

REPORT OF THE ECONOMIC DEVELOPMENT, SUBCOMMITTEE

(Stavrinakis, Weeks, Hewitt - Staff Contact: Michael Jackson)

HOUSE BILL 3607

H. 3607 -- Reps. Lucas and G.M. Smith: A BILL TO AMEND SECTION 11-41-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE GENERAL OBLIGATION ECONOMIC DEVELOPMENT BOND ACT, SO AS TO ALLOW FOR THE ISSUANCE OF BONDS TO DEFRAID THE COST OF INFRASTRUCTURE FOR CERTAIN ECONOMIC DEVELOPMENT PROJECTS; TO AMEND SECTION 11-41-30, RELATING TO DEFINITIONS FOR SUCH BONDS, SO AS TO INCLUDE GOVERNMENT-OWNED PROJECTS AND UNDERTAKINGS THAT SUPPORT OR PROMOTE A FOUNDATION FOR ECONOMIC GROWTH AND INDUSTRIAL DEVELOPMENT, AND TO EXPAND THE DEFINITION OF "INFRASTRUCTURE"; TO AMEND SECTIONS 11-41-50 AND 11-41-60, RELATING TO SUCH BONDS, SO AS TO MAKE A CONFORMING CHANGE; TO AMEND SECTION 11-41-70, RELATING TO BOND NOTIFICATION REQUIREMENTS, SO AS TO SPECIFY REQUIREMENTS FOR THE ISSUANCE OF BONDS FOR SUCH GOVERNMENT-OWNED PROJECTS; TO AMEND SECTION 11-41-80, RELATING TO THE RESOLUTION EFFECTING THE ISSUANCE OF SUCH BONDS, SO AS TO SPECIFY THAT THE STATE FISCAL ACCOUNTABILITY AUTHORITY SHALL ADOPT THE RESOLUTION, AND TO AMEND SECTION 11-41-90, RELATING TO THE AUTHORIZING RESOLUTION, SO AS TO MAKE A CONFORMING CHANGE.

Received by Ways and Means:

Summary of Bill:

Amends the Economic Development Bond Act to permit use of the state's 5% debt capacity to support economic development projects utilizing government owned infrastructure with statewide benefits that support economic growth and industrial development. Infrastructure can include assets, improvements and expenditures relating to or supporting economic development projects including rail, air, waterborne, and other transportation improvements and electric, gas, telecommunications, internet, broadband and other utilities. These projects are not subject to job creation or capital investment requirements.

Estimated Revenue Impact:

Pending

Subcommittee Recommendation:

Favorable report

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A BILL

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11 TO AMEND SECTION 11-41-20, CODE OF LAWS OF SOUTH
12 CAROLINA, 1976, RELATING TO THE STATE GENERAL
13 OBLIGATION ECONOMIC DEVELOPMENT BOND ACT, SO
14 AS TO ALLOW FOR THE ISSUANCE OF BONDS TO DEFRAY
15 THE COST OF INFRASTRUCTURE FOR CERTAIN
16 ECONOMIC DEVELOPMENT PROJECTS; TO AMEND
17 SECTION 11-41-30, RELATING TO DEFINITIONS FOR SUCH
18 BONDS, SO AS TO INCLUDE GOVERNMENT-OWNED
19 PROJECTS AND UNDERTAKINGS THAT SUPPORT OR
20 PROMOTE A FOUNDATION FOR ECONOMIC GROWTH
21 AND INDUSTRIAL DEVELOPMENT, AND TO EXPAND THE
22 DEFINITION OF "INFRASTRUCTURE"; TO AMEND
23 SECTIONS 11-41-50 AND 11-41-60, RELATING TO SUCH
24 BONDS, SO AS TO MAKE A CONFORMING CHANGE; TO
25 AMEND SECTION 11-41-70, RELATING TO BOND
26 NOTIFICATION REQUIREMENTS, SO AS TO SPECIFY
27 REQUIREMENTS FOR THE ISSUANCE OF BONDS FOR
28 SUCH GOVERNMENT-OWNED PROJECTS; TO AMEND
29 SECTION 11-41-80, RELATING TO THE RESOLUTION
30 EFFECTING THE ISSUANCE OF SUCH BONDS, SO AS TO
31 SPECIFY THAT THE STATE FISCAL ACCOUNTABILITY
32 AUTHORITY SHALL ADOPT THE RESOLUTION, AND TO
33 AMEND SECTION 11-41-90, RELATING TO THE
34 AUTHORIZING RESOLUTION, SO AS TO MAKE A
35 CONFORMING CHANGE.

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

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40 SECTION 1. A. Section 11-41-20(1) and (2) of the 1976 Code is
41 amended to read:

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1 ~~“(1) That by Section 4, Act 10 of 1985, the General Assembly~~
2 ~~ratified an amendment to~~ Section 13(6)(c), Article X of the
3 Constitution of this State, 1895. ~~One amendment in Section~~
4 ~~13(6)(c), Article X,~~ limits the issuance of general obligation debt of
5 the State such that maximum annual debt service on all general
6 obligation bonds of the State, excluding highway bonds, state
7 institution bonds, tax anticipation notes, and bond anticipation
8 notes, must not exceed five percent of the general revenues of the
9 State for the fiscal year next preceding, excluding revenues which
10 are authorized to be pledged for state highway bonds and state
11 institution bonds.

12 (2) That by Section 4, Act 10 of 1985, the General Assembly
13 ratified an amendment to Section 13(6)(c), Article X, to further
14 provide that the percentage rate of general revenues of the
15 State by which general obligation bond debt service is limited may
16 be reduced to four or increased to seven percent by legislative
17 enactment passed by a two-thirds vote of the total membership of
18 the Senate and a two-thirds vote of the total membership of the
19 House of Representatives.”

20
21 B. Section 11-41-20 of the 1976 Code is amended by adding an item
22 at the end to read:

23
24 “(9) The General Assembly finds that sufficient debt service
25 capacity exists below the original five percent threshold established
26 by Section 13(6)(c), Article X, to allow for the issuance of bonds
27 pursuant to this chapter to defray the cost of infrastructure for
28 projects defined in Section 11-41-30(2)(f), and that the provision of
29 such infrastructure in accordance with this chapter will serve a
30 public purpose.”

31
32 SECTION 2. A. Section 11-41-30(2) of the 1976 Code is
33 amended by adding a subitem at the end to read:

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35 “(f) ‘Economic development project’ or ‘project’ also means an
36 undertaking with statewide benefit that provides infrastructure
37 described in item (3) to support or promote a foundation for
38 economic growth and industrial development. Such undertaking
39 must be owned, operated, and maintained by the State, or an agency,
40 instrumentality, or political subdivision of the State; provided,
41 however, that nothing shall prohibit the state or local government
42 owning the project from contracting with public or private entities
43 for the management and operation of all or a portion thereof. A

1 project meeting this definition is not subject to the job creation and
2 capital investment requirements imposed on projects as defined in
3 items (2)(a) and (b).”

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5 B. Section 11-41-30(3) of the 1976 Code is amended to read:

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7 “(3) ‘Infrastructure’ ~~must means~~ assets, improvements, and
8 expenditures that relate specifically to, but is not required to be
9 whether or not located at, the economic development project and
10 means, including the acquisition, disposition, and mitigation of real
11 property and improvements thereon, and the acquisition,
12 construction, reconstruction, renovation, relocation, disposition, and
13 demolition of structures, facilities, equipment, information
14 technology, utilities, and any other improvements, services, and
15 expenditures related to or in support of the economic development
16 project, and particularly, without limitation:

17 (a) land acquisition;

18 (b) site preparation and development;

19 (c) road and, highway, rail, air, waterborne, and other
20 transportation improvements;

21 (d) ~~rail spur construction~~ water, stormwater, and wastewater
22 facilities, improvements, and services;

23 (e) ~~water service~~ electric, gas, telecommunications, internet,
24 broadband, and other utility facilities, improvements, and services;

25 (f) ~~wastewater treatment~~ research facilities;

26 (g) ~~employee training which may include equipment used for~~
27 ~~such purpose programs and facilities;~~

28 (h) environmental mitigation;

29 (i) ~~training and research facilities and the necessary~~
30 ~~equipment therefor.~~ improvements necessary to maintain
31 compliance with any regulatory requirements or standards; and

32 (j) buildings and renovations to buildings whether new or
33 existing (i) associated with an economic development project as
34 defined in Section 11-41-30(2) that includes air carrier hub terminal
35 facilities as defined in Section 55-11-500(a), or (ii) located on land
36 that is owned by the State or an agency, instrumentality, or political
37 subdivision thereof.”

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39 SECTION 3. A. Section 11-41-50(A) of the 1976 Code is amended
40 to read:

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42 “(A) Pursuant to Section 13(6)(c), Article X of the Constitution of
43 this State, 1895, the General Assembly provides that economic

1 development bonds may be issued pursuant to this subsection at
2 such times as the maximum annual debt service on all general
3 obligation bonds of the State, including economic development
4 bonds outstanding and being issued pursuant to this subsection or
5 pursuant to Section 11-41-50(C) or (D), but excluding economic
6 development bonds issued pursuant to Section 11-41-50(B),
7 research university infrastructure bonds pursuant to Chapter 51 of
8 this title, highway bonds, state institution bonds, tax anticipation
9 notes, and bond anticipation notes, will not exceed five and one-half
10 percent of the general revenues of the State for the fiscal year next
11 preceding, excluding revenues which are authorized to be pledged
12 for state highway bonds and state institution bonds. The State at any
13 time may not issue general obligation bonds, excluding (1)
14 economic development bonds issued pursuant to this chapter, but
15 not excluding economic development bonds issued pursuant to
16 Section 11-41-50(C), or (D); (2) research university infrastructure
17 bonds issued pursuant to Chapter 51 of this title; ; (3) highway
18 bonds; ; (4) state institution bonds; ; (5) tax anticipation notes; ; and
19 (6) bond anticipation notes, if at the time of issuance the maximum
20 annual debt service on all such general obligation bonds,
21 outstanding and being issued exceeds five percent of the general
22 revenues of the State for the fiscal year next preceding, excluding
23 revenues which are authorized to be pledged for state highway
24 bonds and state institution bonds.”

25
26 B. Section 11-41-50 of the 1976 Code is amended by adding a
27 subsection at the end to read:

28
29 “(D) In addition to and exclusive of the economic development
30 bonds provided for and issued pursuant to subsections (A), (B), and
31 (C), the General Assembly provides that pursuant to Section
32 13(6)(c), Article X, economic development bonds may be issued
33 under this chapter to support a project defined in Section
34 11-41-30(2)(f).”

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36 SECTION 4. Sections 11-41-60 and 11-41-70 of the 1976 Code are
37 amended to read:

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39 “Section 11-41-60. The maximum annual debt service on bonds
40 issued pursuant to Section 11-41-50(A) must not exceed one-half of
41 one percent of the general revenues for the fiscal year next
42 preceding, excluding revenues which are authorized to be pledged
43 for state highway bonds and state institution bonds. Bonds issued

1 pursuant to Section 11-41-50(B) shall not be subject to the limitation
2 on maximum annual debt service prescribed by Section 13(6)(c),
3 Article X. The maximum aggregate annual debt service on bonds
4 issued pursuant to either Section 11-41-50(C) or (D), when
5 combined with the debt service on all other general obligation bonds
6 issued under the five percent limitation established in Section
7 13(6)(c), which limitation does not include (1) bonds issued
8 pursuant to subsection (A) or subsection (B) of Section 11-41-50; ;
9 (2) research university infrastructure bonds issued pursuant to
10 Chapter 51 of this title; ; (3) highway bonds; ; (4) state institution
11 bonds; ; (5) tax anticipation notes; ; and (6) bond anticipation notes,
12 must not exceed five percent of the general revenues of the fiscal
13 year next preceding, excluding revenues which are authorized to be
14 pledged for state highway bonds and state institution bonds.
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16 Section 11-41-70. Before issuing economic development bonds,
17 the department or in the case of a tourism training infrastructure
18 project or a national and international convention and trade show
19 center, the State or agency, instrumentality, or political subdivision
20 thereof that will own such project shall notify the Joint Bond Review
21 Committee and the State Fiscal Accountability Authority of the
22 following:

23 (1) the amount then required for allocation to the department or
24 to the State or agency, instrumentality, or political subdivision
25 thereof to defray the costs of the proposed infrastructure; and

26 (2) a description of the infrastructure for which the bonds are to
27 be issued, including a certification by the secretary of the
28 department or in the case of a tourism training infrastructure project
29 or a national and international convention and trade show center by
30 an appropriate official of the State or agency, instrumentality, or
31 political subdivision thereof that will own such project that the
32 economic development project to benefit from the expenditure of
33 the proceeds of the bonds consists of the following:

34 (a)(i) in the case of an economic development project as
35 defined in Section 11-41-30(2)(a)(i), an investment by the sponsor
36 at the project of not less than four hundred million dollars and
37 creation by the sponsor at the project of no fewer than four hundred
38 new jobs, or, (ii) in the case of an enhanced economic development
39 project defined in Section 11-41-30(2)(a)(ii), an investment by the
40 sponsor at the project of not less than four hundred million dollars,
41 and the creation at the project of no fewer than four hundred new
42 jobs by the sponsor, and, further, (A) the total investment at the
43 project by the sponsor is not less than 1.1 billion dollars and (B) the

1 total number of new jobs created at the project is not less than two
2 thousand; or

3 (b) in the case of a life sciences facility, an investment by the
4 sponsor in the project of not less than one hundred million dollars
5 and creation by the sponsor at the project of no fewer than two
6 hundred new jobs with an average cash compensation of at least
7 twice the per capita income in this State. Per capita income must be
8 determined by using the most recent per capita income data
9 available at the time the request for funding is made pursuant to this
10 chapter; or

11 (c) in the case of a tourism training infrastructure project,
12 training and research facilities including the necessary equipment
13 therefor, owned by the State or any agency, instrumentality, or
14 political subdivision thereof, for a program for which project there
15 has been executed an agreement between the State and the state
16 agency, instrumentality, or political subdivision owning such
17 facilities providing that, upon the termination of the program the
18 proceeds of the sale of any facilities financed with the proceeds of
19 bonds issued pursuant to this chapter will be reimbursed by such
20 state agency, instrumentality, or political subdivision to the general
21 fund of the State; or

22 (d) subject to the provisions of Section 11-41-75, in the case
23 of a national and international convention and trade show center,
24 partial payment of costs for infrastructure associated with a meeting
25 and exhibit space as defined in Section 11-41-30(2)(e), owned by
26 the State or any agency, instrumentality, or political subdivision
27 thereof for which project there has been executed an agreement
28 between the State and the state agency, instrumentality, or political
29 subdivision owning such meeting and exhibit space providing that,
30 upon either the sale of the meeting and exhibit space partially
31 financed with proceeds of bonds issued pursuant to this chapter or
32 the failure of the state agency, instrumentality, or political
33 subdivision to (1) purchase land within eighteen months of the
34 effective date of this item (d), (2) begin construction within five
35 years of the effective date of this item (d) of a meeting and exhibit
36 space as defined in Section 11-41-30(2)(e), or (3) complete the
37 project within fifteen years of the effective date of this item (d), then
38 the state agency, instrumentality, or political subdivision owning
39 such meeting and exhibit space will reimburse the amount of bond
40 proceeds to the General Fund of the State, plus interest thereon from
41 the date of expenditure to the date of such reimbursement at a rate
42 equal to the total interest cost rate on the issuance of bonds used to
43 make such expenditure. The state agency, instrumentality, or

1 political subdivision must notify the State Treasurer immediately
2 upon the sale of any land acquired with proceeds of bonds issued
3 pursuant to this chapter. The state agency, instrumentality, or
4 political subdivision also must provide sufficient proof to the State
5 Treasurer that the deadlines to purchase land, begin construction,
6 and complete the project imposed pursuant to this item have been
7 met. If the state agency, instrumentality, or political subdivision
8 sells the land or fails to meet any of these deadlines, then the State
9 Treasurer shall take the appropriate action necessary to recover all
10 bond proceeds and interest disbursed to the state agency,
11 instrumentality, or political subdivision to finance the project; or

12 (e) in the case of a project described in Section
13 11-41-30(2)(f), government-owned infrastructure (i) that the
14 secretary of the department has determined in writing that (A) the
15 infrastructure will benefit the economic development of the State
16 and is anticipated to have statewide economic benefits, and (B) there
17 is an immediate need for, and the infrastructure to be financed by
18 the project consists of, infrastructure identified in Section
19 11-41-30(3), which will be owned, operated, and maintained by the
20 State, or any agency, instrumentality, or political subdivision of the
21 State, or any combination thereof, (ii) that, in the case of a political
22 subdivision, the political subdivision has by ordinance, if a county
23 or municipality, or resolution, if a special purpose district, public
24 service district, or other political subdivision, determined that there
25 is an immediate need for such project and the infrastructure to be
26 provided thereby based upon factual findings stated therein, and by
27 such ordinance or resolution has agreed to undertake the
28 development and construction of, and to own, operate, and maintain,
29 such infrastructure, and (iii) that the Coordinating Council for
30 Economic Development has reviewed the proposal of the
31 department therefor, and by written resolution has determined that
32 the project will assist the department in promoting economic
33 development in the State; and

34 (3) a tentative time schedule setting forth the period of time
35 during which the sum requested is to be expended; and

36 (4) a debt service table showing the annual principal and interest
37 requirements for all bonds then outstanding; and

38 (5) the total amount of all bonds issued.”
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40 SECTION 5. Section 11-41-80 of the 1976 Code is amended to
41 read:

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1 "Section 11-41-80. Following the receipt of the notification
2 presented pursuant to Section 11-41-70 and after review by the Joint
3 Bond Review Committee, and approval by the State Fiscal
4 Accountability Authority, the State Fiscal Accountability Authority,
5 by resolution duly adopted, shall effect the issue of bonds, or
6 pending the issue of the bonds, effect the issue of bond anticipation
7 notes pursuant to Chapter 17 of this title."

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9 SECTION 6. Section 11-41-90(1) of the 1976 Code is amended to
10 read:

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12 "(1) a statement of whether the bonds are being authorized and
13 issued pursuant to Section 11-41-50(A), Section 11-41-50(B), or
14 Section 11-41-50(C), or Section 11-41-50(D);"

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16 SECTION 7. This act takes effect upon approval by the Governor.

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