CHAPTER 3

South Carolina Tax Realignment Commission

**SECTION 12‑3‑10.** South Carolina Taxation Realignment Commission created; membership; duties; report and recommendations for effectuating amendments.

(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.

HISTORY: 2009 Act No. 81, Section 1, eff June 30, 2009.

Library References

Taxation 2435.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 497, 501, 504 to 508.