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REPORT OF THE SALES AND INCOME TAX SUBCOMMITTEE

(Newton, Stavrinakis, Dillard, Taylor & Hyde - Staff Contact: Emma Hall)

HOUSE BILL 3121

H. 3121 -- Reps. Hyde, Carter, B. Newton, Neese, T. Moore, Pope, Bauer, Davis, M.M. Smith and Willis: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS 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: 12/8/22

Summary of Bill: This bill provides a one-time income tax credit of ten cents per square foot of property encumbered by a permanent recreational trail easemnt. The tax credit will sunset in 2027 and is limited to \$1,000,000 in a calendar year.

Estimated Revenue Impact: This bill is expected to reduce General Fund revenue by a total of up to \$1,000,000 annually for tax years 2023 to 2027.

Other Notes/Comments: Favorable as amended in subcommittee 4/27/23.

SOUTH CAROLINA
HOUSE AMENDMENT

AMENDMENT NO. _____

Samantha Allen
April 28, 2023

ADOPTED	REJECTED	TABLED	ADJOURN DEBATE	RECONSIDERED	ROO

Clerk of the House

ADOPTION NO. _____

BILL NO: H. 3121

(Reference is to the original version)

The Sales, Use & Income Tax Subcommittee proposes the following amendment (LC-3121.SA0001H):

Amend the bill, as and if amended, SECTION 1, by striking Section 12-6-3810(B) and (C) and inserting:

(B) The easement and right of way must be held by a municipality, county, or special purpose district 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, county's, or special purpose district'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.

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. 3121	Introduced on January 10, 2023
Author:	Hyde	
Subject:	Recreational Trail Easement Income Tax Credit	
Requestor:	House Ways and Means	
RFA Analyst(s):	Jolliff	
Impact Date:	April 19, 2023	

Fiscal Impact Summary

This bill creates an income tax credit for a taxpayer who encumbers his property with a perpetual recreational trail easement. The credit takes effect for tax years 2023 to 2027, and the total amount of credits is limited to \$1,000,000 in a calendar year. The bill does not specify how the tax credits are to be allocated, but we expected based on discussions with the Department of Revenue (DOR) that the credits will be allocated on a first-come, first-served basis. Under this assumption, 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 is expected to reduce General Fund individual and corporate income tax revenue by a total of up to \$1,000,000 annually from FY 2023-24 to FY 2027-28 for tax years 2023 to 2027. However, taxpayers may carryforward the credits for five tax years, which may affect the timing of the revenue impact.

Explanation of Fiscal Impact

Introduced on January 10, 2023

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 for tax years 2023 to 2027, and the total amount of credits is limited to \$1,000,000 in a calendar year. The bill does not specify how the tax credits are to be allocated, but we expected based on discussions with DOR that the credits will be allocated on a first-come, first-served basis. Under this assumption, 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. The bill provides requirements for holding of the easement, recording of the easement, and other specifications for the trail easement to qualify for the income tax credit.

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 is available for tax years 2023 to 2027. The amount of credits allowed to all qualifying taxpayers may not exceed \$1,000,000 in a calendar year.

The South Carolina Recreation and Parks Association provided the following data regarding the potential trails for the responding members from 2016 to 2020. Not all local governments responded, and additional miles are expected to qualify beyond these reported below. Additional information regarding the proportion of the miles that will qualify based on the easement restrictions in the bill is not available.

Recreational Trails (Sample)

Local Entity	Square Feet	State Land Area Percentage
City of Myrtle Beach	50,000	0.08%
Greenville County	550,000	2.62%
Irmo Chapin Recreation Commission	5,000	n/a
Lancaster County	5,000,000	1.82%
Spartanburg County	3,611,520	2.69%
Total Reported	9,216,000	7.22%

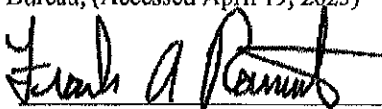
These entities account for approximately 7.22 percent of the total state land area.¹ If all areas had an equivalent ratio of square feet to eligible trail miles by area, this would equate to approximately 127,663,000 miles or potentially \$12,700,000 in income tax credits for easements from 2016 to 2020. Dividing this amount by 5 yields approximately \$2,540,000 per year.

Based upon these figures, we anticipate that the total miles per year may meet the \$1,000,000 tax credit limit each calendar year. The bill is applicable beginning in tax year 2023. Therefore, we estimate that the bill will reduce General Fund individual and corporate income tax revenue by a total of up to \$1,000,000 annually from FY 2023-24 to FY 2027-28 for claims from tax year 2023 to 2027. However, taxpayers may carryforward the credits for five tax years, which may affect the timing of the revenue impact.

Local Expenditure and Local Revenue

N/A

¹ https://www.sccounties.org/sites/default/files/uploads/services/research/profiles/land_area.pdf S.C. Carolina Association of Counties, (Accessed April 19, 2023); https://www2.census.gov/geo/docs/maps-data/data/gazetteer/2019_Gazetteer/2019_gaz_place_45.txt U.S. Census Bureau, (Accessed April 19, 2023)



Frank A. Rainwater, Executive Director

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A BILL

TO AMEND THE SOUTH CAROLINA CODE OF LAWS 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 S.C. 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.

1 SECTION 2. This act takes effect upon approval by the Governor and applies to income tax years
2 beginning after 2022. This act is repealed on January 1, 2028, and is no longer effective for any income
3 tax year after 2027.

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