

REPORT OF THE REVENUE POLICY SUBCOMMITTEE

(G.M. Smith, Simrill, Herbkersman, Whitmire & Stavrinakis - Staff Contact: Rena N. Grant)

HOUSE BILL 4332

H. 4332 -- Rep. G.M. Smith: A BILL TO AMEND SECTIONS 11-41-20, 11-41-30, AND 11-41-70, CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL RELATING TO THE STATE GENERAL OBLIGATION ECONOMIC DEVELOPMENT BOND ACT, SO AS TO PROVIDE FURTHER FINDINGS, TO PROVIDE FOR STRATEGIC INFRASTRUCTURE PROJECTS AS ECONOMIC DEVELOPMENT PROJECTS, AND TO ALLOW FOR FREIGHT TRANSPORTATION AS INFRASTRUCTURE.

Received by Ways and Means: 27th March 2019

Summary of Bill:

Section 1: Section 11-41-20

Stipulates that excluding the constitutional debt limit capacity pursuant to Act 252 of 2002 and Act 187 of 2004, it is in the best interest of SC to issue bonds pursuant to this chapter help defray the costs of certain infrastructure owned, operated and maintained by a state agency, political subdivision, or instrumentality of the state, for use by the general public, freight transport entities, or as an industrial development site

Section 2: Section 11-41-30(2) and (3)

Adds 'strategic infrastructure project' to the definition of 'economic development project' or 'project'; further defines 'strategic infrastructure project' as one owned, operated and maintained by a state agency, political subdivision, or and capital investment threshold (\$400 M) usually imposed; projects remain subject to the tourism training infrastructure project (which states that upon termination of the program, the proceeds of the sale of any facilities financed with the proceeds of bonds issued pursuant to this chapter will be reimbursed by such state agency, instrumentality, or political subdivision to the general fund of the State)

Section 3: Section 11-41-70(2)

(2) (c): Prior to issuance of a bond, a state agency, political subdivision, or instrumentality of the state owning the project must notify JBRC and SFAA of the strategic infrastructure project; Commerce Secretary must determine in writing that there is an immediate need for such infrastructure and agrees to the development and construction of, to own, operate and maintain such an infrastructure; the project has to be reviewed by the Coordination Council and via written resolution the project is deemed helpful in the promotion of economic development to assist industry currently operating in SC or industry considering locating to SC

Section 4: Severability clause

Section 5: Effective upon approval by His Excellency

Estimated Revenue Impact:

Revenue and Fiscal Affairs anticipates that the expansion of the definition of economic development project for the purpose of issuing economic development bonds to include strategic infrastructure projects will have an undetermined expenditure impact on the General Fund that will be based on projects deemed eligible by the Secretary of the Department of Commerce (Secretary) and approvals by the Joint Bond Review Committee and the State Fiscal Accountability Authority. While this bill does not increase the constitutional limit for these bonds, it does expand eligible uses and may increase the frequency of bond issuance.

"THE BELOW CONSTITUTED SUMMARY IS PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND IS NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. IT IS STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND IS NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT".

Subcommittee Recommendation: *Favorable*

Full Committee Recommendation: *Pending*

Other Notes/Comments:



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
(803)734-0640 • RFA.SC.GOV/IMPACTS

Bill Number:	H. 4332	Introduced on March 27, 2019
Author:	G.M. Smith	
Subject:	General Obligation Economic Development Bond Act	
Requestor:	House Ways and Means	
RFA Analyst(s):	Gallagher and Shuford	
Impact Date:	April 9, 2019	

Fiscal Impact Summary

Revenue and Fiscal Affairs anticipates that the expansion of the definition of economic development project for the purpose of issuing economic development bonds to include strategic infrastructure projects will have an undetermined expenditure impact on the General Fund that will be based on projects deemed eligible by the Secretary of the Department of Commerce (Secretary) and approvals by the Joint Bond Review Committee and the State Fiscal Accountability Authority. While this bill does not increase the constitutional limit for these bonds, it does expand eligible uses and may increase the frequency of bond issuance.

Explanation of Fiscal Impact

Introduced on March 27, 2019

State Expenditure

This bill expands the definition of an economic development project for the purpose of issuing economic development bonds to include a strategic infrastructure project. These projects provide public infrastructure that is owned, operated, and maintained by a State entity or political subdivision and includes land acquisition, site preparation, road, highway and freight transportation improvement, rail spur construction, water service, or wastewater treatment.

Further, in the case of a strategic infrastructure project, the Secretary must provide:

- a determination that the infrastructure to be financed by the project consists of a strategic infrastructure project;
- that the state entity or political subdivision that will own, operate, and maintain the infrastructure has provided a written resolution that describes an immediate need for the infrastructure based on factual findings; and
- a determination that the Coordinating Council for Economic Development has found that the project will assist the department in promoting economic development in the state by providing infrastructure that aids industrial development.

In the case of land acquisition or site preparation infrastructure, the Secretary also must provide that the acquisition or site preparation is intended for industrial development and that the site is located in a county designated as Tier III or Tier IV at the time of the Secretary's written determination.

A strategic infrastructure project is not subject to the \$400,000,000 investment and 400 new jobs thresholds required of economic development projects or the \$100,000,000 investment and 200 new jobs thresholds required of a life science facility. The requirement that the maximum annual debt service limitation on this debt must not exceed one-half of one percent of General Fund revenues, pursuant to Section 11-41-10, is unaffected. At the end of June 2018, the total amount of economic development bond debt outstanding was \$36,645,000, and the associated annual debt service was \$4,489,300, which was 0.06 percent of the prior year's total General Fund revenues. Under the 0.05 percent constitutional debt limitation, the debt service can increase by \$33,367,800 to support additional bonds.

Revenue and Fiscal Affairs anticipates that the expansion of the definition of economic development project to include strategic infrastructure projects will have an undetermined expenditure impact on the General Fund that will be based on projects deemed eligible by the Secretary and approvals by the Joint Bond Review Committee and the State Fiscal Accountability Authority.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director

South Carolina General Assembly
123rd Session, 2019-2020

H. 4332

STATUS INFORMATION

General Bill

Sponsors: Rep. G.M. Smith

Document Path: I:\council\bill\ncd\11279dg19.docx

Companion/Similar bill(s): 679

Introduced in the House on March 27, 2019

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

Summary: General Obligation Economic Development Bond Act

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
3/27/2019	House	Introduced and read first time (<u>House Journal-page 48</u>)
3/27/2019	House	Referred to Committee on Ways and Means (<u>House Journal-page 48</u>)

View the latest [legislative information](#) at the website

VERSIONS OF THIS BILL

3/27/2019

1
2
3
4
5
6
7
8

A BILL

9
10
11
12
13
14
15
16
17
18

TO AMEND SECTIONS 11-41-20, 11-41-30, AND 11-41-70,
CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL
RELATING TO THE STATE GENERAL OBLIGATION
ECONOMIC DEVELOPMENT BOND ACT, SO AS TO
PROVIDE FURTHER FINDINGS, TO PROVIDE FOR
STRATEGIC INFRASTRUCTURE PROJECTS AS ECONOMIC
DEVELOPMENT PROJECTS, AND TO ALLOW FOR FREIGHT
TRANSPORTATION AS INFRASTRUCTURE.

19
20
21

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

22
23
24

SECTION 1. Section 11-41-20 of the 1976 Code is amended by
adding an item at the end to read:

25
26
27
28
29
30
31
32
33
34
35
36

“(9) That, as a fact, it is in the best interest of the State that,
subject to the requirements of this chapter as amended hereby and,
subject to the constitutional debt limit capacity provided by the
General Assembly in Act 254 of 2002 and Act 187 of 2004, to
provide for the issuance of bonds pursuant to this chapter to defray
the cost of certain infrastructure to be owned, operated, and
maintained by an agency or instrumentality of the State, or political
subdivision of the State, for use (i) by the general public, (ii) by
entities engaged in freight transport, or (iii) as a site for industrial
development, and that the provision of such infrastructure will serve
a public purpose.”

37
38
39

SECTION 2. Section 11-41-30(2) and (3) of the 1976 Code is
amended to read:

40
41
42

“(2)(a)(i) ‘Economic development project’ or ‘project’ means
either (A) a project in this State as defined in Section 12-44-30(16)

1 in which a total of at least four hundred million dollars is invested
2 in the project by the sponsor and at least four hundred new jobs are
3 created at the project by the sponsor, or (B) an expansion of an
4 existing economic development project for which economic
5 development bonds have previously been issued, if in connection
6 with the expansion, in addition to and not including the investment
7 made and new jobs created in connection with the existing project
8 for which economic development bonds have previously been
9 issued, a total of at least four hundred million dollars is invested in
10 the project by the sponsor and at least four hundred new jobs are
11 created at the project by the sponsor.

12 (ii) 'Enhanced economic development project' or
13 'enhanced project' means an economic development project for
14 which the sponsor satisfies the jobs and investment criteria set forth
15 in subsubitem (i), and, further, (A) the total investment in the project
16 by the sponsor is not less than 1.1 billion dollars and (B) the total
17 number of new jobs created at the project is not less than two
18 thousand. Subject to the satisfaction of the additional criteria set
19 forth in this paragraph and further subject to Sections 11-41-50(C),
20 11-41-60, and 11-41-70, an enhanced project constitutes an
21 economic development project for purposes of this chapter.

22 (iii) 'Economic development project' or 'project' also
23 includes a strategic infrastructure project. 'Strategic infrastructure
24 project' means an undertaking to provide infrastructure described in
25 Sections 11-41-30(3)(a), (b), (c), (d), (e), and (f), each of which in
26 the case of a strategic infrastructure project must be owned,
27 operated, and maintained by an agency or instrumentality of the
28 State, or political subdivision of the State. A strategic infrastructure
29 project is not subject to the job creation and capital investment
30 requirements imposed on projects as defined in item(2)(a) and (b),
31 but is subject to the requirements of Section 11-41-70(2)(c).

32 (b) 'Project' also includes a life sciences facility in this State
33 defined as a business engaged in pharmaceutical, medicine, and
34 related laboratory instrument manufacturing, processing, or
35 research and development. Included in this definition are the
36 following North American Industrial Classification Systems,
37 NAICS Codes published by the Office of Management and Budget
38 of the federal government:

- 39 (i) 3254 Pharmaceutical and Medical Manufacturing;
40 (ii) 334516 Analytical Laboratory Instrument
41 Manufacturing.

42 With respect to a life sciences facility, the sponsor must invest
43 in the project at least one hundred million dollars and create at the

1 project at least two hundred new jobs with an average annual cash
2 compensation level of at least twice the annual per capita income in
3 this State. Per capita income must be determined by using the most
4 recent per capita income data available at the time the request for
5 funding is made pursuant to this chapter.

6 (c) To qualify as an economic development project defined in
7 subitems (a) and (b) above for purposes of this chapter, the
8 applicable investment and job creation requirements must be
9 attained no later than the eighth year after the project first begins
10 operations.

11 (d) 'Economic development project' or 'project' also includes
12 training and research facilities and the necessary equipment
13 therefor, owned by the State or any agency, instrumentality, or
14 political subdivision thereof, for a program for purposes of
15 providing the necessary trained personnel to support the state's
16 economically vital tourism industry. A project as defined in this
17 subsection is also referred to herein as a 'tourism training
18 infrastructure project'. A tourism training infrastructure project is
19 not subject to the job creation and capital investment requirements
20 imposed on projects as defined in subsections (a) and (b) above.

21 (e) 'Economic development project' or 'project' also includes
22 a national and international convention and trade show center in this
23 State, owned by the State or any agency, instrumentality, or political
24 subdivision thereof. A "national and international convention and
25 trade show center" means a not less than two hundred thousand
26 square foot facility consisting of meeting and exhibit space at which
27 are held major conventions, trade shows, and special events that
28 bring delegates into the State and community including, but not
29 limited to, consumer shows, sporting events, and other meetings.
30 Included in the space requirement is an adjacent facility allowing
31 specific events thereby making additional time and space available
32 for the major conventions, trade shows, and special events
33 contemplated by this definition. However, if any adjacent facility is
34 contemplated or initiated under the terms and conditions of this
35 subitem, these plans must be submitted to the Joint Bond Review
36 Committee for review and comment. A national and international
37 convention and trade show center is not subject to the job creation
38 and capital investment requirements imposed on projects as defined
39 in subsections (a) and (b) above.

40 (3) 'Infrastructure' must relate specifically to, but is not required
41 to be located at, the economic development project and means:

- 42 (a) land acquisition;
- 43 (b) site preparation;

- 1 (c) road, ~~and~~ highway, and freight transportation
2 improvements;
3 (d) rail spur construction;
4 (e) water service;
5 (f) wastewater treatment;
6 (g) employee training which may include equipment used for
7 such purpose;
8 (h) environmental mitigation;
9 (i) training and research facilities and the necessary
10 equipment therefor; and
11 (j) buildings and renovations to buildings whether new or
12 existing (i) associated with an economic development project as
13 defined in Section 11-41-30(2) that includes air carrier hub terminal
14 facilities as defined in Section 55-11-500(a), or (ii) located on land
15 that is owned by the State or an agency, instrumentality, or political
16 subdivision thereof.”

17
18 SECTION 3. Section 11-41-70(2) of the 1976 Code is amended to
19 read:

20
21 “(2) a description of the infrastructure for which the bonds are to
22 be issued, including a certification by the secretary of the
23 department or in the case of a tourism training infrastructure project
24 or a national and international convention and trade show center by
25 an appropriate official of the State or agency, instrumentality, or
26 political subdivision thereof that will own such project that the
27 economic development project to benefit from the expenditure of
28 the proceeds of the bonds consists of the following:

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

41 (b) in the case of a life sciences facility, an investment by the
42 sponsor in the project of not less than one hundred million dollars
43 and creation by the sponsor at the project of no fewer than two

1 hundred new jobs with an average cash compensation of at least
2 twice the per capita income in this State. Per capita income must be
3 determined by using the most recent per capita income data
4 available at the time the request for funding is made pursuant to this
5 chapter; or

6 (c) in the case of a strategic infrastructure project, (i) that the
7 Secretary has determined in writing that the infrastructure to be
8 financed by the project consists of infrastructure identified in
9 Section 11-41-30(3)(a), (b), (c), (d), (e), or (f), which will be owned,
10 operated, and maintained by any agency or instrumentality of the
11 State, or political subdivision of the State, (ii) that such agency,
12 instrumentality, or political subdivision has by written resolution
13 determined that there is an immediate need for such infrastructure
14 based upon factual findings stated therein, and has agreed to
15 undertake the development and construction of and to own, operate,
16 and maintain the infrastructure, and (iii) that the Coordinating
17 Council for Economic Development has reviewed the proposal of
18 the department for the project, and by written resolution has
19 determined that the project will assist the department in promoting
20 economic development in the State by providing infrastructure that
21 is needed by industry located in or considering locating in the State.
22 In the case of infrastructure described in Sections 11-41-30(3)(a) or
23 (b), the foregoing determinations and resolutions shall confirm that
24 (i) the purpose thereof is for acquisition or improvements to a site
25 intended for industrial development, and (ii) the site is located in a
26 county which, as of the date of the Secretary's written determination
27 pursuant to this Section 11-41-70(2)(c), is designated as Tier III or
28 Tier IV pursuant to Section 12-6-3360(B), or will be so designated
29 upon the commencement of the next following taxable year; or

30 (e)(d) in the case of a tourism training infrastructure project,
31 training and research facilities including the necessary equipment
32 therefor, owned by the State or any agency, instrumentality, or
33 political subdivision thereof, for a program for which project there
34 has been executed an agreement between the State and the state
35 agency, instrumentality, or political subdivision owning such
36 facilities providing that, upon the termination of the program the
37 proceeds of the sale of any facilities financed with the proceeds of
38 bonds issued pursuant to this chapter will be reimbursed by such
39 state agency, instrumentality, or political subdivision to the general
40 fund of the State; or

41 (d)(e) subject to the provisions of Section 11-41-75, in the case
42 of a national and international convention and trade show center,
43 partial payment of costs for infrastructure associated with a meeting

1 and exhibit space as defined in Section 11-41-30(2)(e), owned by
2 the State or any agency, instrumentality, or political subdivision
3 thereof for which project there has been executed an agreement
4 between the State and the state agency, instrumentality, or political
5 subdivision owning such meeting and exhibit space providing that,
6 upon either the sale of the meeting and exhibit space partially
7 financed with proceeds of bonds issued pursuant to this chapter or
8 the failure of the state agency, instrumentality, or political
9 subdivision to: (1) purchase land within eighteen months of the
10 effective date of subitem (d), (2) begin construction within five
11 years of the effective date of this item (d) of a meeting and exhibit
12 space as defined in Section 11-41-30(2)(e), or (3) complete the
13 project within fifteen years of the effective date of this item (d), then
14 the state agency, instrumentality, or political subdivision owning
15 such meeting and exhibit space will reimburse the amount of bond
16 proceeds to the General Fund of the State, plus interest thereon from
17 the date of expenditure to the date of such reimbursement at a rate
18 equal to the total interest cost rate on the issuance of bonds used to
19 make such expenditure. The state agency, instrumentality, or
20 political subdivision must notify the State Treasurer immediately
21 upon the sale of any land acquired with proceeds of bonds issued
22 pursuant to this chapter. The state agency, instrumentality, or
23 political subdivision also must provide sufficient proof to the State
24 Treasurer that the deadlines to purchase land, begin construction,
25 and complete the project imposed pursuant to this item have been
26 met. If the state agency, instrumentality, or political subdivision
27 sells the land or fails to meet any of these deadlines, then the State
28 Treasurer shall take the appropriate action necessary to recover all
29 bond proceeds and interest disbursed to the state agency,
30 instrumentality, or political subdivision to finance the project;"

31
32 SECTION 4. If any section, subsection, paragraph, subparagraph,
33 sentence, clause, phrase, or word of this act is for any reason held to
34 be unconstitutional or invalid, such holding shall not affect the
35 constitutionality or validity of the remaining portions of this act, the
36 General Assembly hereby declaring that it would have passed this
37 act, and each and every section, subsection, paragraph,
38 subparagraph, sentence, clause, phrase, and word thereof,
39 irrespective of the fact that any one or more other sections,
40 subsections, paragraphs, subparagraphs, sentences, clauses, phrases,
41 or words hereof may be declared to be unconstitutional, invalid, or
42 otherwise ineffective.
43

1 SECTION 5. This act takes effect upon approval by the Governor.
2 ----XX----
3