

REPORT OF THE PROPERTY TAX SUBCOMMITTEE

(G.R. Smith, Clyburn, Merrill, Bales & Clemmons- Staff Contact: Kenzie Riddle)

HOUSE BILL 3562

H. 3562 -- Reps. Herbkersman, Newton, Erickson and Bradley: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 11 TO CHAPTER 10, TITLE 4 ENACTING THE "LOCAL OPTION SCHOOL OPERATING MILLAGE PROPERTY TAX CREDIT ACT" SO AS TO ALLOW A COUNTY GOVERNING BODY WITH REFERENDUM APPROVAL TO IMPOSE A ONE PERCENT SALES TAX THE REVENUE OF WHICH IS USED TO PROVIDE A CREDIT AGAINST PROPERTY TAX LEVIED IN THE COUNTY FOR SCHOOL OPERATIONS, TO PROVIDE FOR THE REFERENDUM, THE DISTRIBUTION OF THE REVENUE, THE CALCULATION AND APPLICATION OF THE CREDIT AND THE ADJUSTMENT OF THE MILLAGE INCREASE CAP TO REFLECT ANNUAL GROWTH IN THIS REVENUE, AND TO PROVIDE THAT THE TAX MAY BE RESCINDED BY REFERENDUM INITIATED BY A PETITION OF FIFTEEN PERCENT OF THE QUALIFIED ELECTORS OF THE COUNTY OR BY ORDINANCE IF THE GOVERNING BODY OF THE COUNTY DETERMINES THAT CHANGES IN STATE LAW PROVIDING FOR THE FINANCING OF SCHOOL OPERATIONS MAKE THE ORIGINAL PURPOSE OF THE TAX IMPOSSIBLE TO ACCOMPLISH UNDER THE EXISTING LAW.

Summary of Bill:

This bill provides authority for a county governing body, with referendum approval, to impose a one percent sales tax the revenue of which is used to provide a credit against property tax levied in the county for school operations. The legislation provides that the tax may be rescinded by referendum initiated by a petition of fifteen percent of the qualified electors of the county or by ordinance if the governing body of the county determines that changes in state law providing for the financing of school operations make the original purpose of the tax impossible to accomplish under the existing law.

Estimated Fiscal Impact:

The Department of Revenue indicates that the bill is not expected to impact General Fund, Federal Fund, or Other Fund expenditures. A determination of which counties will qualify to impose the one percent sales tax is pending, contingent upon a response from the Department of Revenue. Any increase in local revenue as a result of the imposition of the sales tax would be offset by a reduction in local property tax revenue.

Subcommittee Recommendation: Favorable

Full Committee Recommendation: Pending



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 3562
 Author: Herbkersman
 Requestor: House Ways and Means
 Date: April 21, 2015
 Subject: Local Option School Operating Millage Property Tax Credit Act
 RFA Analyst(s): Jolliff, Dunbar, and Shealy

Estimate of Fiscal Impact

	FY 2015-16	FY 2016-17
State Expenditure		
General Fund	\$0	N/A
Other and Federal	\$0	N/A
Full-Time Equivalent Position(s)	0.00	0.00
State Revenue		
General Fund	N/A	N/A
Other and Federal	N/A	N/A
Local Expenditure	N/A	N/A
Local Revenue	\$0	N/A

Fiscal Impact Summary

The Department of Revenue indicates that the bill is not expected to impact General Fund, Federal Fund, or Other Fund expenditures.

A determination of which counties will qualify to impose the one percent sales tax is pending, contingent upon a response from the Department of Revenue. Any increase in local revenue as a result of the imposition of the sales tax would be offset by a reduction in local property tax revenue.

Explanation of Fiscal Impact

State Expenditure

The Department of Revenue indicates that the bill is not expected to impact expenditures of the General Fund, Federal Funds, or Other Funds.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

This bill would enact the Local Option School Operating Millage Property Tax Credit Act to allow a qualifying county to impose a one percent sales tax to provide a credit against school

operating property taxes subject to a referendum. In order to qualify, at least sixty percent of the real property parcels in a county must be assessed subject to Section 12-43-220(e), the six percent assessment ratio. The revenue generated by the sales tax must be distributed to the school districts within a county based upon the district's portion of the total prior year's one hundred thirty-five day average daily membership within the county. The revenues generated must be used to provide a credit against the property tax liability for school operations on property taxable in the district. Additionally, the county auditor must reduce the maximum allowable millage rate for school operations calculated under Section 6-1-320 by an amount corresponding to the projected increase in revenue for the sales tax in the upcoming fiscal year.

A determination of which counties will qualify to impose the one percent sales tax is pending, contingent upon a response from the Department of Revenue. Any increase in local revenue as a result of the imposition of the sales tax would be offset by a reduction in local property tax revenue. If all counties were to qualify and impose the local sales tax, the maximum increase in sales tax revenue statewide would be \$648,000,000 in FY 2015-16.



Frank A. Rainwater, Executive Director

South Carolina General Assembly
121st Session, 2015-2016

H. 3562

STATUS INFORMATION

General Bill

Sponsors: Reps. Herbkersman, Newton, Erickson and Bradley

Document Path: I:\council\bills\bbm\9198dg15.docx

Introduced in the House on February 11, 2015

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

Summary: Local Option School Operating Millage Property Tax Credit Act

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
2/11/2015	House	Introduced and read first time (<u>House Journal-page 7</u>)
2/11/2015	House	Referred to Committee on Ways and Means (<u>House Journal-page 7</u>)

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VERSIONS OF THIS BILL

2/11/2015

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A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 11 TO CHAPTER 10, TITLE 4 ENACTING THE "LOCAL OPTION SCHOOL OPERATING MILLAGE PROPERTY TAX CREDIT ACT" SO AS TO ALLOW A COUNTY GOVERNING BODY WITH REFERENDUM APPROVAL TO IMPOSE A ONE PERCENT SALES TAX THE REVENUE OF WHICH IS USED TO PROVIDE A CREDIT AGAINST PROPERTY TAX LEVIED IN THE COUNTY FOR SCHOOL OPERATIONS, TO PROVIDE FOR THE REFERENDUM, THE DISTRIBUTION OF THE REVENUE, THE CALCULATION AND APPLICATION OF THE CREDIT AND THE ADJUSTMENT OF THE MILLAGE INCREASE CAP TO REFLECT ANNUAL GROWTH IN THIS REVENUE, AND TO PROVIDE THAT THE TAX MAY BE RESCINDED BY REFERENDUM INITIATED BY A PETITION OF FIFTEEN PERCENT OF THE QUALIFIED ELECTORS OF THE COUNTY OR BY ORDINANCE IF THE GOVERNING BODY OF THE COUNTY DETERMINES THAT CHANGES IN STATE LAW PROVIDING FOR THE FINANCING OF SCHOOL OPERATIONS MAKE THE ORIGINAL PURPOSE OF THE TAX IMPOSSIBLE TO ACCOMPLISH UNDER THE EXISTING LAW.

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

SECTION 1. Chapter 10, Title 4 of the 1976 Code is amended by adding:

"Article 11

Local Option School Operating Millage
Property Tax Credit Act

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Section 4-10-1110. This article may be cited as the ‘Local Option School Operating Millage Property Tax Credit Act’.

Section 4-10-1120. For purposes of this article, a county means a county in this State in which at least sixty percent of the parcels of real property subject to property tax in the county are assessed for property tax purposes pursuant to Section 12-43-220(e).

Section 4-10-1130. (A)(1) Subject to the requirements of this article, the governing body of a county by ordinance may impose a sales and use tax of one percent subject to referendum approval to provide a credit against the property tax liability attributable to school operations levied by or on behalf of school districts in the county.

(2) The ordinance described in item (1), may not be enacted unless the county assessor has certified to the governing body of the county that the county meets the requirements of Section 4-10-1120 for the most recently ended property tax year for which verifying data is available. Subsequent changes in the percentage required pursuant to Section 4-10-1120 do not affect the tax imposed pursuant to this article. The tax imposed by this article is not included within any limit provided by law on cumulative local sales and use taxes imposed in a county.

(B) Upon receipt of the ordinance, the county election commission shall conduct a referendum on the question of imposing the sales and use tax. A referendum for this purpose must be held on the first Tuesday after the first Monday in November in any year. Two weeks before the referendum, the election commission shall publish in a newspaper of general circulation the question that is to appear on the ballot. This notice is in lieu of any other notice otherwise required by law.

The question to be voted upon in the referendum must read substantially as follows:

‘Must a sales and use tax of one percent be imposed in _____ County to raise revenue which must be used to provide a credit against the property taxes levied on taxable property in the county for school operations?’

Yes

1
2 No

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4 (C) All qualified electors desiring to vote in favor of imposing
5 the tax shall vote 'Yes' and all qualified electors opposed to
6 imposing the tax shall vote 'No'. If a majority of the votes cast is
7 in favor of imposing the tax, the tax is imposed and the school
8 operating millage property tax credit allowed as provided in this
9 article. The election commission shall conduct the referendum
10 under the election laws of this State, mutatis mutandis, and shall
11 certify the results no later than December thirty-first to the county
12 governing body and, if the majority of votes cast are in favor of
13 imposing the tax, to the South Carolina Department of Revenue. If
14 a majority of the votes cast are opposed to imposing the tax, no
15 further imposition referendum may be held unless at least two years
16 have elapsed since the previous referendum.

17 (D) The results of the referendum may not be questioned except
18 by a suit or proceeding instituted within thirty days from the date
19 the resolution is adopted.

20 (E) If the tax is approved and the results certified as provided
21 pursuant to subsection (C), the tax is imposed beginning on the first
22 day of July following the referendum. If the certification and
23 notices required pursuant to subsection (C) are not timely made, the
24 date of imposition of the tax is postponed until the first day of July
25 of the following year.

26 (F) The credit allowed by this article must be calculated and
27 applies as provided in Section 4-10-1160.

28
29 Section 4-10-1140. (A)(1) Upon petition of fifteen percent of the
30 qualified electors of a county at the time of the last general election
31 presented to the governing body of that county which has imposed
32 the one percent sales and use tax authorized by this article requesting
33 that this tax be rescinded, the county election commission, after
34 verifying a sufficient number of signatures, shall conduct a
35 referendum on the Tuesday following the first Monday in November
36 next following on the question of rescinding the local option sales
37 and use tax in the county. The state election laws apply to the
38 referendum mutatis mutandis. The county election commission
39 shall publish the results of the referendum and certify them to the
40 county council and, if a majority of votes cast is in favor of
41 rescinding the tax, to the South Carolina Department of Revenue.
42 The sales and use tax is rescinded in the county effective on July
43 first following the referendum upon the certification of the results if

1 a majority of the qualified electors voting in the referendum vote in
2 favor of rescinding the tax.

3 (2) The ballot must read substantially as follows:

4 'Must the one percent sales and use tax imposed in _____
5 County to raise revenue to provide a credit against property tax
6 imposed in the county for school operations be rescinded?

7

8 Yes

9

10 No

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12 (3) A referendum for rescission of this tax may not be held
13 earlier than two years after the tax has been imposed in the county.
14 If a majority of the qualified electors voting in the rescission
15 referendum vote against rescinding the tax, no further rescission
16 referendums may be held for a period of two years. If a majority of
17 the votes cast is in favor of rescinding the tax, the tax may not be
18 reimposed in the county for a period of two years. The petition
19 requesting rescission must be presented to the county governing
20 body at least one hundred eighty days before the Tuesday following
21 the first Monday of November of that year or the referendum must
22 be held on the Tuesday following the first Monday of November of
23 the following year.

24 (4) If a result in favor of rescinding the tax is certified, then
25 the tax is rescinded effective on the first day of July following the
26 referendum and the credit must continue in the manner provided in
27 this article until the accrued tax revenue is exhausted.

28 (B) In addition to the method of rescission provided pursuant to
29 subsection (A) of this section, the governing body of the county by
30 ordinance must rescind the tax if it determines that changes in state
31 law financing school operations have been altered to the extent that
32 the purpose for which the tax was originally imposed is no longer
33 possible as this article currently exists. If such an ordinance is
34 enacted, the tax is rescinded effective on the first day of the month
35 beginning more than sixty days after the month in which a certified
36 copy of the rescission ordinance is provided to the Department of
37 Revenue. The revenue accrued before rescission must be used to
38 the extent possible as provided pursuant to subsection (A)(4) of this
39 section. If the governing body of the county determines that such
40 use of all or some portion of that accrued revenue is impossible, then
41 it may by ordinance redirect distributions to the school districts of
42 the county proportionately to the average daily membership (ADM)
43 of the county's school districts and used by the districts for a

1 one-time reduction in millage imposed for bonded indebtedness. If
2 school district boundaries extend outside the boundaries of the
3 county, only the ADM of students of that district residing in the
4 county may be counted for purposes of the distribution.

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6 Section 4-10-1150. (A) The tax imposed pursuant to this article
7 must be administered and collected by the Department of Revenue
8 in the same manner that other sales and use taxes are collected. The
9 department may prescribe the amounts which may be added to the
10 sales price because of the tax.

11 (B) The tax authorized by this article is in addition to all other
12 local sales and use taxes and applies to the gross proceeds of the
13 sales in the applicable jurisdiction which are subject to the taxes
14 imposed by Chapter 36, Title 12 and the enforcement provisions of
15 Chapter 54, Title 12. The gross proceeds of the sale of items subject
16 to a maximum tax in Chapter 36, Title 12 are exempt from the tax
17 imposed by this article. The tax imposed by this article also applies
18 to tangible personal property subject to the use tax in Article 13,
19 Chapter 36, Title 12.

20 (C) Taxpayers required to remit taxes under Article 13, Chapter
21 36, Title 12 shall identify the county in which the tangible personal
22 property purchased at retail is stored, used, or consumed in this
23 State.

24 (D) Utilities are required to report sales in the county in which
25 consumption of the tangible personal property occurs.

26 (E) A taxpayer subject to the tax imposed by Section 12-36-920,
27 who owns or manages rental units in more than one school district
28 shall separately report in his sales tax return the total gross proceeds
29 from business done in each county.

30 (F) The gross proceeds of sales of tangible personal property
31 delivered after the imposition date of the tax imposed pursuant to
32 this article in the school district, either under the terms of a
33 construction contract executed before the imposition date, or a
34 written bid submitted before the imposition date, culminating in a
35 construction contract entered into before or after the imposition
36 date, are exempt from the special local sales and use tax provided in
37 this article if a verified copy of the contract is filed with the
38 Department of Revenue within six months after the imposition of
39 the sales and use tax.

40 (G) Notwithstanding the imposition date of the special local
41 sales and use tax authorized pursuant to this article, with respect to
42 services that are regularly billed on a monthly basis, the special sales

1 and use tax is imposed beginning on the first day of the billing
2 period beginning on or after the imposition date.

3

4 Section 4-10-1160. (A) The revenues of the tax collected in the
5 county pursuant to this article must be remitted to the State
6 Treasurer and credited to a fund separate and distinct from the
7 general fund of the State. After deducting the amount of refunds
8 made and costs to the Department of Revenue of administering the
9 tax, not to exceed one percent of the revenues, the State Treasurer
10 shall distribute the revenues quarterly to the county treasurer. Upon
11 receipt of these funds, the county treasurer shall deposit these funds
12 in a separate account for each school district credited to each school
13 district on the basis of the school district's prior year's one hundred
14 thirty-five-day average daily membership (ADM) as compared to
15 the total prior year's ADM of all school districts in the county
16 excluding from the calculations the ADM attributable to any portion
17 of a school district not within the county.

18 (B) The State Treasurer and the county treasurer may correct
19 misallocation of costs, refunds, distributions, or credits by adjusting
20 subsequent costs, refunds, distributions, or credits.

21 (C)(1)(a) The revenues allotted to a district must be used to
22 provide a credit against the property tax liability for school
23 operations on property taxable in the district in an amount
24 determined by multiplying the property tax value of the taxable
25 property as defined pursuant to Section 12-37-3135(A)(5) by a
26 fraction in which the numerator is the total estimated revenue
27 allotted to the district during the applicable fiscal year of the district
28 and the denominator is the total of the taxable value of taxable
29 property in the district as of January first of the applicable property
30 tax year. For purposes of this credit, 'taxable property' does not
31 include property classified for property tax purposes pursuant to
32 Section 12-43-220(c). For motor vehicles subject to the payment of
33 property taxes pursuant to Article 21, Chapter 37, Title 12, the credit
34 provided pursuant to this subsection applies against the tax liability
35 for motor vehicle tax years beginning after December of the year in
36 which the credit is calculated. The credit applies only against the
37 liability arising from millage imposed for operating purposes for
38 schools.

39 (b) The projected increase in the revenues allotted to a
40 district for its upcoming fiscal year pursuant to this article over the
41 amount of such revenue it receives for the current fiscal year must
42 be calculated by the county auditor in terms of the projected value
43 of a property tax mill for the upcoming fiscal year and that millage

1 amount is deducted from the otherwise applicable maximum
2 millage increase that may be imposed by a district for the upcoming
3 fiscal year pursuant to Section 6-1-320.

4 (2) For purposes of this credit, school property tax liability
5 does not include any liability to pay a fee in lieu of property taxes
6 and taxable property does not include exempt property for which the
7 owner must pay a fee in lieu of property tax.

8 (3) All interest accruing to the credit funds allotted to a district
9 must be used to provide an additional credit as provided in this
10 section.

11
12 Section 4-10-1170. The Department of Revenue shall furnish data
13 to the State Treasurer and to the school districts receiving tax
14 revenues pursuant to this article for the purpose of calculating
15 distributions and estimating revenues. The information which must
16 be supplied to each school district upon request includes, but is not
17 limited to, gross receipts, net taxable sales, and tax liability by
18 taxpayers. Information about a specific taxpayer is considered
19 confidential and is governed by the provisions of Section 12-54-240.
20 A person violating this section is subject to the penalties provided
21 in Section 12-54-240.”

22
23 SECTION 2. This act takes effect upon approval by the Governor.

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