COMMITTEE REPORT

February 3, 2010

**S. 1054**

Introduced by Senators Pinckney and Malloy

S. Printed 2/3/10--S.

Read the first time January 14, 2010.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 1054) to amend Chapter 1, Title 4 of the 1976 Code, relating to extraordinary commercial facilities, by adding Section 4‑1‑180 to allow counties that create a multicounty, etc., respectfully

**REPORT:**

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

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. A. The General Assembly recognizes and finds that:

(1) the people of South Carolina are enduring extraordinary levels of unemployment and are likely to do so for the immediately foreseeable future and, further, that the national economy is undergoing changes that affect many of the businesses and industries that have traditionally provided jobs for the citizens and residents of South Carolina;

(2) there is a need for a program to provide inducements for the creation of jobs in the commercial and retail sector under conditions that will ensure: (i) significant capital investment, and (ii) the creation and maintenance of significant new employment, all under conditions that restrict the cost of funding that inducement to sources of funds related to the creation of revenues that do not presently exist;

(3) it has heretofore authorized the creation of industrial or business parks by counties to encourage and promote economic development which creation has been instrumental in the efforts of the State to attract and retain significant investment and employment;

(4) the risks of this existing and time‑tested program are minimized;

(5) by providing counties a means of funding grants to certain private entities for the purpose of defraying a portion of the cost of infrastructure related to these developments after the developments have been constructed, certain initial levels of employment have been satisfied and new sales tax revenue targets have been met and the level of investment and number of jobs required to be created before the provision of the grants is designed to avoid speculative risk and, together with demonstrated revenues, are designed to ensure that the benefit to the public in new investment and jobs will render the public the primary beneficiary of the incentive notwithstanding the incidental benefits that may be derived by the private grantees; and

(6) that the inducement authorized by this act will serve the public welfare by providing for additional employment and will serve the affected counties by additional employment and by an increase in their local tax base.

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

“Section 4‑1‑180. (A)(1) ‘Extraordinary commercial facilities’ means commercial facilities, including facilities for the retail sale of goods, in a designated economic development site that meets the initial qualifying criteria.

(2) ‘New capital investment’ means facilities that either have been placed in service, or for which a certificate of occupancy has been issued, after July 1, 2009.

(3) ‘New job’ means a job created in this State at the time a new facility is initially staffed.

(B) Counties that create a multicounty business park may designate a portion or all of that park as a designated economic development site for extraordinary commercial facilities. Initial qualifying criteria for a designated economic development site are: (i) the value of new capital investment within the designated economic development site, including the value of capital investment in all its components, regardless of how those components are owned or controlled, is not less than an aggregate amount of two hundred million dollars; (ii) there is an aggregate of not fewer than one thousand two hundred fifty new jobs maintained for at least one year, measured by number of employees; and (iii) there are total sales tax receipts at a rate of six million dollars each year, which may be based on an annualized number using the two most recent quarters.

(C) The number of new jobs may be based on a quarterly report filed with the South Carolina Employment Security Commission or the Bureau of Labor Statistics; except that a certificate based on those reports need not include copies of the reports so as to ensure the maintenance of privacy of information in the reports.

(D) The counties making a designation of an economic development site shall notify the South Carolina Department of Revenue of the boundaries of the designated site.

(E)(1) In addition to the matters specified in Section 4‑1‑170, the agreement relating to the designated economic development site may provide that an amount equal to three‑fourths of the revenues collected in the designated economic development site from sales taxes imposed pursuant to Section 12‑36‑2620(1) must be paid quarterly by the Department of Revenue from the general fund of the State to the counties and allocated in accordance with the provisions of the agreement for the qualifying period, except during a suspension period.

(2) The qualifying period must begin no earlier than the first day of the third calendar month after the counties creating a designated economic development site: (i) provide the department with a certificate satisfactory to the department that contains information that the extraordinary commercial facilities in a designated economic development site meet the initial qualifying criteria; and (ii) provide the department with a copy of the agreement specifying the percentage of funds to be remitted to the counties. The qualifying period must end at the end of the fifteenth year after the commencement of the qualifying period.

(3)(i) To maintain receipt of payments, the counties must file with the department an annual report showing the number of employees at the site for the most recent four quarters. If the report does not show an average of six hundred twenty-five jobs during the reporting period, quarterly payments must be suspended until the next annual report shows an average of six hundred twenty-five jobs during that reporting period. A suspension period is the time between the two filings, and payments must not be made to the counties during the suspension period.

(ii) If the annual report shows an average of less than six hundred twenty-five jobs during the reporting period for a year in which the counties received payments pursuant to this section, the counties must return a portion of the funds received to the department. The department shall remit the funds to the general fund of the State. The amount to be returned to the department shall be calculated by dividing the average number of jobs during the reporting period by six hundred twenty-five, the quotient of which must be multiplied by the total amount of payments received for the year. The amount to be returned to the department may be paid back in quarterly installments with the first payment being due no later than the first day of the third calendar month after the report. The suspension period shall not end until the counties have fully reimbursed the department.

(4) A county that receives revenues from this source may treat those revenues in the same fashion as fees in lieu of taxes and issue special sources revenue bonds or provide for credits or payments as provided in Section 4‑1‑175.

(5) If a county uses funds to reimburse another governmental or private entity for expenditures incurred by it, the county must have a grant agreement with each recipient. Each grant agreement must contain provisions relating to the grantee’s obligation to provide jobs and require an annual certification of compliance. The grant agreement must require that, if a grantee fails to satisfy the conditions of a grant, then all future payments must be suspended until the grantee certifies compliance with the terms. Copies of all grant agreements must be provided to the department.

(F) The provisions of this section expire five years from the effective date of this section.”

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

Renumber sections to conform.

Amend title to conform.

Majority favorable. Minority unfavorable.

HUGH K. LEATHERMAN, SR. W. GREG RYBERG

For Majority. For Minority.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT 1/**

This bill is expected to reduce general fund sales and use tax revenue by an estimated $4,500,000 in FY2010-11, and each fiscal year through FY2014-15. The collection of the EIA penny and the Homestead Exemption Fund penny is not affected by this legislation.

## Explanation

This bill would add Section 4-1-180 to allow counties that create a multicounty business park to designate a portion or that entire park as a designated economic development site for “extraordinary commercial facilities” to be reimbursed sales tax revenue collected from retail sales within facilities located at a multicounty business park. The reimbursement rate would equal three-fourths of the total sales tax revenue collected in the designated economic development site. The sales tax revenue would be transferred from the General Fund of the State and allocated to the counties in a multicounty business park agreement pursuant to Section 4-1-170 and Section 13 of Article VIII of the Constitution of this State. Only sales tax revenue collected pursuant to Section 12-36-2620(1), the first four pennies of sales tax revenue, is transferred back to the counties. The collection of the EIA penny, pursuant to Section 12-36-2620(2), and the Homestead Exemption Fund penny, pursuant to Section 12-36-1110, is not affected by this legislation.

To qualify as a designated economic development site, the commercial facility must meet the following conditions: the extraordinary commercial facility must have capital investment of at least $100,000,000; there must be at least 1,000 new jobs at the time the facility is initially staffed; and the facility must generate at least $6,000,000 in total sales tax receipts each year. The qualified capital investment must either be placed in service, or have a certificate of occupancy issued, after July 1, 2009. The qualified new jobs must be created at the time the facility is initially staffed. If at any time the number of jobs falls below an average of 500 jobs for the most recent four quarters, the receipt of payments shall be suspended until the next filing of an annual report that shows an average of 500 jobs during the next reporting period. This bill does not help to create productive capacity that sells product outside the state. Because the facility adds to an already well established retail sector, it is difficult to expect that the facility will create new sales, but rather will shift sales from existing retailers and not add to sales that would otherwise occur in the absence of the provision. Based upon the qualifications of a designated economic development site in a multicounty business park, multiplying $6,000,000 by 0.75 yields a reduction in general fund sales and use tax revenue of an estimated $4,500,000 in FY2009-10, and each fiscal year through FY2013-14. The provisions of Section 4-1-180 expire five years from the effective date of this section.

*Approved By:*

William C. Gillespie

Board of Economic Advisors

1/ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**A** **BILL**

TO AMEND CHAPTER 1, TITLE 4 OF THE 1976 CODE, RELATING TO EXTRAORDINARY COMMERCIAL FACILITIES, BY ADDING SECTION 4‑1‑180 TO ALLOW COUNTIES THAT CREATE A MULTICOUNTY BUSINESS PARK TO DESIGNATE A PORTION OR ALL OF THAT PARK AS A DESIGNATED ECONOMIC DEVELOPMENT SITE FOR EXTRAORDINARY COMMERCIAL FACILITIES.

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

SECTION 1. A. The General Assembly recognizes and finds that:

(1) the people of South Carolina are enduring extraordinary levels of unemployment and are likely to do so for the immediately foreseeable future and, further, that the national economy is undergoing changes that affect many of the businesses and industries that have traditionally provided jobs for the citizens and residents of South Carolina;

(2) there is a need for a program to provide inducements for the creation of jobs in the commercial and retail sector under conditions that will ensure: (i) significant capital investment, and (ii) the creation and maintenance of significant new employment, all under conditions that restrict the cost of funding that inducement to sources of funds related to the creation of revenues that do not exist presently;

(3) it has heretofore authorized the creation of industrial or business parks by counties to encourage and promote economic development which creation has been instrumental in the efforts of the State to attract and retain significant investment and employment;

(4) the risks of this existing and time‑tested program are minimized;

(5) by providing counties a means of funding grants to certain private entities for the purpose of defraying a portion of the cost of infrastructure related to these developments after the developments have been constructed, certain initial levels of employment have been satisfied and new sales tax revenue targets have been met and the level of investment and number of jobs required to be created before the provision of the grants is designed to avoid speculative risk and, together with demonstrated revenues, are designed to ensure that the benefit to the public in new investment and jobs will render the public the primary beneficiary of the incentive notwithstanding the incidental benefits that may be derived by the private grantees; and

(6) that the inducement authorized by this act will serve the public welfare by providing for additional employment and will serve the affected counties by additional employment and by an increase in their local tax base.

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

“Section 4‑1‑180. (A)(1) ‘Extraordinary commercial facilities’ means commercial facilities, including facilities for the retail sale of goods, in a designated economic development site that meets the initial qualifying criteria.

(2) ‘New capital investment’ means facilities that either have been placed in service, or for which a certificate of occupancy has been issued, after July 1, 2009.

(3) ‘New job’ means a job created in this State at the time a new facility is initially staffed.

(B) Counties that create a multicounty business park may designate a portion or all of that park as a designated economic development site for extraordinary commercial facilities. Initial qualifying criteria for a designated economic development site are: (i) the value of new capital investment within the designated economic development site, including the value of capital investment in all its components, regardless of how those components are owned or controlled, is not less than an aggregate amount of one hundred million dollars; (ii) there is an aggregate of not fewer than one thousand new jobs measured by number of employees; and (iii) there are total sales tax receipts at a rate of six million dollars each year, which may be based on an annualized number using the two most recent quarters.

(C) The number of new jobs may be based on a quarterly report filed with the South Carolina Employment Security Commission or the Bureau of Labor Statistics; except that a certificate based on those reports need not include copies of the reports so as to ensure the maintenance of privacy of information in the reports.

(D) The counties making a designation of an economic development site shall notify the South Carolina Department of Revenue of the boundaries of the designated site.

(E)(1) In addition to the matters specified in Section 4‑1‑170, the agreement relating to the designated economic development site may provide that an amount equal to three‑fourths of the revenues collected in the designated economic development site from sales taxes imposed pursuant to Section 12‑36‑2620(1) must be paid quarterly by the Department of Revenue from the general fund of the State to the counties and allocated in accordance with the provisions of the agreement for the qualifying period, except during a suspension period.

(2) The qualifying period must begin no earlier than the first day of the third calendar month after the counties creating a designated economic development site: (i) provide the department with a certificate satisfactory to the department that contains information that the extraordinary commercial facilities in a designated economic development site meet the initial qualifying criteria; and (ii) provide the department with a copy of the agreement specifying the percentage of funds to be remitted to the counties. The qualifying period must end at the end of the fifteenth year after the commencement of the qualifying period.

(3) To maintain receipt of payments, the counties must file with the department an annual report showing the number of employees at the site for the most recent four quarters. If the report does not show an average of five hundred jobs during the reporting period, quarterly payments must be suspended until the next annual report shows an average of five hundred jobs during that reporting period. A suspension period is the time between the two filings, and payments must not be made to the counties during the suspension period.

(4) A county that receives revenues from this source may treat those revenues in the same fashion as fees in lieu of taxes and issue special sources revenue bonds or provide for credits or payments as provided in Section 4‑1‑175.

(5) If a county uses funds to reimburse another governmental or private entity for expenditures incurred by it, the county must have a grant agreement with each recipient. Each grant agreement must contain provisions relating to the grantee’s obligation to provide jobs and require an annual certification of compliance. The grant agreement must require that, if a grantee fails to satisfy the conditions of a grant, then all future payments must be suspended until the grantee certifies compliance with the terms. Copies of all grant agreements must be provided to the department.

(F) The provisions of this section expire five years from the effective date of this section.”

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

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