**South Carolina General Assembly**

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**S. 135**

**STATUS INFORMATION**

General Bill

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Introduced in the Senate on January 13, 2009

Currently residing in the Senate Committee on **Labor, Commerce and Industry**

Summary: S.C. Rural Infrastructure Bank Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

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12/10/2008 Senate Referred to Committee on **Labor, Commerce and Industry**

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**VERSIONS OF THIS BILL**

[12/10/2008](file:///p:\pprever\2009-10\135_20081210.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 23 TO TITLE 13 SO AS TO ENACT THE “SOUTH CAROLINA RURAL INFRASTRUCTURE BANK ACT”; TO ESTABLISH THE SOUTH CAROLINA RURAL INFRASTRUCTURE BANK FOR THE PURPOSE OF MAKING GRANTS TO ELIGIBLE RECIPIENTS IN RURAL AREAS; TO PROVIDE FOR THE GOVERNANCE OF THE BANK; TO PROVIDE FOR THE POWERS, DUTIES, AND RESPONSIBILITIES OF THE BOARD; TO PROVIDE CRITERIA FOR THOSE ENTITIES ELIGIBLE TO RECEIVE BANK GRANTS; TO ESTABLISH THE SOUTH CAROLINA RURAL INFRASTRUCTURE BANK TRUST FUND TO RECEIVE CERTAIN BANK REVENUES; TO PROVIDE THE CRITERIA WHICH THE BANK SHALL USE IN JUDGING APPLICATIONS FOR GRANTS; TO PROVIDE THAT CERTAIN FUNDS ARE TRANSFERRED TO THE TRUST FUND TO IMPLEMENT THE PROVISIONS OF THIS ACT; TO AUTHORIZE THE BOARD TO ESTABLISH FEES AND PROVIDE THAT CERTAIN FEES MUST BE CREDITED TO THE TRUST FUND ESTABLISHED BY THIS ACT; TO TRANSFER ALL ALLIED, ADVISORY, AFFILIATED, OR RELATED ENTITIES AS WELL AS THE EMPLOYEES, FUNDS, PROPERTY, AND ALL CONTRACT RIGHTS AND OBLIGATIONS ASSOCIATED WITH THE DIVISION OF LOCAL GOVERNMENT AND THE GRANT PROGRAM IT ADMINISTERS, THE SOUTH CAROLINA COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT, THE STATE RURAL INFRASTRUCTURE FUND, THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM, THE SOUTH CAROLINA WATER QUALITY REVOLVING FUND AUTHORITY, AND THE SOUTH CAROLINA INFRASTRUCTURE FACILITIES AUTHORITY TO AND UNDER THE EXCLUSIVE CONTROL OF THE SOUTH CAROLINA RURAL INFRASTRUCTURE BANK; BY ADDING SECTION 12‑24‑93 SO AS TO PROVIDE THAT REVENUES OF THE STATE PORTION OF THE DEED RECORDING FEE CREDITED TO THE GENERAL FUND OF THE STATE IS CREDITED INSTEAD TO THE SOUTH CAROLINA RURAL INFRASTRUCTURE BANK TRUST FUND; TO AMEND SECTION 11‑11‑170, RELATING TO THE REVENUES PAYABLE FROM THE TOBACCO SETTLEMENT LOCAL GOVERNMENT FUND, SO AS TO PROVIDE THAT GRANTS FROM THE FUND MUST BE TO FUND GRANTS DISTRIBUTED BY THE SOUTH CAROLINA RURAL INFRASTRUCTURE BANK INSTEAD OF THE OFFICE OF LOCAL GOVERNMENT OF THE DIVISION OF REGIONAL DEVELOPMENT OF THE STATE BUDGET AND CONTROL BOARD; TO AMEND SECTION 11‑40‑20, RELATING TO THE CREATION OF THE SOUTH CAROLINA INFRASTRUCTURE FACILITIES AUTHORITY, SO AS TO PROVIDE THAT THE SOUTH CAROLINA RURAL INFRASTRUCTURE BANK SHALL COMPRISE THE AUTHORITY INSTEAD OF THE STATE BUDGET AND CONTROL BOARD; TO AMEND SECTION 11‑40‑250, RELATING TO THE REQUIREMENT THAT THE DIVISION OF LOCAL GOVERNMENT OF THE STATE BUDGET AND CONTROL BOARD PROVIDE STAFF AND ASSIST THE SOUTH CAROLINA INFRASTRUCTURE FACILITIES AUTHORITY, SO AS TO PROVIDE THAT THE SOUTH CAROLINA RURAL INFRASTRUCTURE BANK PERFORM THESE DUTIES AND RESPONSIBILITIES INSTEAD OF THE DIVISION OF LOCAL GOVERNMENT; TO AMEND SECTIONS 12‑10‑80, 12‑10‑85, AND 12‑28‑2910, ALL AS AMENDED, RELATING TO FUNDS PAYABLE TO THE STATE RURAL INFRASTRUCTURE FUND AND FUNDS GENERATED FROM A PORTION OF THE GASOLINE AND FUEL USER FEES, SO AS TO PROVIDE THAT THESE MONIES MUST BE DISTRIBUTED TO THE SOUTH CAROLINA RURAL INFRASTRUCTURE BANK AND DEPOSITED IN THE SOUTH CAROLINA RURAL INFRASTRUCTURE BANK TRUST FUND AND USED TO PROVIDE GRANTS FOR ELIGIBLE RECIPIENTS; TO AMEND SECTION 48‑1‑350, RELATING TO PENALTIES IMPOSED UNDER THE POLLUTION CONTROL ACT, SO AS TO PROVIDE THAT THE STATE PORTION OF THE CIVIL PENALTIES CREDITED TO THE GENERAL FUND IS CREDITED INSTEAD TO THE SOUTH CAROLINA RURAL INFRASTRUCTURE BANK TRUST FUND; TO AMEND SECTION 48‑5‑30, RELATING TO THE CREATION OF THE SOUTH CAROLINA WATER QUALITY REVOLVING FUND AUTHORITY, SO AS TO PROVIDE THAT THE MEMBERS OF THE SOUTH CAROLINA RURAL INFRASTRUCTURE BANK COMPRISE THE AUTHORITY INSTEAD OF THE STATE BUDGET AND CONTROL BOARD; TO REPEAL SECTION 1‑11‑25 RELATING TO THE CREATION OF THE OFFICE OF LOCAL GOVERNMENT OF THE STATE BUDGET AND CONTROL BOARD; AND TO PROVIDE FOR AN INTERIM EXECUTIVE DIRECTOR OF THE RURAL INFRASTRUCTURE BANK.

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

SECTION 1. Title 13 of the 1976 Code is amended by adding:

“CHAPTER 23

The South Carolina Rural Infrastructure Bank Act

Section 13‑23‑10. This chapter may be cited as the ‘South Carolina Rural Infrastructure Bank Act’.

Section 13‑23‑20. As used in this chapter:

(1) ‘Bank’ means the South Carolina Rural Infrastructure Bank.

(2) ‘Board’ means the governing board of the bank.

(3) ‘Eligible trust fund project’ means a project located in a rural area that provides new public water or sewer facilities, improvement, or modifications of all of these to existing water or sewer facilities. It also means a study having significant regional impact on the provision of water or sewer services, or both.

(4) ‘Eligible trust fund recipient’ means a municipal corporation, county, special purpose district, or commissioners of public works which may construct, own, or operate an eligible trust fund project.

(5) ‘Rural area’ means a municipality with a population less than fifteen thousand, based on the latest decennial census, and any geographical area located outside a municipal boundary.

(6) ‘Trust fund’ means the South Carolina Rural Infrastructure Bank Trust Fund established pursuant to this chapter for purposes of providing grants for eligible trust fund projects and to match federal monies used to make grants or loans for the provision of public water or sewer facilities, or both.

Section 13‑23‑30. (A)There is established the South Carolina Rural Infrastructure Bank. The bank is governed by a seven‑member board composed of one member from each congressional district elected by the delegations of the congressional district and one member appointed by the Governor from a rural area as defined in Section 13‑23‑20(5). These elections must take into consideration race and gender so as to represent, to the greatest extent possible, all segments of the population of the State. Consideration of these factors in an election in no way creates a cause of action or basis for an employee grievance for a person appointed or elected or for a person who fails to be elected.

(B) A county that is divided among two or more congressional districts, for purposes of electing a board member, is considered in the congressional district that contains the largest number of residents from that county.

(C) A county within a congressional district may not have a resident board member for more than one consecutive term and two persons from the same county may not serve as a board member simultaneously, except as provided in this section.

(D) Legislators residing in the congressional district shall meet upon written call of a majority of the members of the delegation of each congressional district, at a time and place to be designated in the call, for the purpose of electing a board member. A majority present, either in person or by written proxy, of the delegation from the congressional district constitutes a quorum for the purpose of electing a board member. A person may not be elected a board member if he fails to receive a majority vote of the members of the delegation.

(E) The delegation must be organized by the election of a chairman and a secretary. The delegations of each congressional district shall adopt rules as necessary to conduct these elections. An absentee may vote by written proxy. A board member shall serve until his successor is elected and qualified.

(F) Beginning January 1, 2010, a board member must be elected by the legislative delegation of each congressional district. For the purposes of electing a board member, a legislator shall vote only in the congressional district in which he resides. A board member shall serve for a term of office of four years which expires on February fifteenth of the appropriate year. A board member continues to serve until his successor is elected and qualified provided that a board member may serve in a hold‑over capacity for a period not to exceed six months. A vacancy occurring in the office of a board member must be filled by election in the manner provided in this section for the unexpired term only. A person is not eligible to serve as a board member who is not a resident of that congressional district at the time of his election. A board member who fails to maintain residency in the congressional district for which he is elected shall forfeit his office.

(G) The terms of the initial members of the board elected from congressional districts are:

(1) two years for board members elected to represent odd‑numbered congressional districts; and

(2) four years for board members elected to represent even‑numbered congressional districts.

(H) The at‑large member shall serve at the pleasure of the Governor.

(I) The board shall elect a chairman from the members which comprise the board and other officers as necessary.

Section 13‑23‑40. (A) The bank is established and authorized to:

(1) award grants to eligible trust fund recipients;

(2) apply for and receive additional funding from other sources for the trust fund to use as provided in this chapter;

(3) exercise its discretion in determining what portion of trust funds must be expended or awarded in a particular year, and what portion of trust funds must remain in the trust fund from one fiscal year to the next. Funds within the trust fund must be invested or deposited into interest‑bearing instruments or accounts, with the interest accruing and credited to the fund;

(4) coordinate all programs with applicable federal programs;

(5) apply for and receive funds from other sources that the bank may deposit outside the trust, other than the trust fund, and may establish accounts and subaccounts as necessary to effectuate the purposes of this chapter; and

(6) establish accounts and subaccounts within the trust fund as necessary to effectuate the purposes of this chapter.

(B) To carry out its functions, the bank shall:

(1) operate a program in order to implement the purposes of this chapter;

(2) develop additional guidelines and prescribe procedures consistent with the purposes of this chapter as necessary to implement this chapter;

(3) submit an annual report to the Governor, Lieutenant Governor, and General Assembly that:

(a) accounts for trust fund and other program receipts;

(b) briefly describes grants and loans that were approved by the bank during the fiscal year;

(c) describes recipients of trust fund grants and other financial assistance of the bank; and

(4) have an annual financial audit of the bank conducted by the state auditor or an outside independent certified public accountant.

(C) To operate the bank and carry out the purposes of this chapter the board shall hire an executive director, who must be elected for a term of four years. The executive director may hire staff, contract for services, and enter into cooperative agreements with other state agencies.

(D) Operating expenses of the bank may be paid out of the trust fund.

Section 13‑23‑50. To receive and hold certain revenues of the bank, there is created in the state treasury separate and distinct from all other funds the South Carolina Rural Infrastructure Bank Trust Fund. Earnings on the trust fund are retained in the trust fund and unexpended trust fund revenues at the end of a fiscal year are carried forward in the trust fund. The trust fund may receive revenues from any source the General Assembly may provide by law and from governmental grants. Trust fund revenues may be used only as provided in this chapter.

Section 13‑23‑60. (A) An eligible trust fund recipient may apply for a grant from the trust fund to fund an eligible trust fund project.

(B) A grant from the trust fund must be awarded based upon the criteria contained in subsection (C). In an application the qualifying entity shall provide information regarding how the proposal meets one or more of the criteria provided in this section and advances the purposes of the bank.

(C) For purposes of this chapter, the criteria include, but are not limited to:

(1) population;

(2) economic development;

(3) unemployment;

(4) the level of infrastructure; and

(5) job creation.

Section 13‑23‑70. (A) Effective January 1, 2010, all allied, advisory, affiliated, or related entities as well as the employees, funds, property, and all contractual rights and obligations associated with items (1) through (6) are transferred to and under the exclusive control of the South Carolina Rural Infrastructure Bank established pursuant to the provisions of this chapter:

(1) Division of Local Government established pursuant to the provisions of Section 1‑11‑25 and the State Budget and Control Board Grant Program administered by the division;

(2) South Carolina Coordinating Council for Economic Development established pursuant to the provisions of Article 11, Chapter 1, Title 13;

(3) State Rural Infrastructure Fund established pursuant to the provisions of Act 462 of 1996;

(4) Community Development Block Grant Program;

(5) South Carolina Water Quality Revolving Fund Authority comprised of the Clean Water Fund and Drinking Water Fund, pursuant to the provisions of Chapter 5, Title 48; and

(6) South Carolina Infrastructure Facilities Authority established pursuant to the provisions of Chapter 40, Title 11.

(B) The bank may receive any new funds allocated or appropriated after January 1, 2010, for water or sewer grants, or both, from the trust fund or for other programs of the bank, and it may receive revenues collected for purposes of grants pursuant to the provisions of this chapter.

(C) The bank also may receive money for the repayment of loans made to any entity in items (1) through (6) of subsection (A).”

SECTION 2. Chapter 24, Title 12 of the 1976 Code is amended by adding:

“Section 12‑24‑93. Notwithstanding the provisions of Section 12‑24‑90(B)(3), effective January 1, 2010, ten cents of the one dollar thirty‑cent state deed recording fee must be credited to the South Carolina Rural Infrastructure Bank Trust Fund.”

SECTION 3. Section 11‑11‑170(B)(4) of the 1976 Code, as added by Act 387 of 2000, is amended to read:

“(4) Two percent of the revenues, or the funds obtained pursuant to Chapter 49, ~~of~~ Title 11, must be deposited in a fund separate and distinct from the general fund and all other funds, which ~~is hereby~~ are established in the State Treasury styled the Tobacco Settlement Local Government Fund. Earnings on the fund must be credited to the fund. This fund must be ~~used~~ ~~to fund~~ deposited in the South Carolina Infrastructure Trust Fund and used for the operation of the South Carolina Rural Infrastructure Bank and for grants distributed by the ~~Office of Local Government of the Division of Regional Development of the Budget and Control Board,~~ bank. For purposes of this section, the South Carolina Rural Infrastructure Bank means the bank established pursuant to the provisions of Chapter 23, Title 13, or its successor in interest.”

SECTION 4. Section 11‑40‑20(A) of the 1976 Code, as added by Act 525 of 1994, is amended to read:

“(A) There is created a body corporate and politic and an instrumentality of the State to be known as the South Carolina Infrastructure Facilities Authority. The members of the South Carolina ~~State Budget and Control Board~~ Rural Infrastructure Bank, as created pursuant to the provisions of Chapter 23, Title 13, comprise the authority.”

SECTION 5. Section 11‑40‑250 of the 1976 Code, as added by Act 525 of 1994, is amended to read:

“Section 11‑40‑250. The ~~Division of Local Government of the State Budget and Control Board~~ South Carolina Rural Infrastructure Bank, as created pursuant to the provisions of Chapter 23, Title 13, shall provide staff ~~and otherwise assist the authority in~~ for the administration of the fund and the performance of its functions under this chapter. In providing ~~such~~ this assistance the ~~Division of Local Government~~ South Carolina Rural Infrastructure Bank staff shall:

(1) assist in the formulation, establishment, and structuring of programs undertaken by the authority pursuant to this chapter;

(2) provide local governments information as to the programs of the authority and the procedures for obtaining the assistance intended by the chapter;

(3) assist local governments in making application to ~~such~~ state and federal agencies, including the authority, as ~~may be~~ necessary or helpful in order to avail themselves of ~~such~~ those programs;

(4) assist the authority in analyzing and evaluating local government requests for assistance pursuant to this chapter;

(5) assist in the structuring and negotiation of local government loan agreements and loan obligations and authority bonds;

(6) administer the fund, including ~~any~~ accounts ~~therein~~ in them;

(7) administer the authority’s programs and loans, including monitoring compliance by local governments with any rules, regulations, or other requirements of the authority with respect to ~~such~~ those programs and compliance with covenants and agreements made by local governments with respect to any loan agreement or loan obligation; and

(8) provide ~~such other~~ assistance and perform ~~such other~~ duties as ~~may be~~ requested or directed by the authority.”

SECTION 6. Section 12‑10‑80(E) of the 1976 Code, as last amended by Act 89 of 2001, is further amended to read:

“(E) The ~~council~~ South Carolina Rural Infrastructure Bank shall certify to the department the maximum job development credit for each qualifying business. After receiving certification, the department shall remit an amount equal to the difference between the maximum job development credit and the job development credit actually claimed to the ~~State~~ South Carolina Rural Infrastructure ~~Fund~~ Bank Trust Fund as defined and provided in Section 12‑10‑85.”

SECTION 7. Section 12‑10‑85 of the 1976 Code, as last amended by Act 353 of 2008, is further amended to read:

“Section 12‑10‑85. ~~(A)~~ Funds received by the department for the ~~State~~ South Carolina Rural Infrastructure ~~Fund~~ Bank must be deposited in the ~~State~~ South Carolina Rural Infrastructure Trust Fund of the ~~Council~~ bank. The fund must be administered by the ~~council~~ bank for the purpose of providing financial assistance to ~~local governments for infrastructure and other economic development activities including, but not limited to:~~

~~(1)~~ ~~training costs and facilities;~~

~~(2)~~ ~~improvements to regionally planned public and private water and sewer systems;~~

~~(3)~~ ~~improvements to both public and private electricity, natural gas, and telecommunications systems including, but not limited to, an electric cooperative, electrical utility, or electric supplier described in Chapter 27 of Title 58; or~~

~~(4)~~ ~~fixed transportation facilities including highway, rail, water, and air.~~

~~(B)~~ ~~Rural Infrastructure Fund grants must be available to benefit counties designated as “distressed” or “least developed” as defined in Section 12‑6‑3360 according to guidelines established by the council, except that up to twenty‑five percent of the funds annually available in excess of ten million dollars must be set aside for grants to areas of “underdeveloped”, “moderately developed”, and “developed” counties. A governing body of an “underdeveloped”, “moderately developed”, or “ developed” county must apply to the council for these set‑aside grants stating the reasons that certain areas of the county qualify for these grants because the conditions in that area of the county are comparable to those conditions qualifying a county as “distressed” or “least developed”.~~

~~(C)~~ ~~For the purposes of this section, “local government” means a county, or group of counties, organized pursuant to Section 4‑9‑20( a), (b), (c), or (d).~~

~~(D)~~ ~~The council shall submit a report to the Governor and General Assembly by March fifteenth covering activities for the prior calendar year~~ eligible trust fund recipients as defined in Section 13‑23‑20(4).”

SECTION 8. Section 12‑28‑2910 of the 1976 Code, as last amended by Act 176 of 2005, is further amended to read:

“Section 12‑28‑2910. The first eighteen million dollars generated from three cents of the user fee levied in this chapter must be segregated in a separate account ~~for economic development~~ and deposited in the South Carolina Rural Infrastructure Bank Trust Fund. This account may be expended only upon the authorization of the South Carolina ~~Coordinating Council for Economic Development~~ Rural Infrastructure Bank which shall establish project priorities. Funds devoted to the ~~economic development account~~ South Carolina Rural Infrastructure Bank Trust Fund must remain in the account if not expended in the previous fiscal year. ~~Annually,~~ Funds from the user fee annually must be deposited to replenish the account to the extent and in an amount necessary to maintain an uncommitted ~~and/~~or an unobligated fund balance, or both, of eighteen million dollars but not to exceed eighteen million dollars for the ensuing fiscal year. ~~The council may spend no more than two hundred fifty thousand dollars, in the first year only, for a long‑term economic development plan which must be submitted to the General Assembly on completion of the plan. The council may spend not more than sixty thousand dollars annually for a state infrastructure model.~~

All interest earnings on the Economic Development Account must be credited to the State Highway fund.”

SECTION 9. Section 48‑1‑350 of the 1976 Code is amended to read:

“Section 48‑1‑350. ~~All penalties~~A penalty assessed ~~under~~ pursuant to the provisions of this chapter ~~are~~is held as a debt payable to the State by the person against whom they have been charged and constitute a lien against the property of the person. One‑half of the civil penalties collected inure to the benefit of the county and one‑half of the civil penalties collected must be deposited in the South Carolina Rural Infrastructure Bank Trust Fund created pursuant to the provisions of Chapter 23, Title 13. The criminal penalties collected pursuant to Section 48‑1‑320 must be collected and distributed pursuant to Section 14‑1‑205.”

SECTION 10. Section 48‑5‑30 of the 1976 Code is amended to read:

“Section 48‑5‑30. There is created the South Carolina Water Quality Revolving Fund Authority. The authority is a public instrumentality of this State and the exercise by it of a power conferred in this chapter is the performance of an essential public function. The members of the ~~State Budget and Control Board~~ South Carolina Rural Infrastructure Bank, created pursuant to the provisions of Chapter 23, Title 13, comprise the authority.”

SECTION 11. Section 1‑11‑25 of the 1976 Code is repealed.

SECTION 12. The Director of the Office of Local Government of the State Budget and Control Board shall serve as the Executive Director of the South Carolina Rural Infrastructure Bank until the board hires a successor.

SECTION 13. This act takes effect January 1, 2010.

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