**South Carolina General Assembly**

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**H. 3549**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. J.E. Smith, Limehouse and Sottile

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

Summary: Patriots Point Development Authority Board

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/17/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\02-17-09.docx)‑24

2/17/2009 House Referred to Committee on **Ways and Means** [HJ](file:///h:\HJ%20Archive\2009\02-17-09.docx)‑24

**VERSIONS OF THIS BILL**

[2/17/2009](file:///p:\pprever\2009-10\3549_20090217.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 12 TO CHAPTER 13, TITLE 51 SO AS TO AUTHORIZE THE BOARD OF THE PATRIOTS POINT DEVELOPMENT AUTHORITY TO ISSUE REVENUE BONDS AND TO PRESCRIBE THE MANNER IN WHICH, PURPOSES FOR WHICH, AND PROCEDURES UNDER WHICH THESE REVENUE BONDS MAY BE ISSUED.

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

SECTION 1. Chapter 13, Title 51 of the 1976 Code is amended by adding:

“Article 12

Patriots Point Development Authority Revenue Bonds

Section 51‑13‑871. (A) The General Assembly finds that it is desirable to provide continuing and general statutory authority for the Patriots Point Development Authority to incur debt for the purpose of, among other things, acquiring, constructing, renovating, and equipping facilities, exhibits, and attractions at the authority, including ships and other vessels on display at the authority for viewing or use by visitors to the authority, which debt is secured by a pledge of the revenues derived from the operation of the authority and by the proceeds of related admissions fees and other fees charged to visitors to the authority. The Patriots Point Development Authority has demonstrated need for additional funds to provide for acquisition, construction, renovation, and equipping of the facilities. The facilities are needed to replace or renovate aging facilities and to provide additional facilities all to the end that the historical environment at the Patriots Point Development Authority will be enhanced for the benefit of present and future citizens of this State.

(B) Consideration has been given to this need and to the methods of funding it. It has been determined to be in the best interests of the people of this State to authorize the Patriots Point Development Authority to acquire, construct, renovate, and equip additional facilities and to incur indebtedness for these purposes which is payable from the revenues derived from the operation of these facilities and from related fees to the extent and under the conditions provided for in this article.

Section 51‑13‑872. As used in this article:

(1) ‘Admissions fee’ means the specially designated admissions fee or charge which, in addition to other charges, may be imposed by the board upon any person admitted to the grounds and exhibits of the authority. The term ‘admissions fee’ also includes a fee paid by visitors to the authority as set by the board for use of a specific facility.

(2) ‘Authority’ means the Patriots Point Development Authority.

(3) ‘Board’ means the board of the Patriots Point Development Authority or any successor body.

(4) ‘Bond’ or ‘bonds’ mean any note, bond, installment contract, or other evidence of indebtedness issued pursuant to this article.

(5) ‘Bond reserve fund’ means the special fund which may be established by the board pursuant to this article, which must be in the custody of the State Treasurer, and which is primarily established for the purpose of providing a reserve with which to meet the payment of the principal of and interest on bonds in the event that payments otherwise required from the debt service fund are insufficient to meet the payment of the principal and interest as and when they become due and payable.

(6) ‘Debt service fund’ means the fund established by this article for the payment of principal of and interest on bonds, which must be in the custody of the State Treasurer.

(7) ‘Facilities’ mean the facilities, exhibits, and attractions at the authority, including ships and other vessels on display at the authority for viewing or use by visitors to the authority upon payment of the appropriate admissions or other fee.

(8) ‘Net revenues’ mean all revenues remaining after payment of the operating and maintenance expenses of the authority but before provision is made for depreciation, amortization, nonmandatory transfers, and interest expenses of the authority for a given fiscal year.

(9) ‘Revenues’ mean all revenues or other income, including investment income, received by the authority from the operation of its facilities, and all gifts, bequests, contributions, and donations received by the board or the authority from any persons for use in connection with the operations of the authority, plus any other unrestricted revenues of the authority not otherwise pledged that may be made applicable by the board to the payment of the principal and interest of the bonds, including revenues which may fall into the category of nonmandatory transfers as the term is used in generally accepted accounting principles, but excluding:

(a) gifts, bequests, contributions, and donations restricted to a particular purpose inconsistent with their use for the payment of the principal, premium, or interest on any obligations of the board or authority;

(b) the proceeds of any borrowings;

(c) state appropriations of any sort; and

(d) revenues, income, receipts, and money received by the board or authority for purposes other than those related to the authority.

(10) ‘State board’ means the State Budget and Control Board.

Section 51‑13‑873. The board is authorized to acquire, construct, and equip additional facilities and to improve, renovate, and equip existing facilities to the extent it shall determine to be necessary, and the proceeds of bonds authorized by this article are made available for that purpose. The board also is authorized to refund bonds that may from time to time be outstanding pursuant to this article by exchange or otherwise. A portion of the proceeds of bonds issued for any of the above purposes also may be used to fund, establish, or replenish any bond reserve fund, to pay interest on the bonds, or to pay costs of issuance of the bonds or of any credit enhancement for the bonds as may be deemed necessary by the board.

Section 51‑13‑874. Upon receiving the approval of the state board and upon review by the Joint Bond Review Committee, the board may from time to time borrow sums as necessary to accomplish the purpose of this article and to evidence the borrowings by bonds issued pursuant to this article in the aggregate principal amount as they determine.

Section 51‑13‑875. Bonds issued pursuant to this article are payable from the revenues or the net revenues as designated by the board, as well as from proceeds of admissions fees as defined herein. Bonds issued pursuant to this article may be further secured by additional pledges of other revenues or fees of the authority as the authority may be authorized to grant pursuant to other laws of this State. The board may abandon the use of any portion of the facilities or sell or dispose of any portion of the facilities upon the receipt of a written recommendation by the chief financial officer the authority to the effect that this action does not adversely affect the ability of the authority to discharge its obligations to the holders of bonds issued pursuant to this article and upon such further conditions as prescribed in the resolution of the board providing for the issuance of bonds.

Section 51‑13‑876. The faith and credit of the State must not be pledged for the payment of the principal and interest of bonds, and there must be on the face of each bond a statement plainly worded to that effect. Neither the board nor any other person signing the bonds is personally liable therefor.

Section 51‑13‑877. In order to avail itself of the authorizations set forth in this article, the board shall from time to time adopt resolutions providing for the issuance of bonds of the authority, within the limitations herein mentioned, which resolutions shall prescribe the tenor, terms, and conditions of the bonds. The bonds must be issued as serial or term bonds, maturing in equal or unequal amounts, at times and on occasions as the board determines. The last maturing bonds of any issue must be expressed to mature not later than thirty years from their date, and the first maturing bonds of any issue, issued pursuant to this article, shall fall due within five years from their date. The bonds shall bear rates of interest, payable on occasion, as the board shall prescribe, and the bonds must be in the denominations, must be payable in the medium of payment, and at the place as the resolutions prescribe. All bonds may be issued with a provision permitting their redemption on any interest payment date prior to their respective maturities. Bonds made subject to redemption prior to their stated maturities may contain a provision requiring the payment of a premium for the privilege of exercising the right of redemption, in the amount or amounts as the board shall prescribe in the resolutions authorizing their issuance. All bonds that are subject to redemption shall contain a statement to that effect on the face of each bond. The resolutions authorizing their issuance shall contain provisions specifying the manner of call for redemption and the notice of the call that must be given.

Section 51‑13‑878. The bonds authorized by this article and all interest to become due thereon have the tax exempt status prescribed by Section 12‑2‑50.

Section 51‑13‑879. It is lawful for all executors, administrators, guardians, and fiduciaries, all sinking fund commissioners, the state board, as trustee of the South Carolina Retirement System, and all other governmental entities within the State to invest any monies in their hands in the bonds.

Section 51‑13‑880. The bonds and the coupons, if any, attached to the bonds, must be executed manually or by facsimile in the name of the authority in the manner and by persons as the board shall from time to time determine, and the seal of the authority must be affixed to, or impressed, or reproduced on each bond. Any coupons attached to the bonds must be authenticated by the facsimile signature of one or more of the persons signing the bonds. The bonds, in the discretion of the board, may be registerable as to principal and interest on books kept for it by or on behalf of the authority, including by a corporate registrar. The delivery of the bonds so executed are valid notwithstanding changes in officers or in the seal occurring after the execution. Notwithstanding the foregoing, the bonds, in the discretion of the board, may be issued as fully registered, noncertified, book‑entry securities.

Section 51‑13‑881. The bonds may be disposed of in a manner as the board shall determine, except that no privately negotiated sale without public advertisement may be made without the prior approval of the state board. The bonds may be sold at a discount or for the premium as may be determined by the board or their designee as being in the best interest of the authority.

Section 51‑13‑882. The proceeds of all bonds must be delivered to the State Treasurer and retained in a special fund or funds and applied solely to the purposes for which the bonds have been issued. Withdrawals from the fund must be made on the order or requisition of the authority and must be in a form as the State Treasurer shall prescribe. The State Treasurer may make temporary investments of funds derived from the proceeds of bonds in the manner prescribed by law.

Section 51‑13‑883. To the end that provisions be made for the adequate payment of the principal of and interest on the bonds:

(1) The board shall maintain in full force and effect any necessary admissions fees on a basis and in the amounts as will be sufficient, after taking into account net revenues and any other funds pledged to the payment of the bonds as provided under this article, to provide for the payment of the principal of and interest on the bonds as the same mature and to provide the required reserve therefor in any bond reserve fund. It is the duty of the authority to calculate the debt service requirements of the bonds not less frequently than annually and, if required at the time, appropriate revisions of any admissions fees must be made by the board if the revisions are required, after taking into account net revenues for the year, to make adequate provisions for the payment of the principal of and interest on the bonds and the maintenance of any required reserve in a bond reserve fund.

(2) The board shall cause to be established with the State Treasurer on or before the occasion of the delivery of any bonds pursuant to this article, a debt service fund into which must be deposited annually sufficient funds as provided in this article to meet the payment of principal and interest on the bonds for that year.

Section 51‑13‑884. To the end that the payment of the principal and interest on the bonds authorized hereby are adequately secured, the board is empowered in its discretion:

( 1) to issue bonds in the amount, within the limitations herein provided for, as the board considers necessary, it is lawful for the board to use a portion of the principal proceeds derived from any sale of bonds, except bonds issued to effect refunding of outstanding bonds, to meet the payment of interest on the bonds for a period equal to the period of construction or renovation of the facilities to be financed with the proceeds of the bonds, plus a period not exceeding six months, it being recognized by the General Assembly, that until the facilities to be constructed or renovated with the proceeds of the bonds are completed, an undue burden may be imposed upon then existing revenues or other sources of payment of the bonds;

( 2) to impose admissions fees upon the basis and in the amounts as the board shall determine;

( 3) to pledge the revenues or the net revenues as designated by the board, and the proceeds of any admissions fees, as security for the payment of the bonds, whether then or thereafter to be existing. However, any surplus of the revenues or net revenues available after the payment of costs of operation and maintenance of the authority and of its facilities and of debt service on the bonds, and the establishment of any debt service reserve obligation in a bond reserve fund under the proceedings providing for the issuance of the bonds, may be placed in a contingency and improvement fund for facilities in order to restore depreciated or obsolete facilities, to make improvements to the facilities, to defray the cost of unforeseen contingencies with regard to the facilities, to prevent defaults under the bonds or to redeem any of the bonds, or may be reflected in the opening balance of the operating fund of the authority for the next succeeding fiscal year and used for any purpose approved by the board;

( 4) to further secure the bonds with a pledge of any additional revenues or fees of the authority as may be authorized under other laws of the State;

( 5) to specify and limit the facilities which may be made use of free of charge;

( 6) to covenant to establish and maintain a system of rules as will ensure the continuous and effective use of the facilities;

( 7) to covenant that an adequate schedule of rates and charges for attendance at events held at any facilities will be maintained, and that net revenues plus any proceeds of the admissions fees will be sufficient to:

(a) pay the cost of operating and maintaining the authority and its facilities, including the cost of fire, extended coverage and use, and occupancy insurance;

(b) pay the principal and interest of the bonds as they respectively become due;

(c) provide any necessary debt service coverage ratios;

(d) create and maintain any bond reserve fund established to meet the payment of principal and interest of any of the bonds; and

(e) create and at all times maintain an adequate reserve for contingencies and for major repairs and replacement of facilities;

( 8) to covenant against the mortgaging or disposing of the facilities and against permitting or suffering any lien to be created on it, equal or superior to any lien created for the benefit of the holders of the bonds. However, the board reserves the right, under the terms as it shall prescribe, to issue additional bonds on a parity with, or subordinate to, the bonds authorized by this article;

( 9) to covenant as to the use of the proceeds derived from the sale of any bonds issued pursuant to this article;

(10) to provide for the terms, form, registration, exchange, execution, and authentication of bonds, and for the replacement of lost, destroyed, or mutilated bonds;

(11) to make covenants with respect to the operation of the authority and its facilities;

(12) to covenant that all revenues or net revenues pledged for the payment of the bonds duly must be segregated into special funds and that these funds will be used solely for the purposes for which they are intended and for no other purpose;

(13) to covenant for the mandatory redemption of bonds on the terms and conditions as the resolutions authorizing the bonds shall prescribe;

(14) to provide for early defeasance of bonds through the establishment of special escrow accounts maintained by the State Treasurer, of cash, or United States government obligations, or obligations of agencies thereof, which escrows may be funded with proceeds of bonds issued under it or revenues or net revenues or other funds available to the authority;

(15) to prescribe the procedure, if any, by which the terms of the contract with the bondholders may be amended, the number of bonds whose holders must consent thereto, and the manner in which consent shall be given;

(16) to covenant as to the maintenance of its facilities, the insurance to be carried on it, and the use and disposition of proceeds from any insurance policy;

(17) to prescribe the events of default and the terms and conditions upon which all or any bonds become or may be declared due before maturity, and the terms and conditions upon which such declaration and its consequences may be waived;

(18) to impose a statutory lien upon any facilities as security for the payment of the bonds. The lien shall extend to the facilities, to their appurtenances and extensions, to their additions, improvements, and enlargements to the extent specified in the resolutions and shall inure to the benefit of the holders of the bonds secured by it. These facilities shall remain subject to a statutory lien until the payment in full of the principal and interest of the bonds. Any holder of any of the bonds, or any of the coupons representing interest on them, either at law or in equity, by suit, action, mandamus, or other proceedings, may protect and enforce the statutory lien, and by suit, action, mandamus, or other proceedings may enforce and compel performance of all duties of the board, including the fixing of sufficient rates or fees, the proper segregation of the revenues, and the proper application of it. However, the statutory lien must not be construed to give any such bond or coupon holder authority to compel the sale of any of the facilities or any part thereof;

(19) to covenant that, if there be any default in the payment of the principal or interest upon any of the bonds, a court having jurisdiction in a proper action may appoint a receiver to administer and operate the authority, with power to fix rates and charges for the facilities and other activities of the authority, and to apply the income and revenues of the authority to the payment of the bonds and the interest on it;

(20) to establish on or before the occasion of the delivery of any bonds issued pursuant to this article, a bond reserve fund and to cause the same to be maintained by the State Treasurer, and to that end, the board is empowered to utilize any monies available for the funding of the bond reserve fund, including revenues or net revenues previously accumulated prior to the issuance of bonds or available proceeds of the admissions fees. In the discretion of the board, in lieu of cash, such a bond reserve fund may be funded with a surety bond, insurance policy, letter of credit, line of credit, or similar guarantee. At the discretion of the board, the authority may purchase an insurance policy ensuring payment of both principal and interest on any issuance of bonds hereunder; and

(21) with the consent of the State Treasurer, to appoint a corporate trustee and a paying agent for the bondholders, either of whom may be the State Treasurer, and to prescribe the manner in which revenues or net revenues, as well as proceeds of admissions fees shall be utilized and disposed of. A corporate trustee shall serve in a fiduciary capacity as trustee for the bondholders under the resolutions of the board authorizing the issuance of bonds.

Section 51‑13‑885. The authorizations granted by this article must remain in full force and effect until they are rescinded by subsequent enactment, and no time limit is set for the issuance of bonds pursuant to this article.”

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

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