

REPORT OF THE ECONOMIC DEVELOPMENT LEGISLATIVE SUBCOMMITTEE

(Simrill, Clyburn, Erickson, Finlay and Sottile - Staff Contact: Rena N. Grant)

HOUSE BILL 4009

H. 4009 -- Reps. Lucas, Williams, Crawford, Alexander, McCoy, Hiott, Clemmons, Bales, Bedingfield, Ott, G.R. Smith, Herbkersman and Sandifer: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 69 TO TITLE 12 SO AS TO ENACT THE 'MOTORSPORTS ENTERTAINMENT COMPLEX INVESTMENT ACT' BY EXEMPTING CERTAIN BUILDING MATERIALS FOR A COMPLEX FROM THE SALES TAX AND TO PROVIDE THE PROCESS BY WHICH A QUALIFIED COMPANY MAY CLAIM THE EXEMPTION, TO CREATE THE MOTORSPORTS TOURISM INCENTIVE FUND TO AWARD GRANTS OR LOANS TO ATTRACT AND EXPAND TOURISM AND HOSPITALITY PROJECTS RELATED TO EVENTS AT SUCH COMPLEXES, TO PROVIDE THAT A COMPLEX IS ELIGIBLE FOR BENEFITS FROM THE CLOSING FUND, TO ALLOW A TAX CREDIT OF TWENTY-FIVE PERCENT OF THE COSTS INCURRED BY A TAXPAYER TO INSTALL EQUIPMENT OR TECHNOLOGY THAT ALLOWS INFORMATION TO BE TRANSMITTED THROUGH A WIRELESS LOCAL AREA NETWORK AT A COMPLEX; TO AMEND SECTION 12-20-110, RELATING TO THE APPLICABILITY OF CORPORATION LICENSE FEE PROVISIONS, SO AS TO MAKE SUCH PROVISIONS INAPPLICABLE TO A COMPLEX; AND TO AMEND SECTION 12-21-2425, RELATING TO THE ADMISSION LICENSE TAX, SO AS TO INCREASE THE EXEMPTION ON A COMPLEX, TO REMOVE THE TIME PERIOD FOR THE EXEMPTION, AND TO PROVIDE THAT THE EXEMPTED REVENUE MUST BE USED ON MARKETING FOR EVENTS AT THE COMPLEX.

Summary of Bill:

12-69-10

Establishes the motorsports entertainment complex investment act

12-69-20

Defines "company" as any corporation, partnership, LLC or other business entity

12-69-30

(A) Provides an exemption from state and local tax on building materials, supplies, figures and equipment for the construction, repair, or improvement of or that become part of a motorsports entertainment complex, for a company in receipt of written certification of designation by PRT

(B) In order to qualify, a company will need to apply with the Director of PRT; once PRT approves the application and the corresponding practical capital investment plan of at least \$10 million on any motorsport entertainment complex within a five year period immediately following approval of the application by PRT; once approved, the company is eligible for the state and local tax exemptions previously mentioned in subsection (A)

(C) DOR will issue a sales and use tax exemption certificate once the company meets the requirements stipulated per subsection (B) the exemption is effective from 31 Dec of the fifth full calendar year after issuance; Should the exemption certificate become invalid, the company must return the exemption certificate to DOR and submit a report itemizing actual expenditures related to the \$10 million investment; the company is required to designate a representative to work in conjunction with DOR to properly report the investment

(D) A claw-back provision states that failure of an approved company to meet the investment threshold within the 5 year period constitutes liability for the sales and use tax previously waived by DOR with the certificate; 60 day grace period allowed for repayment of sales and use tax sans penalty; sales and use taxes are due on the date the personal property was purchased or Brought into SC for use, storage or consumption

(E) Defines 'designated trusts' as a single financier / financial institution designated by the council to receive all assignments of payments made pursuant to this chapter and to the terms of an agreement entered into by the company; PRT must provide a form if a company elects to assign payments to the designated trustee which shall include a waiver of confidentiality; payments can only be made by the designated trustee; the company must file an application for assignment with the Director of PRT within 60 days of certification

12-69-50

(A) Establishes the Motorsports Tourism Incentive Fund with the sole purpose of awarding grants or loans to attract and expand tourism and hospitality projects related to events at motorsports entertainment complexes

(B) Qualification requirements: minimum \$10 million capital investment; Tier II and Tier IV counties had a \$5 million threshold

(C) Use of funds: public and private utility extension or capacity development on and off site, road or other transportation access costs beyond the funding capability of existing programs, site acquisition, grading, drainage, paving, and any other activity required to prepare a site for construction, construction or build-out of publicly or privately owned buildings, training, or grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision for purposes previously mentioned; prohibition against tourism incentive funds being used for rental, lease, license or any other contractual right to usage of property

12-69-70

Requires entities at Commerce - specifically the Closing Fund and the Coordinating Council, to consider motorsports entertainment complexes; further, job creation, total economic impact and investment made to the community, as well as include the cost of the real property

12-69-80

(A) Creates a 25% tax credit for installation of equipment and technology transported via LAN at a motorsports entertainment complex; the following tiers are allowed the corresponding percentages increases as follows: 5% for Tier II counties for a total of a 30% tax credit, 10% increase for Tier III counties for a total of 35% tax credit and 15% increase for Tier IV counties for a total of 40% tax credit; unused credits can be carried forward for 10 years after the tax year in which the costs were originally incurred

Section 2

Simply adds the definition of "motorsports entertainment complex as defined in 12-21-2425

Section 3

Eliminates the 50% admissions tax and redirects all of for marketing of events related to the motorsports entertainment complex

Section 4

Effective date - approval by His Excellency and is applicable to tax years starting after 2016

Estimated Revenue Impact:

As introduced: reduces sales and use tax revenue by an estimated \$360,000 (SUT revenue reduced by \$240k, Homestead reduction of \$60k and a reduction of \$60k to the EIA) in FY 2017-18

Reduces Gen Fund admissions tax revenue by an estimated \$87,028 in FY 2017-18 and by \$174,056 in FY 2018-19

Reduces Gen Fund individual income tax, corporate income tax, bank tax, saving and loan tax, and/or corporate license tax revenue by an estimated \$3,500,000 in FY 2017-18

Subcommittee Recommendation:

Adopted as amended:

The amendment changes PRT to DOR; as Revenue is the more appropriate agency to exempt an entity from sales and use tax, as well as provide sales and use tax exemption certificates. The amendment retains the following sections:

12-69-10

Establishes the motorsports entertainment complex investment act

12-69-20

Defines "company" as any corporation, partnership, LLC or other business entity

12-69-30

(A) Provides an exemption from state and local tax on building materials, supplies, figures and equipment for the construction, repair, or improvement of or that become part of a motorsports entertainment complex, for a company in receipt of written certification of designation by PRT

(B) In order to qualify, a company will need to apply with the Director of PRT; once PRT approves the application and the corresponding practical capital investment plan of at least \$10 million on any motorsport entertainment complex within a five year period immediately following approval of the application by PRT; once approved, the company is eligible for the state and local tax exemptions previously mentioned in subsection (A)

(C) DOR will issue a sales and use tax exemption certificate once the company meets the requirements stipulated per subsection (B) the exemption is effective from 31 Dec of the fifth full calendar year after issuance;

Should the exemption certificate become invalid, the company must return the exemption certificate to DOR and submit a report itemizing actual expenditures related to the \$10 million investment; the company is required to designate a representative to work in conjunction with DOR to properly report the investment

(D) A claw-back provision states that failure of an approved company to meet the investment threshold within the 5 year period constitutes liability for the sales and use tax previously waived by DOR with the certificate; 60 day grace period allowed for repayment of sales and use tax sans penalty; sales and use taxes are due on the date the personal property was purchased or brought into SC for use, storage or consumption

(E) Defines 'designated trusts' as a single financier / financial institution designated by the council to receive all assignments of payments made pursuant to this chapter and to the terms of an agreement entered into by the company; DOR must provide a form if a company elects to assign payments to the designated trustee which shall include a waiver of confidentiality; payments can only be made by the designated trustee; the company must file an application for assignment with the Director of DOR within 60 days of certification

Section 4

Effective date - approval by His Excellency and is applicable to tax years starting after 2016

Ways & Means Recommendation: Pending

1 **Sponsor: Economic Development Legislative**
2 **Subcommittee Amendment**

3

4 **H. 4009 - Motorsports Entertainment Complex**
5 **Investment Act**

6

7 **Amendment No. 1**

8

9

10 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
11 1976, BY ADDING CHAPTER 69 TO TITLE 12 SO AS TO
12 ENACT THE 'MOTORSPORTS ENTERTAINMENT COMPLEX
13 INVESTMENT ACT' BY EXEMPTING CERTAIN BUILDING
14 MATERIALS FOR A COMPLEX FROM THE SALES TAX AND
15 TO PROVIDE THE PROCESS BY WHICH A QUALIFIED
16 COMPANY MAY CLAIM THE EXEMPTION, TO CREATE
17 THE MOTORSPORTS TOURISM INCENTIVE FUND TO
18 AWARD GRANTS OR LOANS TO ATTRACT AND EXPAND
19 TOURISM AND HOSPITALITY PROJECTS RELATED TO
20 EVENTS AT SUCH COMPLEXES, TO PROVIDE THAT A
21 COMPLEX IS ELIGIBLE FOR BENEFITS FROM THE
22 CLOSING FUND, TO ALLOW A TAX CREDIT OF
23 TWENTY-FIVE PERCENT OF THE COSTS INCURRED BY A
24 TAXPAYER TO INSTALL EQUIPMENT OR TECHNOLOGY
25 THAT ALLOWS INFORMATION TO BE TRANSMITTED
26 THROUGH A WIRELESS LOCAL AREA NETWORK AT A
27 COMPLEX; TO AMEND SECTION 12-20-110, RELATING TO
28 THE APPLICABILITY OF CORPORATION LICENSE FEE
29 PROVISIONS, SO AS TO MAKE SUCH PROVISIONS
30 INAPPLICABLE TO A COMPLEX; AND TO AMEND SECTION
31 12-21-2425, RELATING TO THE ADMISSION LICENSE TAX,
32 SO AS TO INCREASE THE EXEMPTION ON A COMPLEX, TO
33 REMOVE THE TIME PERIOD FOR THE EXEMPTION, AND
34 TO PROVIDE THAT THE EXEMPTED REVENUE MUST BE
35 USED ON MARKETING FOR EVENTS AT THE COMPLEX.

36

37 Whereas, since 1950, with the inaugural running of the Southern
38 500, the first stock car race on a paved track, South Carolina has
39 served as a cornerstone in the development of stock car racing, one

1 of the fastest growing and most popular spectator sports in the
2 country; and

3
4 Whereas, South Carolina lays claim to many of the legends of
5 NASCAR racing, including Rex White, David Pearson, Bud Moore,
6 James Hylton, Tiny Lund, and Cale Yarborough; and

7
8 Whereas, the State of South Carolina is rich in historical references
9 to the sport of stock car racing, as evidenced by the Darlington
10 Raceway Stock Car Museum and the National Motorsports Press
11 Association Hall of Fame, in addition to dirt raceways across the
12 State of South Carolina that served as home to the fledgling sport of
13 NASCAR racing in the 1950s; and

14
15 Whereas, the NASCAR events in South Carolina focus our nation's
16 attention and the attention of the world upon our great State as a
17 sport and tourism destination each year; and

18
19 Whereas, the annual economic impact that NASCAR racing has on
20 South Carolina is in excess of fifty million dollars, as NASCAR fans
21 from across the country and around the world visit the State each
22 year to attend racing events and then vacation in communities
23 throughout the Palmetto State. Now, therefore

24
25 Be it enacted by the General Assembly of the State of South
26 Carolina:

27
28 SECTION 1. Title 12 of the 1976 Code is amended by adding:

29
30 "CHAPTER 69

31
32 Motorsports Entertainment Complex Investment

33
34 Section 12-69-10. This chapter may be cited as the 'Motorsports
35 Entertainment Complex Investment Act'.

36
37 Section 12-69-20. For purposes of this chapter:

38 (1) 'Company' means any corporation, partnership, limited
39 liability company, or other business entity.

40 (2) 'Motorsports entertainment complex' has the same meaning
41 as provided in Section 12-21-2425.

42

1 Section 12-69-30. (A) A company, upon making application
2 for, meeting the requirements of, and receiving written certification
3 of that designation from the Department of ~~Parks, Recreation and~~
4 ~~Tourism, Revenue~~ as provided in subsection (B), is exempt from
5 state and local sales tax on building materials, supplies, fixtures, and
6 equipment for the construction, repair, or improvement of or that
7 become a part of a motorsports entertainment complex.

8 (B) A company shall become a qualified company by applying
9 with the Department of ~~Parks, Recreation, and Tourism, Revenue~~
10 The Director of the Department of ~~Parks, Recreation and Tourism~~
11 Revenue shall approve the application so long as the application is
12 accompanied by a practical plan to make a capital investment of at
13 least ten million dollars on any motorsport entertainment complex
14 in this State within the five-year period immediately following the
15 approval of the application. Upon receiving written certification
16 from the department, a company may utilize the exemption
17 specified in subsection (A).

18 (C) Once a company has met the requirements of subsection (B),
19 the Department of Revenue shall issue a sales and use tax exemption
20 certificate to the company as evidence of the exemption. The
21 exemption is effective upon receipt and shall remain effective until
22 December thirty-first of the fifth full calendar year after its issuance.
23 Once the exemption certificate is ineffective, the company must
24 return the exemption certificate to the Department of Revenue and
25 submit a report to the department of the actual expenditures made in
26 South Carolina in connection with the investment. The company
27 must designate a member or representative of the company to work
28 with the ~~Department of Parks, Recreation, and Tourism~~ and the
29 Department of Revenue on reporting of the investment.

30 (D) A company that is approved and receives a sales and use tax
31 exemption certificate but fails to meet the capital investment
32 requirements within the five-year period, is liable for the sales and
33 use taxes that would have been paid had the approval not been
34 granted in the same proportion as the actual capital investment failed
35 to meet the required capital investment. The company must be
36 given a sixty-day period in which to pay the sales and use taxes
37 without incurring penalties. The sales and use taxes are considered
38 due as of the date the tangible personal property was purchased in
39 or brought into South Carolina for use, storage, or consumption.

40 (E) At the time the company is certified by the Department of
41 ~~Parks, Recreation and Tourism, Revenue~~, it may make an
42 irrevocable assignment of future payments attributable to the rebates

1 made pursuant to this section. For purposes of this section,
2 'designated trustee' means the single financier or financial
3 institution designated by the council to receive all assignments of
4 payments made pursuant to this chapter and to the terms of an
5 agreement entered into by the company. If a company elects to
6 assign payments to the designated trustee, the election must be made
7 on a form provided by the Department of ~~Parks, Recreation and~~
8 ~~Tourism, Revenue~~ including a waiver of confidentiality pursuant to
9 Section 12-54-240, and the payments may be paid only to the
10 designated trustee. The company must file an application for the
11 assignment with the director of the Department of ~~Parks, Recreation~~
12 ~~and Tourism Revenue~~ no later than sixty days after certification.

13
14 ~~Section 12-69-50. (A) There is created in the State Treasury the~~
15 ~~Motorsports Tourism Incentive Fund. This fund is separate and~~
16 ~~distinct from the general fund of the State and all other funds.~~
17 ~~Earnings and interest on this fund must be credited to it and any~~
18 ~~balance in this fund at the end of a fiscal year carries forward in the~~
19 ~~fund in the succeeding fiscal year. The fund must be used by the~~
20 ~~Department of Parks, Recreation and Tourism solely for the purpose~~
21 ~~of awarding grants or loans to attract and expand tourism and~~
22 ~~hospitality projects related to events at motorsports entertainment~~
23 ~~complexes.~~

24 ~~—(B) To qualify for an award from the fund, a qualifying company~~
25 ~~must make a minimum capital investment in this State of at least ten~~
26 ~~million dollars. However, the capital investment requirement may~~
27 ~~be reduced by one-half if the capital investment is made in a Tier III~~
28 ~~or Tier IV county, pursuant to Section 12-6-3360.~~

29 ~~—(C) Funds may be used for public and private utility extension or~~
30 ~~capacity development on and off site, road, or other transportation~~
31 ~~access costs beyond the funding capability of existing programs, site~~
32 ~~acquisition, grading, drainage, paving, and any other activity~~
33 ~~required to prepare a site for construction, construction or build-out~~
34 ~~of publicly or privately owned buildings, training, or grants or loans~~
35 ~~to an industrial development authority, housing and redevelopment~~
36 ~~authority, or other political subdivision for purposes directly relating~~
37 ~~to any of the foregoing. However, funds may not be used, directly~~
38 ~~or indirectly, to pay or guarantee the payment for any rental, lease,~~
39 ~~license, or other contractual right to the use of any property.~~

40
41 ~~—Section 12-69-70. In awarding benefits for economic~~
42 ~~development projects, including awards from the Governor's~~

1 Closing Fund, the Department of Commerce and the coordinating
2 council must consider motorsports entertainment complexes. The
3 Department of Commerce and the coordinating council must
4 consider the number of jobs created, including part time, the total
5 investment made, including the cost of the real property, and the
6 statewide economic impact.

7
8 ~~Section 12-69-80. (A) There is allowed a credit against any tax~~
9 ~~imposed pursuant to this title of twenty five percent of the costs~~
10 ~~incurred by a taxpayer to install equipment or technology that allows~~
11 ~~information to be transmitted through a wireless local area network~~
12 ~~(LAN) at a motorsports entertainment complex. The percentage~~
13 ~~amount to which the credit allowed by this section applies, must be~~
14 ~~increased by five percent if the motorsports entertainment complex~~
15 ~~is located in a Tier II county, ten percent if located in a Tier III~~
16 ~~county, and fifteen percent if located in a Tier IV county, as~~
17 ~~determined by the Department of Revenue pursuant to Section~~
18 ~~12-6-3360. Any unused credits may be carried forward for ten years~~
19 ~~after the tax year in which the costs were incurred.”~~

20
21 SECTION 2. Section 12-20-110 of the 1976 Code is amended by
22 adding an appropriately numbered item at the end to read:

23
24 ~~“() a motorsports entertainment complex, as that term is defined~~
25 ~~in Section 12-21-2425.”~~

26
27 SECTION 3. Section 12-21-2425(A) of the 1976 Code is amended
28 to read:

29
30 ~~“(A) In addition to the exemptions allowed from the admissions~~
31 ~~license tax imposed pursuant to Section 12-21-2420 of the 1976~~
32 ~~Code, there is also exempt from that tax for ten years beginning July~~
33 ~~1, 2008, one half of the paid admissions to a motorsports~~
34 ~~entertainment complex. The total amount of admissions license tax~~
35 ~~exempted pursuant to this section must be used on marketing for~~
36 ~~events at the motorsports entertainment complex.”~~

37
38 SECTION 4. This act takes effect upon approval by the Governor
39 and applies to tax years beginning after 2016.

40 -----XX-----



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H.4009 Introduced on March 21, 2017
Author: Lucas
Subject: Motorsports Entertainment Complex Investment Act
Requestor: House Ways and Means
RFA Analyst(s): R. Martin
Impact Date: March 21, 2018

Estimate of Fiscal Impact

	FY 2017-18	FY 2018-19
State Expenditure		
General Fund	\$0	\$0
Other and Federal	\$0	\$0
Full-Time Equivalent Position(s)	0.00	0.00
State Revenue		
General Fund	(\$4,227,028)	(\$174,056)
Other and Federal	(\$120,000)	\$0
Local Expenditure	\$0	\$0
Local Revenue	\$0	\$0

Fiscal Impact Summary

This bill would reduce sales and use tax revenue by an estimated \$360,000 in FY2017-18. Of this amount, General Fund sales and use tax revenue would be reduced by \$240,000, the EIA Fund would be reduced by \$60,000, and the Homestead Exemption Fund would be reduced by \$60,000 in FY2017-18. This bill would also reduce General Fund admissions tax revenue by an estimated \$87,028 in FY2017-18 and by \$174,056 in FY2018-19. This bill would also reduce General Fund individual income tax, corporate income tax, bank tax, saving and loan tax, and/or corporate license tax revenue by an estimated \$3,500,000 in FY2017-18.

Explanation of Fiscal Impact

Introduced on March 21, 2017

State Expenditure

The Department of Revenue indicates that there will be no expenditure impact to the General Fund, Federal Funds, or Other Funds from this bill. The Department can administer the legislative changes with existing resources.

State Revenue

This bill would add Chapter 69 to Title 12 and may be cited as the "Motorsports Entertainment Complex Investment Act". A motorsports entertainment complex means a motorsports facility, and its ancillary grounds and facilities, that is

- A NASCAR-sanctioned motor speedway or racetrack that hosted at least one NASCAR Sprint Cup Series race in 2012, or any successor race

- Has at least three days of scheduled days of motorsports events each calendar year that are sanctioned by a nationally or internationally recognized governing body of motorsports
- Engages in tourism promotion

This bill makes several changes to statutory tax law. They include,

- A sales and use tax exemption on building materials, supplies, fixtures, and equipment for the construction, repair, or improvement of or that become a part of a motorsports entertainment complex
- There is created in the State Treasury the Motorsports Tourism Incentive Fund to be used by the Department of Parks, Recreation, and Tourism (PRT) for awarding grants or loans to attract and expand tourism and hospitality projects at events at motorsports entertainment complexes
- Allows a taxpayer a nonrefundable investment tax credit of twenty-five percent of the costs to install equipment or technology that allows information to be transmitted through a wireless local area network (LAN) at a motorsports entertainment complex. The tax credit amount may be increased based upon the county designation as determined by the South Carolina Department of Revenue
- Any company subject to a corporate license tax may claim a credit against its license tax liability for amounts paid in cash to provide infrastructure for an eligible project at a motorsports entertainment complex
- A taxpayer may retain the total amount of admissions license tax paid at a motorsports entertainment complex to be used on marketing for events at the complex

The following analysis is based upon a capital investment of \$10,000,000 in a motorsports entertainment complex at the Darlington Speedway in Darlington, SC.

Section 1. This section would enact the Motorsports Entertainment Complex Investment Act to include the following provisions.

This section adds Section 12-69-30 to exempt from state and local sales tax on building materials, supplies, fixtures, and equipment for the construction, repair, or improvement of or that become a part of a motorsports entertainment complex. A qualified company must submit an application to the Department of Parks, Recreation, and Tourism (PRT) for a plan to invest at least \$10,000,000 in any motorsport entertainment complex in the State within a five-year period immediately following the approval of the application. Upon written certification by the Department of Revenue, the company may utilize the sales tax exemption. If a company fails to meet the capital investment requirement within the five year period, the company is liable for the

sales tax it would have been responsible for and the Department of Revenue may “claw back” the sales and use tax owed.

The Darlington Raceway has announced a \$7,000,000 capital improvement campaign to improve three grandstands giving fans a more comfortable seating environment when attending races. The concession stands and restrooms will also be refurbished. There will also be multiple cross-over gates installed and a one-of-a-kind *Wall of Honor* will pay tribute to the former race champions. This will be one of several phases of construction over a period of years. Over the next five years the \$10,000,000 investment threshold should easily be met. This bill would allow a sales tax exemption for the purchase of equipment and construction materials used in the renovation of the facility. A typical construction project consists of forty percent of the value of the project is paid to labor and sixty percent is paid for materials and equipment. Multiplying an estimated \$10,000,000 capital investment project by sixty percent for the purchase of materials and equipment and applying a six percent sales and use tax yields a reduction of sales and use tax revenue of an estimated \$360,000 in FY2017-18. Of this amount, General Fund sales and use tax revenue would be reduced by \$240,000, the EIA Fund would be reduced by \$60,000, and the Homestead Exemption Fund would be reduced by \$60,000 in FY2017-18.

This bill adds Section 12-69-50 to create in the State Treasury a fund separate and distinct from the general fund and all other funds styled the Motorsports Tourism Incentive Fund. All earnings and interest on this fund must stay with the fund and any balance in the fund at the end of the fiscal year carries over to the succeeding fiscal year. The fund must be used by PRT solely for awarding grants or loans to attract and expand tourism and hospitality projects related to events at motorsports entertainment complexes. To qualify for an award, a company must make a minimum capital investment of at least \$10,000,000; however, the capital investment requirement may be reduced by one-half if the capital investment is made in a Tier III or Tier IV county, pursuant to Section 12-6-3360. Darlington County is designated as a Tier III county based on the latest rankings of the job tax credit county designations in calendar year 2018 by the Department of Revenue. The funds may be used for public and private utility extension on or off site, road access, site acquisition, grading, drainage, paving, construction of publicly or privately owned buildings, training, or grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision. The funds may not be used for the payment of any rental, lease, license, or other contractual right to the use of any property. Since this section does not identify a funding source for the grants or loans we are not able to determine the level of loan activity from the fund and is undeterminable in FY2017-18.

This section adds Section 12-69-70 to direct the Department of Commerce and Coordinating Council for Economic Development to consider motorsport entertainment complexes when awarding benefits for economic development projects. These awards may be funded from revenue in the Governor’s Closing Fund. Because this section provides a subjective criterion in making economic development awards and uses a revenue source other than the General Fund, this section is not expected to affect General Fund revenue in FY2017-18.

This section adds Section 12-69-80 to allow a nonrefundable tax credit equal to twenty-five percent of the cost incurred by a taxpayer to install equipment or technology that allows information to be transmitted through a wireless local area network (LAN) at a motorsports

entertainment complex. The tax credit may be increased by five percent if the motorsports complex is located in a Tier II county, ten percent if located in a Tier III county, and fifteen percent if located in a Tier IV county. Darlington County is designated a Tier III county and would be allowed an additional ten percent tax credit. Any unused tax credits may be carried forward for ten years. Multiplying an estimated \$10,000,000 capital investment project by a thirty-five percent tax credit rate yields a reduction of income tax, bank tax, savings and loan tax, and/or corporate license tax revenue of an estimated \$3,500,000 in FY2017-18. Any unused tax credits may be carried forward for ten years after the tax year in which the costs were incurred.

Section 2. This section would amend Section 12-20-110 to allow a taxpayer to claim a tax credit against its corporate license tax liability for amounts paid in cash to provide infrastructure for an eligible project at a motorsports entertainment complex. Infrastructure is defined as improvements for water, wastewater, hydrogen fuel, sewer, gas, steam, electric energy, and communication services made to a building or land that are considered necessary, suitable, or useful to an eligible project. The maximum aggregate credit that may be claimed in any tax year by a single company is \$400,000. The tax credit may not reduce the license tax liability of the company below zero. If the tax credit earned in a taxable year exceeds the liability, the amount of the excess may be carried forward to the next taxable year. Based on the heavy use of this tax credit in data provided by the Department of Revenue, the \$400,000 cash contribution threshold should easily be met. This section, therefore, would reduce General Fund corporation license tax revenue by an estimated \$400,000 in FY2017-18.

Section 3. Currently, for the ten-year period beginning July 1, 2008, and ending June 30, 2018, one-half of the paid admissions to a motorsports entertainment complex may be withheld by the taxpayer to be used for marketing efforts of the complex. The Board of Economic Advisors has accounted for this revenue in its annual General Fund revenue estimates since that date. This section would amend Section 12-21-2425(A) to strike the phrase “for ten years beginning July 1, 2008, one-half of” the paid admissions to a motorsports entertainment complex. This bill would allow the admission tax revenue collected annually from all events held at a NASCAR sanctioned motor speedway or racetrack that hosts at least one race each year featuring the preeminent NASCAR cup series to be retained by the motorsports entertainment complex facility. The funds would be used to help keep a NASCAR race at the motorsports entertainment complex facility. This amounted to admissions tax revenue retained by the motorsports complex of \$87,028 in FY2016-17. The BEA was anticipating the return of this revenue to the General Fund after the expiration of the ten year period in FY2018-19. This bill, therefore, would allow the additional one-half of paid admissions to a motorsports entertainment complex to be retained by the complex. Based on actual admissions tax collections from a motorsports entertainment complex and the change in statutory language, this bill would reduce General Fund admissions tax revenue by an estimated \$87,028 in FY2017-18 and by \$174,056 in FY2018-19, and each fiscal year thereafter.

Section 4. This act takes effect upon approval by the Governor and applies to tax years beginning after 2016.

Local Expenditure

N/A

Local Revenue
N/A



Frank A. Rainwater, Executive Director

South Carolina General Assembly
122nd Session, 2017-2018

H. 4009

STATUS INFORMATION

General Bill

Sponsors: Reps. Lucas, Williams, Crawford, Alexander, McCoy, Hiott, Clemmons, Bales, Bedingfield, Ott, G.R. Smith, Herbkersman, Sandifer and S. Rivers

Document Path: I:\council\bill\bh\7100dg17.docx

Introduced in the House on March 21, 2017

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

Summary: Motorsports Entertainment Complex Investment Act

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
3/21/2017	House	Introduced and read first time (<u>House Journal-page 120</u>)
3/21/2017	House	Referred to Committee on Ways and Means (<u>House Journal-page 120</u>)
2/14/2018	House	Member(s) request name added as sponsor: S.Rivers

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VERSIONS OF THIS BILL

3/21/2017

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10

A BILL

11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, BY ADDING CHAPTER 69 TO TITLE 12 SO AS TO
13 ENACT THE 'MOTORSPORTS ENTERTAINMENT COMPLEX
14 INVESTMENT ACT' BY EXEMPTING CERTAIN BUILDING
15 MATERIALS FOR A COMPLEX FROM THE SALES TAX AND
16 TO PROVIDE THE PROCESS BY WHICH A QUALIFIED
17 COMPANY MAY CLAIM THE EXEMPTION, TO CREATE
18 THE MOTORSPORTS TOURISM INCENTIVE FUND TO
19 AWARD GRANTS OR LOANS TO ATTRACT AND EXPAND
20 TOURISM AND HOSPITALITY PROJECTS RELATED TO
21 EVENTS AT SUCH COMPLEXES, TO PROVIDE THAT A
22 COMPLEX IS ELIGIBLE FOR BENEFITS FROM THE
23 CLOSING FUND, TO ALLOW A TAX CREDIT OF
24 TWENTY-FIVE PERCENT OF THE COSTS INCURRED BY A
25 TAXPAYER TO INSTALL EQUIPMENT OR TECHNOLOGY
26 THAT ALLOWS INFORMATION TO BE TRANSMITTED
27 THROUGH A WIRELESS LOCAL AREA NETWORK AT A
28 COMPLEX; TO AMEND SECTION 12-20-110, RELATING TO
29 THE APPLICABILITY OF CORPORATION LICENSE FEE
30 PROVISIONS, SO AS TO MAKE SUCH PROVISIONS
31 INAPPLICABLE TO A COMPLEX; AND TO AMEND SECTION
32 12-21-2425, RELATING TO THE ADMISSION LICENSE TAX,
33 SO AS TO INCREASE THE EXEMPTION ON A COMPLEX, TO
34 REMOVE THE TIME PERIOD FOR THE EXEMPTION, AND
35 TO PROVIDE THAT THE EXEMPTED REVENUE MUST BE
36 USED ON MARKETING FOR EVENTS AT THE COMPLEX.

37
38 Whereas, since 1950, with the inaugural running of the Southern
39 500, the first stock car race on a paved track, South Carolina has
40 served as a cornerstone in the development of stock car racing, one
41 of the fastest growing and most popular spectator sports in the
42 country; and

1
2 Whereas, South Carolina lays claim to many of the legends of
3 NASCAR racing, including Rex White, David Pearson, Bud Moore,
4 James Hylton, Tiny Lund, and Cale Yarborough; and

5
6 Whereas, the State of South Carolina is rich in historical references
7 to the sport of stock car racing, as evidenced by the Darlington
8 Raceway Stock Car Museum and the National Motorsports Press
9 Association Hall of Fame, in addition to dirt raceways across the
10 State of South Carolina that served as home to the fledgling sport of
11 NASCAR racing in the 1950s; and

12
13 Whereas, the NASCAR events in South Carolina focus our nation's
14 attention and the attention of the world upon our great State as a
15 sport and tourism destination each year; and

16
17 Whereas, the annual economic impact that NASCAR racing has on
18 South Carolina is in excess of fifty million dollars, as NASCAR fans
19 from across the country and around the world visit the State each
20 year to attend racing events and then vacation in communities
21 throughout the Palmetto State. Now, therefore

22
23 Be it enacted by the General Assembly of the State of South
24 Carolina:

25
26 SECTION 1. Title 12 of the 1976 Code is amended by adding:

27
28 "CHAPTER 69

29
30 Motorsports Entertainment Complex Investment

31
32 Section 12-69-10. This chapter may be cited as the 'Motorsports
33 Entertainment Complex Investment Act'.

34
35 Section 12-69-20. For purposes of this chapter:

36 (1) 'Company' means any corporation, partnership, limited
37 liability company, or other business entity.

38 (2) 'Motorsports entertainment complex' has the same meaning
39 as provided in Section 12-21-2425.

40
41 Section 12-69-30. (A) A company, upon making application
42 for, meeting the requirements of, and receiving written certification
43 of that designation from the Department of Parks, Recreation and

1 Tourism, as provided in subsection (B), is exempt from state and
2 local sales tax on building materials, supplies, fixtures, and
3 equipment for the construction, repair, or improvement of or that
4 become a part of a motorsports entertainment complex.

5 (B) A company shall become a qualified company by applying
6 with the Department of Parks, Recreation, and Tourism. The
7 Director of the Department of Parks, Recreation and Tourism shall
8 approve the application so long as the application is accompanied
9 by a practical plan to make a capital investment of at least ten
10 million dollars on any motorsport entertainment complex in this
11 State within the five-year period immediately following the
12 approval of the application. Upon receiving written certification
13 from the department, a company may utilize the exemption
14 specified in subsection (A).

15 (C) Once a company has met the requirements of subsection (B),
16 the Department of Revenue shall issue a sales and use tax exemption
17 certificate to the company as evidence of the exemption. The
18 exemption is effective upon receipt and shall remain effective until
19 December thirty-first of the fifth full calendar year after its issuance.
20 Once the exemption certificate is ineffective, the company must
21 return the exemption certificate to the Department of Revenue and
22 submit a report to the department of the actual expenditures made in
23 South Carolina in connection with the investment. The company
24 must designate a member or representative of the company to work
25 with the Department of Parks, Recreation, and Tourism and the
26 Department of Revenue on reporting of the investment.

27 (D) A company that is approved and receives a sales and use tax
28 exemption certificate but fails to meet the capital investment
29 requirements within the five-year period, is liable for the sales and
30 use taxes that would have been paid had the approval not been
31 granted in the same proportion as the actual capital investment failed
32 to meet the required capital investment. The company must be
33 given a sixty-day period in which to pay the sales and use taxes
34 without incurring penalties. The sales and use taxes are considered
35 due as of the date the tangible personal property was purchased in
36 or brought into South Carolina for use, storage, or consumption.

37 (E) At the time the company is certified by the Department of
38 Parks, Recreation and Tourism, it may make an irrevocable
39 assignment of future payments attributable to the rebates made
40 pursuant to this section. For purposes of this section, 'designated
41 trustee' means the single financier or financial institution designated
42 by the council to receive all assignments of payments made pursuant
43 to this chapter and to the terms of an agreement entered into by the

1 company. If a company elects to assign payments to the designated
2 trustee, the election must be made on a form provided by the
3 Department of Parks, Recreation and Tourism, including a waiver
4 of confidentiality pursuant to Section 12-54-240, and the payments
5 may be paid only to the designated trustee. The company must file
6 an application for the assignment with the director of the
7 Department of Parks, Recreation and Tourism no later than sixty
8 days after certification.

9
10 Section 12-69-50. (A) There is created in the State Treasury the
11 Motorsports Tourism Incentive Fund. This fund is separate and
12 distinct from the general fund of the State and all other funds.
13 Earnings and interest on this fund must be credited to it and any
14 balance in this fund at the end of a fiscal year carries forward in the
15 fund in the succeeding fiscal year. The fund must be used by the
16 Department of Parks, Recreation and Tourism solely for the purpose
17 of awarding grants or loans to attract and expand tourism and
18 hospitality projects related to events at motorsports entertainment
19 complexes.

20 (B) To qualify for an award from the fund, a qualifying company
21 must make a minimum capital investment in this State of at least ten
22 million dollars. However, the capital investment requirement may
23 be reduced by one-half if the capital investment is made in a Tier III
24 or Tier IV county, pursuant to Section 12-6-3360.

25 (C) Funds may be used for public and private utility extension or
26 capacity development on and off site, road, or other transportation
27 access costs beyond the funding capability of existing programs, site
28 acquisition, grading, drainage, paving, and any other activity
29 required to prepare a site for construction, construction or build-out
30 of publicly or privately owned buildings, training, or grants or loans
31 to an industrial development authority, housing and redevelopment
32 authority, or other political subdivision for purposes directly relating
33 to any of the foregoing. However, funds may not be used, directly
34 or indirectly, to pay or guarantee the payment for any rental, lease,
35 license, or other contractual right to the use of any property.

36
37 Section 12-69-70. In awarding benefits for economic
38 development projects, including awards from the Governor's
39 Closing Fund, the Department of Commerce and the coordinating
40 council must consider motorsports entertainment complexes. The
41 Department of Commerce and the coordinating council must
42 consider the number of jobs created, including part-time, the total

1 investment made, including the cost of the real property, and the
2 statewide economic impact.

3

4 Section 12-69-80. (A) There is allowed a credit against any tax
5 imposed pursuant to this title of twenty-five percent of the costs
6 incurred by a taxpayer to install equipment or technology that allows
7 information to be transmitted through a wireless local area network
8 (LAN) at a motorsports entertainment complex. The percentage
9 amount to which the credit allowed by this section applies, must be
10 increased by five percent if the motorsports entertainment complex
11 is located in a Tier II county, ten percent if located in a Tier III
12 county, and fifteen percent if located in a Tier IV county, as
13 determined by the Department of Revenue pursuant to Section
14 12-6-3360. Any unused credits may be carried forward for ten years
15 after the tax year in which the costs were incurred.”

16

17 SECTION 2. Section 12-20-110 of the 1976 Code is amended by
18 adding an appropriately numbered item at the end to read:

19

20 “() a motorsports entertainment complex, as that term is defined
21 in Section 12-21-2425.”

22

23 SECTION 3. Section 12-21-2425(A) of the 1976 Code is amended
24 to read:

25

26 “(A) In addition to the exemptions allowed from the admissions
27 license tax imposed pursuant to Section 12-21-2420 of the 1976
28 Code, there is also exempt from that tax ~~for ten years beginning July~~
29 ~~1, 2008, one-half of~~ the paid admissions to a motorsports
30 entertainment complex. The total amount of admissions license tax
31 exempted pursuant to this section must be used on marketing for
32 events at the motorsports entertainment complex.”

33

34 SECTION 4. This act takes effect upon approval by the Governor
35 and applies to tax years beginning after 2016.

36

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37