

**REPORT OF THE  
ECONOMIC DEVELOPMENT,  
CAPITAL IMPROVEMENT &  
OTHER TAXES SUBCOMMITTEE**

(Loftis, Cobb-Hunter, J.R. Smith, Barfield & Bales - Staff Contact: Daniel Boan)

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**SENATE BILL 812**

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S. 812 -- Senator O'Dell: A BILL TO AMEND SECTION 11-50-50, AS AMENDED, SECTIONS 11-50-60, 11-50-90, AND 11-50-160, CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL RELATING TO THE SOUTH CAROLINA RURAL INFRASTRUCTURE AUTHORITY, SO AS TO UPDATE THE LIST OF COUNTIES IN WHICH A BOARD MEMBER MAY RESIDE OR REPRESENT, TO REMOVE THE AUTHORITY FROM THE JURISDICTION OF THE ADMINISTRATIVE PROCEDURES ACT, AND TO NO LONGER REQUIRE THE AUTHORITY TO OBTAIN REVIEW AND APPROVAL OF THE JOINT BOND REVIEW COMMITTEE BEFORE PROVIDING FINANCIAL ASSISTANCE, BUT TO REQUIRE THE AUTHORITY TO SUBMIT AN ANNUAL REPORT TO THE JOINT BOND REVIEW COMMITTEE REGARDING LOANS AND OTHER FINANCIAL ASSISTANCE.

***Summary of Bill:***

The bill exempts the Rural Infrastructure Authority from the Administrative Procedures Act and removes the requirement that the RIA get Joint Bond Review Committee approval prior to providing financial assistance, instead requiring RIA to provide JBRC with an annual report of all non-grant financial assistance. It also changes board member residency requirements to allow that a person may serve if his county was designated as distressed or least developed at the time of his appointment.

***Introduced:***01/14/2014

***Received by Ways and Means:*** 02/26/2014

***Estimated Fiscal Impact:***

None.

***Subcommittee Recommendation:***

Favorable

***Full Committee Recommendation:***

Pending

***Other Notes/Comments:***

FISCAL IMPACT STATEMENT ON BILL NO. **S. 812**  
(Doc. No. 26031dg14.docx)

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TO: The Honorable Hugh K. Leatherman, Sr., Chairperson, Senate Finance Committee  
FROM: State Budget Division, Budget and Control Board  
ANALYSTS: R.J. Stein  
DATE: January 23, 2014 SBD: 2014014

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AUTHOR: Senator O'Dell PRIMARY CODE CITE: 11-50-50  
SUBJECT: Duties of the Board of the Rural Infrastructure Authority

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ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:  
\$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:  
\$0 (No additional expenditures or savings are expected)

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**BILL SUMMARY:**

Senate Bill 812 amends Chapter 50, Title 11 of the Code of Laws of South Carolina, 1976, relating to the Rural Infrastructure Authority (RIA). Section 11-50-50 (1) is amended to clarify that, in order to qualify for membership, a Board member must represent some portion of a "distressed" county. The Bill adds the clarifier: "or a county designated as such at the time of appointment." Section 11-50-60 (B) is deleted so that the RIA is no longer subject to the provisions of the Administrative Procedures Act. Section 11-50-90(A) is amended so as to delete the requirement that the RIA must first obtain the approval of the Joint Bond Review Committee (JBRC) before providing financial assistance to a qualified borrower. Section 11-50-160 is amended to require the agency to submit an annual report identifying any loans or other financial assistance (excluding grants) to the JBRC.

**EXPLANATION OF IMPACT:**

Rural Infrastructure Authority

The Authority reports that this Bill will have no impact on the General Fund of the State or on Federal and/or Other Funds.

**LOCAL GOVERNMENT IMPACT:**

None.

**SPECIAL NOTES:**

None.

Approved by:



Brenda Hart  
Assistant Director, State Budget Division

**South Carolina General Assembly**  
120th Session, 2013-2014

**S. 812**

**STATUS INFORMATION**

General Bill

Sponsors: Senator O'Dell

Document Path: I:\council\bill\bh\26031dg14.docx

Companion/Similar bill(s): 4420

Introduced in the Senate on January 14, 2014

Introduced in the House on February 26, 2014

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

Summary: Rural Infrastructure Authority

**HISTORY OF LEGISLATIVE ACTIONS**

| <u>Date</u> | <u>Body</u> | <u>Action Description with journal page number</u>                              |
|-------------|-------------|---------------------------------------------------------------------------------|
| 12/10/2013  | Senate      | Prefiled                                                                        |
| 12/10/2013  | Senate      | Referred to Committee on <b>Finance</b>                                         |
| 1/14/2014   | Senate      | Introduced and read first time ( <u>Senate Journal-page 30</u> )                |
| 1/14/2014   | Senate      | Referred to Committee on <b>Finance</b> ( <u>Senate Journal-page 30</u> )       |
| 2/19/2014   | Senate      | Committee report: Favorable <b>Finance</b> ( <u>Senate Journal-page 18</u> )    |
| 2/20/2014   |             | Scrivener's error corrected                                                     |
| 2/20/2014   | Senate      | Read second time ( <u>Senate Journal-page 12</u> )                              |
| 2/20/2014   | Senate      | Roll call Ayes-38 Nays-2 ( <u>Senate Journal-page 12</u> )                      |
| 2/25/2014   | Senate      | Read third time and sent to House ( <u>Senate Journal-page 16</u> )             |
| 2/26/2014   | House       | Introduced and read first time ( <u>House Journal-page 10</u> )                 |
| 2/26/2014   | House       | Referred to Committee on <b>Ways and Means</b> ( <u>House Journal-page 10</u> ) |

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**VERSIONS OF THIS BILL**

12/10/2013

2/19/2014

2/20/2014

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

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4 COMMITTEE REPORT

5 February 19, 2014

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## S. 812

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Introduced by Senator O'Dell

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11 S. Printed 2/19/14--S. [SEC 2/20/14 11:49 AM]

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Read the first time January 14, 2014.

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### THE COMMITTEE ON FINANCE

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To whom was referred a Bill (S. 812) to amend Section 11-50-50, as amended, Sections 11-50-60, 11-50-90, and 11-50-160, Code of Laws of South Carolina, 1976, all relating to the, etc., respectfully

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#### REPORT:

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That they have duly and carefully considered the same and recommend that the same do pass:

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HUGH K. LEATHERMAN, SR. for Committee.

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#### STATEMENT OF ESTIMATED FISCAL IMPACT

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##### ESTIMATED FISCAL IMPACT ON GENERAL FUND

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##### EXPENDITURES:

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\$0 (No additional expenditures or savings are expected)

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##### ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER

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##### FUND EXPENDITURES:

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\$0 (No additional expenditures or savings are expected)

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#### EXPLANATION OF IMPACT:

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##### Rural Infrastructure Authority

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The authority reports that this bill will have no impact on the General Fund of the State or on federal and/or other funds.

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*Approved By:*

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Brenda Hart

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Office of State Budget

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**A BILL**

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TO AMEND SECTION 11-50-50, AS AMENDED, SECTIONS 11-50-60, 11-50-90, AND 11-50-160, CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL RELATING TO THE SOUTH CAROLINA RURAL INFRASTRUCTURE AUTHORITY, SO AS TO UPDATE THE LIST OF COUNTIES IN WHICH A BOARD MEMBER MAY RESIDE OR REPRESENT, TO REMOVE THE AUTHORITY FROM THE JURISDICTION OF THE ADMINISTRATIVE PROCEDURES ACT, AND TO NO LONGER REQUIRE THE AUTHORITY TO OBTAIN REVIEW AND APPROVAL OF THE JOINT BOND REVIEW COMMITTEE BEFORE PROVIDING FINANCIAL ASSISTANCE, BUT TO REQUIRE THE AUTHORITY TO SUBMIT AN ANNUAL REPORT TO THE JOINT BOND REVIEW COMMITTEE REGARDING LOANS AND OTHER FINANCIAL ASSISTANCE.

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

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SECTION 1. Section 11-50-50(1) of the 1976 Code, as last amended by Act 149 of 2012, is further amended to read:

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“(1) six members who reside in or represent all or some portion of the counties designated as distressed or least developed pursuant to Section 12-6-3360 for 2009 or a county designated as such at the time of appointment; one appointed by the President Pro Tempore of the Senate, one appointed by the Speaker of the House of Representatives, one appointed by the Chairman of the Senate Finance Committee, one appointed by the Chairman of the House Ways and Means Committee, and two appointed by the Governor. Notwithstanding the provisions of Section 8-13-770, the members appointed pursuant to this item (1) by the President Pro Tempore

1 of the Senate, Speaker of the House of Representatives, Chairman  
2 of the Senate Finance Committee, and the Chairman of the House  
3 Ways and Means Committee may be members of the General  
4 Assembly and, if so appointed, shall serve ex officio; and”

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6 SECTION 2. Section 11-50-60 of the 1976 Code, as added by Act  
7 171 of 2010, is amended to read:

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9 “Section 11-50-60. (A) In addition to the powers contained  
10 elsewhere in this chapter, the authority has all power necessary,  
11 useful, or appropriate to fund, operate, and administer the  
12 authority, and to perform its other functions including, but not  
13 limited to, the power to:

- 14 (1) have perpetual succession;
- 15 (2) adopt, promulgate, amend, and repeal bylaws, not  
16 inconsistent with provisions in this chapter for the administration  
17 of the authority’s affairs and the implementation of its functions  
18 including the right of the board to select qualifying projects and to  
19 provide loans and other financial assistance;
- 20 (3) sue and be sued in its own name;
- 21 (4) have a seal and alter it at its pleasure, although the failure  
22 to affix the seal does not affect the validity of an instrument  
23 executed on behalf of the authority;
- 24 (5) make loans to qualified borrowers to finance the eligible  
25 costs of qualified projects and to acquire, hold, and sell loan  
26 obligations at prices and in a manner as the board determines  
27 advisable;
- 28 (6) provide qualified borrowers with other financial  
29 assistance necessary to defray eligible costs of a qualified project;
- 30 (7) enter into contracts, arrangements, and agreements with  
31 qualified borrowers and other persons and execute and deliver all  
32 financing agreements and other instruments necessary or  
33 convenient to the exercise of the powers granted in this chapter;
- 34 (8) enter into agreements with eligible entities of this State  
35 for the purpose of planning and providing for the financing of  
36 qualified projects;
- 37 (9) establish policies and procedures for the making and  
38 administering of loans and other financial assistance, and establish  
39 fiscal controls and accounting procedures to ensure proper  
40 accounting and reporting by the authority and eligible entities;
- 41 (10) acquire by purchase, lease, donation, or other lawful  
42 means and sell, convey, pledge, lease, exchange, transfer, and  
43 dispose of all or any part of its properties and assets of every kind

1 and character or any interest in it to further the public purpose of  
2 the authority;

3 (11) procure insurance, guarantees, letters of credit, and other  
4 forms of collateral or security or credit support from any public or  
5 private entity, including any department, agency, or  
6 instrumentality of this State, for the payment of any bonds issued  
7 by it, including the power to pay premiums or fees on any  
8 insurance, guarantees, letters of credit, and other forms of  
9 collateral or security or credit support;

10 (12) collect or authorize the trustee under any trust indenture  
11 securing any bonds to collect amounts due under any loan  
12 obligations owned by it, including taking the action required to  
13 obtain payment of any sums in default;

14 (13) unless restricted under any agreement with holders of  
15 bonds, consent to any modification with respect to the rate of  
16 interest, time, and payment of any installment of principal or  
17 interest, or any other term of any loan obligations owned by it;

18 (14) borrow money through the issuance of bonds and other  
19 forms of indebtedness as provided in this chapter;

20 (15) expend funds to obtain accounting, management, legal,  
21 financial consulting, and other professional services necessary to  
22 the operations of the authority;

23 (16) expend funds credited to the authority as the board  
24 determines necessary for the costs of administering the operations  
25 of the authority;

26 (17) establish advisory committees as the board determines  
27 appropriate, which may include individuals from the private sector  
28 with banking and financial expertise;

29 (18) procure insurance against losses in connection with its  
30 property, assets, or activities including insurance against liability  
31 for its acts or the acts of its employees or agents or to establish  
32 cash reserves to enable it to act as a self-insurer against any and all  
33 such losses;

34 (19) collect fees and charges in connection with its loans or  
35 other financial assistance;

36 (20) apply for, receive and accept from any source, aid,  
37 grants, and contributions of money, property, labor, or other things  
38 of value to be used to carry out the purposes of this chapter subject  
39 to the conditions upon which the aid, grants, or contributions are  
40 made;

41 (21) enter into contracts or agreements for the servicing and  
42 processing of financial agreements; and

1 (22) do all other things necessary or convenient to exercise  
2 powers granted or reasonably implied by this chapter.

3 ~~(B) The authority is subject to the provisions of Article 1,  
4 Chapter 23, Title 1, the Administrative Procedures Act.”~~

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6 SECTION 3. Section 11-50-90(A) of the 1976 Code, as added by  
7 Act 171 of 2010, is amended to read:

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9 “(A)The authority may provide loans and other financial  
10 assistance to an eligible entity to pay for all or part of the eligible  
11 cost of a qualified project. ~~Before providing a loan or other  
12 financial assistance to a qualified borrower, the authority must  
13 obtain the review and approval of the Joint Bond Review  
14 Committee.~~ The term of the loan or other financial assistance must  
15 not exceed the useful life of the project. The authority may require  
16 the eligible entity to enter into a financing agreement in connection  
17 with its loan obligation or other financial assistance. The authority  
18 shall determine the form and content of loan applications,  
19 financing agreements, and loan obligations including the term and  
20 rate or rates of interest on a financing agreement.”

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22 SECTION 4. Section 11-50-160 of the 1976 Code, as added by  
23 Act 171 of 2010, is amended to read:

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25 “Section 11-50-160. Following the close of each state fiscal  
26 year, the authority shall submit an annual report of its activities for  
27 the preceding year to the Governor and to the General Assembly.  
28 Also, the authority shall submit an annual report of any loans or  
29 other financial assistance, excluding grants, to the Joint Bond  
30 Review Committee. An independent certified public accountant  
31 shall perform an audit of the books and accounts of the authority at  
32 least once in each state fiscal year.”

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34 SECTION 5. This act takes effect upon approval by the Governor.

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