~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 21, 2010

**S. 1187**

Introduced by Senator Leatherman

S. Printed 4/21/10--S.

Read the first time February 17, 2010.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 1187) to amend Section 28‑11‑30 of the 1976 Code, relating to reimbursement of property owners for certain expenses related to the taking of land for public use, 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, page 2, by striking lines 38 through 42, in Section 28‑11‑30, as contained in SECTION 1, and inserting therein the following:

/ (4) Reestablishment expenses related to the moving of a small business, farm, or nonprofit organization payable for transportation projects pursuant to federal guidelines and regulations may be paid in an amount up to fifty thousand dollars, notwithstanding a lower limitation imposed by federal regulations. /

Renumber sections to conform.

Amend title to conform.

PAUL G. CAMPBELL, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

See Below

**EXPLANATION OF IMPACT:**

Department of Transportation (SCDOT)

Currently, the Federal Government allows SCDOT to reimburse small businesses the actual cost of relocation up to $10,000 unless a state statute establishes the reimbursement higher. This bill would cap the reimbursement at $50,000. SCDOT states that initially this bill may increase other funds expenditures. However, SCDOT projects this bill will lead to fewer condemnations and faster time to construction, which should actually reduce expenditures in the long run.

**LOCAL GOVERNMENT IMPACT:**

Pursuant to Section 2-7-76 of the Code of Laws of South Carolina, 1976, the Office of State Budget has surveyed members of the FIST Network. The responses will be forwarded upon receipt.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND SECTION 28‑11‑30 OF THE 1976 CODE, RELATING TO REIMBURSEMENT OF PROPERTY OWNERS FOR CERTAIN EXPENSES RELATED TO THE TAKING OF LAND FOR PUBLIC USE, TO PROVIDE THAT REESTABLISHMENT EXPENSES, PAYABLE PURSUANT TO FEDERAL GUIDELINES AND REGULATIONS TO MOVE A SMALL BUSINESS, FARM, OR NONPROFIT ORGANIZATION, MAY BE PAID IN AN AMOUNT UP TO FIFTY THOUSAND DOLLARS, NOTWITHSTANDING A LOWER LIMITATION IMPOSED BY FEDERAL REGULATIONS.

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

SECTION 1. Section 28‑11‑30 of the 1976 Code is amended to read:

“Section 28‑11‑30. To the extent that Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91‑646) makes certain requirements pertaining to the acquisition of real property by states prerequisites to ~~Federal~~ federal aid to such states in programs or projects involving the acquisition of real property for public uses, ~~State~~ state agencies and instrumentalities and political subdivisions and local government agencies and instrumentalities involved in ~~such~~ these programs or projects ~~are empowered to~~ may expend available public funds as provided ~~hereafter~~ in this section, whether or not the program or project is federally aided.

(1) ~~Any~~ A person, agency, or other entity acquiring real property for public use in ~~any~~ a project or program shall, as soon as practicable after the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, reimburse the owner, to the extent the State deems fair and reasonable, for expenses he necessarily incurred for:

(a) recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the State;

(b) penalty costs for prepayment for preexisting recorded mortgage entered into in good faith encumbering such real property; and

(c) the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the agency concerned, or the effective date of possession of such real property by such agency, whichever is the earlier.

(2) Where a condemnation proceeding is instituted by the agency to acquire real property for such use and:

(~~i~~a) the final judgment is that the real property cannot be acquired by condemnation; or

(~~ii~~b) the proceeding is abandoned, the owner of any right, title, or interest in such real property shall be paid such sum as will, in the opinion of the agency, reimburse such owner for his reasonable attorney, appraisal, and engineering fees actually incurred because of the condemnation proceedings. The award of ~~such~~ these sums will be paid by the person, agency, or other entity which sought to condemn the property.

(3) Where an inverse condemnation proceeding is instituted by the owner of ~~any~~ a right, title, or interest in real property because of use of his property in ~~any~~ a program or project, the court, rendering a judgment for the plaintiff in ~~such~~ the proceeding and awarding compensation for the taking of property, or the attorney effecting a settlement of ~~any such~~ a proceeding, shall determine and award or allow to ~~such~~ the plaintiff, as a part of ~~such~~ the judgment or settlement, ~~such~~ a sum ~~as~~ that will, in the opinion of the court or the agency’s attorney, reimburse ~~such~~ the plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of ~~such~~ the proceeding.

(4) Reestablishment expenses payable pursuant to federal guidelines and regulations to move a small business, farm, or nonprofit organization may be paid in an amount up to fifty thousand dollars, notwithstanding a lower limitation imposed by federal regulations.”

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

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