

REPORT OF THE SALES AND INCOME TAX SUBCOMMITTEE

(Crawford, Simrill, Stavrinakis, Erickson & Daning - Staff Contact: Emma Hall)

HOUSE BILL 3120

H. 3120 -- Hyde, V.S. Moss, Cobb-Hunter, Long, Cogswell, W. Cox, Gagnon, T. Moore, W. Newton, Finlay, Huggins, Ballentine, Caskey, Wooten, Crawford and Henderson-Myers: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-6-3810 SO AS TO PROVIDE FOR AN INCOME TAX CREDIT TO A PROPERTY OWNER WHO ENCUMBERS HIS PROPERTY WITH A PERPETUAL RECREATIONAL TRAIL EASEMENT.

Received by Ways and Means:

January 12, 2021

Summary of Bill:

This bill provides a one-time income tax credit of ten cents for each square foot of property encumbered by a recreational trail easement. It also provides for the Department of Revenue to prescribe the manner of claiming the credit on individual income tax.

Estimated Revenue Impact:

The bill will reduce total General Fund individual and corporate income tax revenue by an estimated \$9,103,000 in FY 2021-22 for encumbrances from 2016 to 2021 and \$2,601,000 per year thereafter beginning in FY 2022-23.

Other Notes/Comments:

The subcommittee adopted an amendment that would cap the bill at \$1 million. The proposed amendment would also add some guardrails, remove the retroactive nature of the credit, and add a sunset of 5 years.

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

ALLEN/NEWBOULT
MARCH 30, 2022

CLERK OF THE HOUSE

THE SALES AND INCOME TAX SUBCOMMITTEE PROPOSES THE
FOLLOWING AMENDMENT No. TO H. 3120
(COUNCIL\SA\3120C002.JN.SA22):

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE BILL, AS AND IF AMENDED, BY
STRIKING ALL AFTER THE ENACTING WORDS AND
INSERTING:**

**/ SECTION 1. CHAPTER 6, TITLE 12 OF THE
1976 CODE IS AMENDED BY ADDING:**

**“SECTION 12-6-3810. (A) A TAXPAYER WHO
ENCUMBERS HIS PROPERTY WITH A PERPETUAL
RECREATIONAL TRAIL EASEMENT AND RIGHT OF
WAY IS ALLOWED A ONE-TIME INCOME TAX**

CREDIT EQUAL TO TEN CENTS FOR EACH SQUARE FOOT OF THE PROPERTY THAT IS ENCUMBERED BY THE RECREATIONAL TRAIL EASEMENT.

(B) THE EASEMENT AND RIGHT OF WAY MUST BE HELD BY A MUNICIPALITY OR COUNTY WITHIN THE STATE OR BY A LAND TRUST ALLIANCE ACCREDITED LAND TRUST AND MUST BE RECORDED WITH THE APPROPRIATE REGISTER OF DEEDS. THE EASEMENT MUST INCLUDE AN AGREEMENT WITH THE MUNICIPALITY, COUNTY, OR LAND TRUST TO GRANT ACCESS TO THE GENERAL PUBLIC AND ADDRESS IMPROVEMENTS TO THE TRAIL, WHICH COULD INCLUDE PAVEMENT OR SOFT-SURFACE TRAILS AND MAINTENANCE.

(C) TO QUALIFY FOR THIS TAX CREDIT, THE TRAIL MUST PROVIDE A CONNECTION BETWEEN A TRAIL WITHIN A MUNICIPALITY'S OR COUNTY'S REGIONAL TRAIL SYSTEM PLAN IN THIS STATE AND A LOCAL OR REGIONAL ATTRACTION OR POINT OF INTEREST. USER GROUPS MAY INCLUDE EQUESTRIANS, PEDESTRIANS, BICYCLISTS, AND

OTHER NON-MOTORIZED USERS. LOCAL OR REGIONAL POINTS OF INTEREST INCLUDE OTHER TRAILS, PARKS, WATERWAYS, OR OTHER RECREATIONAL AND OPEN SPACE ATTRACTIONS, RETAIL CENTERS, ARTS AND CULTURAL FACILITIES, TRANSPORTATION FACILITIES, RESIDENTIAL CONCENTRATIONS, OR SIMILAR DESTINATIONS.

(D) IF THE CREDIT EXCEEDS THE TAXPAYER'S TAX LIABILITY FOR THE TAXABLE YEAR, THE EXCESS AMOUNT MAY BE CARRIED FORWARD FOR CREDIT AGAINST INCOME TAXES IN THE NEXT FIVE SUCCEEDING TAXABLE YEARS.

(E) TO RECEIVE THE CREDIT THE TAXPAYER SHALL CLAIM THE CREDIT ON HIS INCOME TAX OR WITHHOLDING RETURN IN A MANNER PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT MAY REQUIRE ANY INFORMATION THAT IT DETERMINES IS NECESSARY FOR THE CALCULATION OF THE CREDIT PROVIDED BY THIS SECTION.

(F) THE MAXIMUM AMOUNT OF TAX CREDITS ALLOWED TO ALL QUALIFYING TAXPAYERS PURSUANT TO THIS SECTION MAY NOT EXCEED ONE MILLION DOLLARS FOR EACH CALENDAR YEAR.”

SECTION 2. THIS ACT TAKES EFFECT UPON APPROVAL BY THE GOVERNOR AND APPLIES TO INCOME TAX YEARS BEGINNING AFTER 2020. THIS ACT IS REPEALED ON JANUARY 1, 2026 AND IS NO LONGER EFFECTIVE FOR ANY INCOME TAX YEAR AFTER 2025. /

**RENUMBER SECTIONS TO CONFORM.
AMEND TITLE TO CONFORM.**



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	H. 3120	Introduced on January 12, 2021
Author:	Hyde	
Subject:	Income Tax Credit	
Requestor:	House Ways and Means	
RFA Analyst(s):	Jolliff	
Impact Date:	March 15, 2021	

Fiscal Impact Summary

This bill creates an income tax credit for a taxpayer who encumbers his property with a perpetual recreational trail easement. We anticipate that DOR will develop forms and guidance for this tax credit with existing staff and resources, and therefore, this bill is not expected to impact expenditures for the agency.

The bill will reduce total General Fund individual and corporate income tax revenue by an estimated \$9,103,000 in FY 2021-22 for encumbrances from 2016 to 2021 and \$2,601,000 per year thereafter beginning in FY 2022-23. Because the bill is effective upon approval by the Governor, if the bill were to pass prior to the end of FY 2020-21, a portion of the impact may be realized earlier than estimated. Further, this analysis is based upon data provided by Spartanburg County and adjusted statewide, accounting for a higher participation rate in Spartanburg County than anticipated in other areas. At this time, we have contacted the S.C. Parks and Recreation Association and will update this impact if additional information is received about other counties that affects this analysis.

Explanation of Fiscal Impact

Introduced on January 12, 2021

State Expenditure

This bill creates an income tax credit for a taxpayer who encumbers his property with a perpetual recreational trail easement. The credit takes effect upon approval by the Governor and applies to taxpayers who encumbered their property with a perpetual recreational trail easement after 2015. We anticipate that DOR will develop forms and guidance for this tax credit with existing staff and resources, and therefore, this bill is not expected to impact expenditures for the agency.

State Revenue

The bill adds Section 12-6-3810 to provide an income tax credit to any taxpayer who encumbers his property with a perpetual recreational trail easement. The taxpayer is allowed a one-time income tax credit equal to ten cents for each square foot of the property that is encumbered by the recreational trail easement. If the credit exceeds the taxpayer's liability, the excess may be carried forward for five tax years. The credit may be taken against individual or corporate

income tax. The credit takes effect upon approval by the Governor and applies to taxpayers who encumbered their property with a perpetual recreational trail easement after 2015.

Easements may qualify as a deduction on federal income taxes, but details are not available on the returns to determine this deduction amount. The Spartanburg County Parks Department reported, however, that the county currently has approximately 3,611,520 square feet in trail easements secured on private property in recent years, equating to \$351,152 in income tax credits applicable to Spartanburg County.

Spartanburg County accounts for 2.7 percent of the total state land area¹. If all areas had an equivalent number of square feet to eligible trails by area, this would equate to approximately \$13,005,000 in income tax credits for easements from 2016 to 2020. Dividing this amount by 5 yields approximately \$2,601,000 per year.

Based upon discussions with Upstate Forever, a South Carolina nonprofit conservation organization, Spartanburg County has an active conservation program and likely more areas of trail encumbrance than other areas. Therefore, for the purposes of estimating the initial impact for trail easements from 2016 to 2020, we anticipate that reducing the statewide estimate of \$13,005,000 by 50 percent to account for this difference is likely appropriate, yielding an estimate of \$6,502,000 for 2016 to 2020.

However, since there are no restrictions in the bill on who must receive the easement, it may incentivize additional encumbrances than would be anticipated otherwise in future years and may reach the estimated \$2,601,000 per year going forward. Based upon these assumptions, we estimate that the bill will reduce General Fund individual and corporate income tax revenue by a total of \$9,103,000 in FY 2021-22 for encumbrances from 2016 to 2021 and \$2,601,000 per year thereafter beginning in FY 2022-23. Because the bill is effective upon approval by the Governor, if the bill were to pass prior to the end of FY 2020-21, a portion of the impact may be realized earlier than estimated.

At this time, we have contacted the S.C. Parks and Recreation Association to request additional data for other counties in the state and will update this impact if additional information is received about other counties that affects our analysis.

Local Expenditure

N/A

Local Revenue

N/A

¹ https://www.sccounties.org/sites/default/files/uploads/services/research/profiles/land_area.pdf



Frank A. Rainwater, Executive Director

South Carolina General Assembly
124th Session, 2021-2022

H. 3120

STATUS INFORMATION

General Bill

Sponsors: Reps. Hyde, V.S. Moss, Cobb-Hunter, Long, Cogswell, W. Cox, Gagnon, T. Moore, W. Newton, Finlay, Huggins, Ballentine, Caskey, Wooten, Crawford, Henderson-Myers, Erickson, Bradley, Herbkersman, J.E. Johnson and Carter

Document Path: I:\council\bill\sm\20101sa21.docx

Companion/Similar bill(s): 774

Introduced in the House on January 12, 2021

Currently residing in the House Committee on **Ways and Means**

Summary: Income tax credit

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/9/2020	House	Prefiled
12/9/2020	House	Referred to Committee on Ways and Means
1/12/2021	House	Introduced and read first time (<u>House Journal-page 79</u>)
1/12/2021	House	Referred to Committee on Ways and Means (<u>House Journal-page 79</u>)
1/26/2021	House	Member(s) request name added as sponsor: Cogswell
1/27/2021	House	Member(s) request name added as sponsor: W.Cox, Gagnon
2/2/2021	House	Member(s) request name added as sponsor: T.Moore, W.Newton, Finlay, Huggins
2/4/2021	House	Member(s) request name added as sponsor: Ballentine, Caskey, Wooten, Crawford
3/17/2021	House	Member(s) request name added as sponsor: Henderson-Myers
4/28/2021	House	Member(s) request name added as sponsor: Erickson, Bradley, Herbkersman, J.E.Johnson
2/16/2022	House	Member(s) request name added as sponsor: Carter

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VERSIONS OF THIS BILL

12/9/2020

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A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
1976, BY ADDING SECTION 12-6-3810 SO AS TO PROVIDE
FOR AN INCOME TAX CREDIT TO A PROPERTY OWNER
WHO ENCUMBERS HIS PROPERTY WITH A PERPETUAL
RECREATIONAL TRAIL EASEMENT.

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

SECTION 1. Chapter 6, Title 12 of the 1976 Code is amended by
adding:

“Section 12-6-3810. (A) A taxpayer who encumbers his
property with a perpetual recreational trail easement is allowed a
one-time income tax credit equal to ten cents for each square foot of
the property that is encumbered by the recreational trail easement.

(B) If the credit exceeds the taxpayer’s tax liability for the
taxable year, the excess amount may be carried forward for credit
against income taxes in the next five succeeding taxable years.

(C) To receive the credit the taxpayer shall claim the credit on
his income tax or withholding return in a manner prescribed by the
department. The department may require any information that it
determines is necessary for the calculation of the credit provided by
this section.”

SECTION 2. This act takes effect upon approval by the Governor
and applies to taxpayers who encumbered their property with a
perpetual recreational trail easement after 2015.

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