commission must have been a resident of South Carolina since January 1, 1997.

(B) The members of the commission:

(1) must meet as soon as practicable after appointment and organize itself by electing one of its members as chairman and other officers as the commission may consider necessary. Thereafter, the commission must meet as necessary to fulfill the duties required by this act at the call of the chairman or by a majority of the members. A quorum consists of six members. The commission may engage or employ staff or consultants as may be necessary and prudent to assist the commission in the performance of its duties and responsibilities. Any staff or consultants must possess an academic background or substantial career experience in one or more fields including, but not limited to, economics, government budgeting and administration, urban and regional economic development, economic forecasting, state and local public finance, or business;

(2) shall serve without compensation, and are ineligible for the usual mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions. Staffs of the Senate Finance Committee and the House Ways and Means Committee shall be available to assist the commission in its work. Any other expenses incurred by the commission shall be paid equally from each respective house’s approved account subject to the approval of the Senate Operations and Management Committee and the Speaker of the House;

(3) unless authorized by a further or subsequent enactment, conclude the commission’s business by January 1, 2011, at which time the commission is dissolved. The General Assembly may extend the dates by which the commission shall submit reports required by this act.

(C) The duties of the commission shall be to:

(1) develop criteria for assessing the effectiveness of the current tax system structure, as well as the likely systemic impact of any proposed changes affecting tax revenues and report the criteria to the General Assembly within three months of the effective date of this act, provided that all such criteria must be designed with an emphasis on the systemic balance of the state’s revenue structure from the standpoint of adequacy, equity, and efficiency and with the goal of maintaining and enhancing the State as an optimum competitor in efforts to attract businesses and individuals to locate, live, work, and invest in the State; and

(2) no later than March 15, 2010, prepare and deliver a report and recommendation to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee, including the text of an amendment that effectuates the recommendations. The commission’s report must be a detailed, comprehensive, and careful evaluation of the state’s tax system structure. The commission’s report shall consider:

(a) sales and use tax exemptions or limitations to be retained, modified, or repealed;

(b) the assessment of state and local taxes levied and other provisions affecting state and local revenue to fund the operation and responsibilities of state and local government, respectively; and

(c) any fee, fine, license, forfeiture, or Other Funds.

After reviewing the adequacy, equity, and efficiency of the state’s revenue structure, the commission’s report may recommend that no changes are necessary if it determines that such findings are warranted. Following the report and recommendation required by subsection (C)(2), the commission shall continue studying the subjects identified in subsection (C)(2). The commission may make further legislative recommendations at any time. Also, the commission must submit a report to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee on August first and February first of each year detailing the commission’s progress and points of focus.

For purposes of the scope of the commission’s study, local taxes are defined as local levies related to ad valorem taxation, including, but not limited to, assessment ratios, classification and valuation of property, assessable transfers of interest, valuation limitation, local millages, and fee in lieu of taxes agreements; however, local taxes do not include the exemption of owner‑occupied residential property as provided in Section 12‑37‑220(B)(47).

The commission’s report may not recommend any action that would nullify any existing agreement entered into by a local government.

The commission must forward its recommendation to the Board of Economic Advisors that must prepare a revenue impact detailing the sources of revenue at the state and local level the commission recommends should be increased or decreased, the projected amount of increase or decrease to each source of revenue, and the net gain or loss of total revenue at both the state and local levels that would result from the recommendation. The report must be attached to any legislative recommendation made by the commission prior to it being submitted to any member of the General Assembly.

(D) The text of any amending language pursuant to subsection (C)(2) must be delivered to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and upon request, to any member of the General Assembly.

(E) Further legislative recommendations made by the commission must be delivered to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and upon request, to any member of the General Assembly.

(F) Commission members shall not receive information regarding the business of the commission from a lobbyist except through formal presentation to the commission at a meeting called in compliance with the Freedom of Information Act. Any lobbyist violating the provisions of this subsection is deemed guilty of a misdemeanor and, upon conviction, must be punished as provided in Section 2‑17‑130 of the 1976 Code.

(G) In addition to those duties of the commission provided pursuant to subsection (C) of this section, the commission shall study and make recommendations to the General Assembly of the advantages and drawbacks of a revenue neutral replacement of the state individual and corporate income tax, state imposed sales and use tax, estate tax, bank tax, savings and loan association tax, and taxes on beer, wine, and alcoholic beverages with a broadly based consumption tax modeled on the proposed federal Fair Tax as that form of tax would have to be adapted to apply on the state level. In its study, the commission shall specifically consider how such a tax swap would affect jobs creation, savings and investment, and tax compliance costs for South Carolina taxpayers. The result of the study and recommendations required pursuant to this subsection must be made on the schedule provided in subsection (C)(2) of this section.

**Joint Sales Tax Exemptions Review Committee deleted**

SECTION 2. Act 388 of 2006 is amended by deleting SECTION 1 of Part V, which reads:

“SECTION 1. (A) The sales tax exemptions in Section 12‑36‑2120 of the 1976 Code shall be reviewed by the General Assembly not later than its 2010 Session and thereafter as the General Assembly deems appropriate but not later than its session every ten years after the first review.

(B)(1) There is established the Joint Sales Tax Exemptions Review Committee composed of seven members; three of whom must be members of the Senate appointed by the Chairman of the Senate Finance Committee, one of whom must be a member of the minority party; three of whom must be members of the House of Representatives appointed by the Chairman of the House Ways and Means Committee, one of whom must be a member of the minority party; and one of whom must be the Governor or the Governor’s appointee who shall serve at the Governor’s pleasure. The committee shall elect a chairman and vice chairman from among its members. All legislative members shall serve ex officio. The committee shall assist the General Assembly in performing its duties under the provisions of subsection (A) in addition to its duties required by this subsection.

(2) In carrying out its responsibilities under this act, the committee shall:

(a) make a detailed and careful study of the state’s sales tax exemptions, comparing South Carolina laws to other states;

(b) publish a comparison of the state’s sales tax exemptions to other states’ laws;

(c) recommend changes, and recommend introduction of legislation when appropriate;

(d) submit reports and recommendations annually to the Governor and the General Assembly regarding sales tax exemptions.

(3) In carrying out its responsibilities under this act, the committee may:

(a) hold public hearings;

(b) receive testimony of any employee of the State or any other witness who may assist the committee in its duties;

(c) call for assistance in the performance of its duties from any employee or agency of the State.

(4) The committee may adopt by majority vote rules not inconsistent with this act that it considers proper with respect to matters relating to the discharge of its duties under this section. Professional and clerical services for the committee must be made available from the staffs of the General Assembly, the State Budget and Control Board, and the Department of Revenue. The members of the committee may not receive mileage, per diem, subsistence, or any form of compensation for their service on the committee.”

**Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 24th day of June, 2009.

Approved the 30th day of June, 2009.

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