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COMMITTEE REPORT

February 17, 2010

**S. 1131**

Introduced by Senators Peeler and Coleman

S. Printed 2/17/10--S. [SEC 2/18/10 1:48 PM]

Read the first time February 2, 2010.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 1131) to amend Section 4‑29‑67, as amended, Code of Laws of South Carolina, 1976, relating to industrial development projects requiring a fee in lieu of property, etc., respectfully

**REPORT:**

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

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT 1/**

This bill is not expected to impact state revenues or negatively impact local revenues.

## Explanation

This bill adds a definition for qualified nuclear plant facilities to industrial development projects requiring a fee in lieu of taxes. It also provides that the minimum level of investment for a qualified nuclear plant facility is one billion dollars. This bill also adds a timeline for when a qualified nuclear plant facility must enter into an initial lease agreement with the county and timelines for when the sponsor must meet the minimum investment requirements for a qualified nuclear plant facility and place the project in service. Since fee-in-lieu arrangements are subject to approval by the respective county council, and because these provisions only affect local property taxes, this bill is not expected to impact state revenues or negatively impact local revenues.

*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 SECTION 4‑29‑67, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO INDUSTRIAL DEVELOPMENT PROJECTS REQUIRING A FEE IN LIEU OF PROPERTY TAXES AGREEMENT, SO AS TO ADD CERTAIN DEFINITIONS, TO FURTHER PROVIDE FOR THE MINIMUM LEVEL OF INVESTMENT FOR A QUALIFIED NUCLEAR PLANT FACILITY, TO PROVIDE FOR THE TIMELINE WHEN THE SPONSOR MUST ENTER INTO AN INITIAL LEASE AGREEMENT WITH THE COUNTY IN REGARD TO A QUALIFIED NUCLEAR PLANT FACILITY, AND THE TIMELINES WHEN THE SPONSOR MUST MEET MINIMUM INVESTMENT REQUIREMENTS IN THE CASE OF A QUALIFIED NUCLEAR PLANT FACILITY AND PLACE THE PROJECT INTO SERVICE; TO AMEND SECTION 12‑44‑30, AS AMENDED, RELATING TO DEFINITIONS IN REGARD TO THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO REVISE CERTAIN DEFINITIONS AND ADD CERTAIN DEFINITIONS; AND TO AMEND SECTION 12‑44‑40, AS AMENDED, RELATING TO THE REQUIRED FEE AGREEMENT BETWEEN THE SPONSOR AND THE COUNTY UNDER THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, SO AS TO PROVIDE THE TIME WITHIN WHICH A SPONSOR HAS TO ENTER INTO A FEE AGREEMENT IN REGARD TO A QUALIFIED NUCLEAR PLANT FACILITY.

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

SECTION 1. A. Section 4‑29‑67(A)(1) of the 1976 Code, as last amended by Act 313 of 2008, is further amended to read:

“(1) As used in this section:

(a) ‘Department’ means the South Carolina Department of Revenue.

(b) ‘Lease agreement’ means an agreement between the county and a sponsor leasing the property at the project from the county to a sponsor.

(c) ‘Project’ means land, buildings, and other improvements on the land including water, sewage treatment and disposal facilities, air pollution control facilities, and all other machinery apparatus, equipment, office facilities, and furnishings which are considered necessary, suitable, or useful by a sponsor. ‘Project’ also may consist of or include aircraft hangered or utilizing an airport in a county so long as the county expressly consents to its inclusion. Aircraft previously subject to taxation in South Carolina qualify pursuant to this provision.

(d) ‘Qualified nuclear plant facility’ means a nuclear electric power generating plant regulated by the Nuclear Regulatory Commission and includes all real and personal property incorporated into or associated with the facility located or to be located within this State with a total minimum level of investment of one billion dollars.

~~(d)~~(e) ‘Sponsor’ means one or more entities which sign the inducement agreement with the county and also includes a sponsor affiliate unless the context clearly indicates otherwise.

~~(e)~~(f) ‘Sponsor affiliate’ means an entity that joins with, or is an affiliate of, a sponsor and that participates in the investment in, or financing of, a project.”

B. Section 4‑29‑67(B)(4)(a) of the 1976 Code, as last amended by Act 69 of 2003, is further amended to read:

“(a) A sponsor and a sponsor affiliate may qualify for the fee if each sponsor and sponsor affiliate invests the minimum level of investment at the project. If the project consists of a manufacturing, research and development, corporate office, or distribution facility as those terms are defined in Section 12‑6‑3360(M) and including a qualified nuclear plant facility as defined in Section 12‑44‑30(16A), each sponsor or sponsor affiliate is not required to invest the minimum investment required by subsection (B)(3) if the total investment at the project exceeds forty‑five million dollars.”

C. Section 4‑29‑67(C)(1) of the 1976 Code, as last amended by Act 69 of 2003, is further amended to read:

“(1) Except as provided in subsection (X)(1), from the end of the property tax year in which the sponsor and the county execute an inducement agreement, the sponsor has five years in which to enter into an initial lease agreement with the county.”

D. Section 4‑29‑67 of the 1976 Code, as last amended by Act 352 of 2008, is amended by adding a new subsection at the end to read:

“(X)(1) Notwithstanding subsection (C)(1), in the case of a qualified nuclear plant facility, the sponsor has five years from the end of the calendar year in which the Nuclear Regulatory Commission grants the sponsor a combined license to construct and operate a nuclear power plant to enter into an initial lease agreement with the county but in no event more than fifteen years from the latter of the adoption of an inducement resolution or execution of an inducement agreement by the county.

(2) Notwithstanding subsection (C)(2)(d), in the case of a qualified nuclear plant facility, the sponsor has fifteen years from the end of the calendar year in which the initial lease agreement is executed to meet the minimum investment and fifteen years from the end of the calendar year in which the first piece of property is placed into service to complete the project.”

SECTION 2. A. Section 12‑44‑30(2) of the 1976 Code, as last amended by Act 69 of 2003, is further amended to read:

“(2) ‘Commencement date’ means the last day of the property tax year during which economic development property is placed in service, except that this date must not be later than the last day of the property tax year which is three years from the year in which the county and the sponsor enter into a fee agreement. The commencement date for an economic development project as defined in Section 12‑44‑30(16A) is the last day of the first property tax year in which economic development property is placed in service.”

B. Section 12‑44‑30(13) of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“(13) ‘Investment period’ means the period beginning with the first day that economic development property is purchased or acquired and ending five years after the commencement date; except that for a project with an enhanced investment as described above, the period ends eight years after the commencement date. The minimum investment must be completed within five years of the commencement date. For an enhanced investment, the applicable minimum investment and job requirements under Section 12‑44‑30(7) must be completed within eight years of the commencement date. Investment period means for a qualified nuclear plant facility the period beginning with the first day that economic development property is purchased or acquired and ending ten years after the commencement date. For those sponsors that, after qualifying for the enhanced investment, have more than five hundred million dollars in capital invested in this State and employ more than one thousand people in this State, the investment period ends ten years after the commencement date. If the sponsor does not anticipate completing the project within these periods, the sponsor may apply to the county before the end of the investment period for an extension of time to complete the project. The extension may not exceed five years. If a project receives an extension of less than five years, the sponsor may apply to the county before the end of the extension period for an additional extension of time to complete the project for an aggregate extension of not more than five years. Unless approved as part of the original fee documentation, the county council of the county may approve an extension by resolution, a copy of which must be delivered to the department within thirty days of the date the resolution was adopted. An extension is not allowed for the time period in which the sponsor must meet the minimum investment requirement.”

C. Section 12‑44‑30 of the 1976 Code, as last amended by Act 352 of 2008, is further amended by adding a new item after item (16) to read:

“(16A) ‘Qualified nuclear plant facility’ means a nuclear electric power generating plant regulated by the Nuclear Regulatory Commission and includes all real and personal property incorporated into or associated with the facility located or to be located within this State with a total minimum level of investment of one billion dollars.”

D. Section 12‑44‑30(18) of the 1976 Code, as last amended by Act 69 of 2003, is further amended to read:

“(18) ‘Sponsor’ means one or more entities which sign the fee agreement with the county and makes the minimum investment, subject to the provisions of Section 12‑44‑40, each of which makes the minimum investment as provided in Section 12‑44‑30(13) and also includes a sponsor affiliate unless the context clearly indicates otherwise. If a project consists of a manufacturing, research and development, corporate office, or distribution facility, as those terms are defined in Section 12‑6‑3360(M) and including a qualified nuclear plant facility as defined in item (16A) of this section, each sponsor or sponsor affiliate is not required to invest the minimum investment if the total investment at the project exceeds ten million dollars.”

SECTION 3. Section 12‑44‑40 of the 1976 Code, as last amended by Act 116 of 2007, is further amended by adding a new subsection at the end to read:

“(K) Notwithstanding another provision of this chapter, in the case of a qualified nuclear plant facility, the sponsor has five years from the end of the calendar year in which the Nuclear Regulatory Commission grants the sponsor a combined license to construct and operate a nuclear power plant to enter into a fee agreement with the county but in no event more than fifteen years from the latter of the adoption of an inducement resolution or execution of an inducement agreement by the county.”

SECTION 4. This act takes effect upon approval by the Governor.

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