COMMITTEE REPORT

February 4, 2009

**S. 12**

Introduced by Senators Leatherman, Alexander, O’Dell, Cleary, Leventis, Elliott and Lourie

S. Printed 2/4/09--S. [SEC 2/5/09 3:52 PM]

Read the first time January 13, 2009.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 12) to establish the South Carolina Taxation Realignment Commission, to provide for the commission’s membership, powers, duties, and responsibilities, to provide that the commission, 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) There is created the South Carolina Taxation Realignment Commission to be comprised of eleven members appointed as follows:

(1) one member each appointed by the President Pro Tempore of the Senate, the Senate Finance Committee Chairman, the Senate Majority Leader, and the Senate Minority Leader;

(2) one member each appointed by the Speaker of the House, the House Ways and Means Committee Chairman, the House Majority Leader, and the House Minority Leader;

(3) two members appointed by the Governor; and

(4) the Director of the Department of Revenue, to serve ex officio.

Members of the General Assembly may not be appointed to the commission. Members of the commission must have substantial academic or professional experience or specialization in one or more areas of public finance, government budgeting and administration, tax administration, economics, accounting, tax law, or business.

No member of the commission may enter upon his official responsibilities with the commission unless he has filed a statement of economic interests in accordance with the provisions of Article 11, Chapter 13, Title 8, with the State Ethics Commission.

(B) The members of the commission:

(1) must meet as soon as practicable after appointment and organize itself by electing one of its members as chairman and such other officers as the commission may consider necessary. Thereafter, the commission must meet as necessary to fulfill the duties required by this joint resolution at the call of the chairman or by a majority of the members. A quorum consists of six members. The commission may engage or employ staff or consultants as may be necessary and prudent to assist the commission in the performance of its duties and responsibilities. Any staff or consultants must possess an academic background or substantial career experience in one or more fields including, but not limited to, economics, government budgeting and administration, urban and regional economic development, economic forecasting, state and local public finance, or business;

(2) shall serve without compensation, but are allowed the usual per diem and mileage as provided by law for members of boards, commissions, and committees while on official business to be paid by the member’s appointing entity. Staffs of the Senate Finance Committee and the House Ways and Means Committee shall be available to assist the commission in its work. Any other expenses incurred by the commission shall be paid equally from each respective house’s approved account subject to the approval of the respective Operations and Management Committees;

(3) select and employ a staff director and is authorized to select and employ such other staff as may be prudent to assist the commission in the performance of its duties and responsibilities. The staff director shall be chosen solely on the grounds of fitness to perform the duties of the position and must possess:

(a) a Masters Degree from an accredited college or university, or a Baccalaureate Degree from an accredited college or university and have obtained professional experience equivalent to a Masters Degree;

(b) at least five years of experience in a public, private, or governmental position at the managerial level; and

(c) an academic background or substantial career experience in one or more of the following fields:

(i) economics;

(ii) government budgeting and administration;

(iii) urban and regional economic development;

(iv) economic forecasting; or

(v) state and local public finance.

No member of the General Assembly, nor anyone who has been a member of the General Assembly, nor anyone employed by the General Assembly since January 1, 1997, nor anyone who has been a lobbyist, as defined in Section 2-17-10(13), since January 1, 1997, is eligible to be selected as director. The director shall act as secretary for the commission and shall, with the approval of the commission, have authority to contract for experts, consultants, and such other assistance as may be necessary to carry out the duties of the commission. Subject to funding by the General Assembly, the director shall be paid equally from the approved account of each house of the General Assembly, subject to the approval of the respective Operations and Management Committees; and

(4) unless authorized by a further or subsequent enactment, conclude the commission’s business and dissolve the commission effective January 1, 2015. The General Assembly may extend the dates by which the commission must submit reports required by this joint resolution.

(C) The duties of the commission shall be to:

(1) develop criteria for assessing the effectiveness of the current tax system structure, as well as the likely systemic impact of any proposed changes affecting tax revenues and report the criteria to the General Assembly within six months of the effective date of this joint resolution, provided that all such criteria must be designed with an emphasis on the systemic balance of the state’s revenue structure from the standpoint of adequacy, equity, and efficiency and with the goal of maintaining and enhancing the State as an optimum competitor in efforts to attract businesses and individuals to locate, live, work, and invest in the State; and

(2) no later than February 25, 2011, prepare and deliver a report and recommendation to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee, including the text of an amendment that effectuates the recommendations. The commission’s report must be a detailed, comprehensive, and careful evaluation of the state’s tax system structure. The commission’s report shall consider:

(a) sales and use tax exemptions or limitations to be retained, modified, or repealed;

(b) the assessment of state and local taxes levied and other provisions affecting state and local revenue to fund the operation and responsibilities of state and local government, respectively; and

(c) at the discretion of the commission, any fee, fine, or forfeiture.

Following the report and recommendation required by subsection (C)(2), the commission shall continue studying the subjects identified in subsection (C)(2). The commission may make further legislative recommendations at any time. Also, the commission must submit a report to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee on August first and February first of each year detailing the commission’s progress and points of focus.

For purposes of the scope of the commission’s study, local taxes are defined as local levies related to ad valorem taxation, including, but not limited to, assessment ratios, classification and valuation of property, assessable transfers of interest, valuation limitation, local millages, and fee in lieu of taxes agreements.

The commission’s report may not recommend any action that would nullify any existing agreement entered into by a local government.

(D) The text of the amending language required in subsection (C)(2) must be delivered to the Code Commissioner who must take steps to prepare the substance of the amendment to be enrolled and engrossed in the Code of Laws with the provisions of the amendment to take effect January 1, 2012, if the report is approved by enactment of a joint resolution which deals exclusively with the single subject and question of approval of the report and the associated amendment, in its entirety. The legislation containing the amendment to enact the recommendations of the report made by the commission must be introduced in both houses by the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee. An amendment is germane to legislation recommended by the commission only if the amendment seeks to make a technical change necessary to effectuate the purpose of the particular provision to be amended. An amendment that seeks to add, delete, or substantively change a recommendation or other provision affecting state revenue included in any legislation recommended by the commission may only be adopted or concurred in by a three-fifths majority of those present and voting in each respective house.

(E) Further legislative recommendations made by the commission must be introduced in both houses by the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee, respectively.

SECTION 2. Act 388 of 2006 is amended by repealing SECTION 1 of Part V, which reads:

“SECTION 1. (A) The sales tax exemptions in Section 12‑36‑2120 of the 1976 Code shall be reviewed by the General Assembly not later than its 2010 Session and thereafter as the General Assembly deems appropriate but not later than its session every ten years after the first review.

(B)(1) There is established the Joint Sales Tax Exemptions Review Committee composed of seven members; three of whom must be members of the Senate appointed by the Chairman of the Senate Finance Committee, one of whom must be a member of the minority party; three of whom must be members of the House of Representatives appointed by the Chairman of the House Ways and Means Committee, one of whom must be a member of the minority party; and one of whom must be the Governor or the Governor’s appointee who shall serve at the Governor’s pleasure. The committee shall elect a chairman and vice chairman from among its members. All legislative members shall serve ex officio. The committee shall assist the General Assembly in performing its duties under the provisions of subsection (A) in addition to its duties required by this subsection.

(2) In carrying out its responsibilities under this act, the committee shall:

(a) make a detailed and careful study of the state’s sales tax exemptions, comparing South Carolina laws to other states;

(b) publish a comparison of the state’s sales tax exemptions to other states’ laws;

(c) recommend changes, and recommend introduction of legislation when appropriate;

(d) submit reports and recommendations annually to the Governor and the General Assembly regarding sales tax exemptions.

(3) In carrying out its responsibilities under this act, the committee may:

(a) hold public hearings;

(b) receive testimony of any employee of the State or any other witness who may assist the committee in its duties;

(c) call for assistance in the performance of its duties from any employee or agency of the State.

(4) The committee may adopt by majority vote rules not inconsistent with this act that it considers proper with respect to matters relating to the discharge of its duties under this section. Professional and clerical services for the committee must be made available from the staffs of the General Assembly, the State Budget and Control Board, and the Department of Revenue. The members of the committee may not receive mileage, per diem, subsistence, or any form of compensation for their service on the committee.”

SECTION 3. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

See Below

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Senate and the House of Representatives

The committee would consist of 11 members all of whom would be non-legislators. The cost per non-legislator per one-day meeting is $190. Therefore, the total cost for committee members expenses would be $2,090 per one-day meeting. This cost will be paid by the appointing entity, and any other expenses will be paid equally from the approved accounts of the Senate and House of Representatives. Although subsection (B) (1) states that the commission may engage or employ staff, section (B) (2) states that existing shall be available to assist the commission in its work.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO ESTABLISH THE SOUTH CAROLINA TAXATION REALIGNMENT COMMISSION, TO PROVIDE FOR THE COMMISSION’S MEMBERSHIP, POWERS, DUTIES, AND RESPONSIBILITIES, TO PROVIDE THAT THE COMMISSION MUST CONDUCT A COMPREHENSIVE STUDY OF THE STATE’S TAX SYSTEM AND SUBMIT A REPORT OF ITS RECOMMENDED CHANGES TO FURTHER THE GOAL OF MAINTAINING AND ENHANCING THE STATE AS AN OPTIMUM COMPETITOR IN THE EFFORT TO ATTRACT BUSINESSES AND INDIVIDUALS TO LOCATE, LIVE, WORK, AND INVEST IN THE STATE, AND TO PROVIDE FOR PROCEDURES GOVERNING THE CONSIDERATION OF LEGISLATION RESULTING FROM THE COMMISSION’S RECOMMENDATIONS.

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

SECTION 1. (A) There is created the South Carolina Taxation Realignment Commission to be comprised of eleven members appointed as follows:

(1) one member each appointed by the President Pro Tempore of the Senate, the Senate Finance Committee Chairman, the Senate Majority Leader, and the Senate Minority Leader;

(2) one member each appointed by the Speaker of the House, the House Ways and Means Committee Chairman, the House Majority Leader, and the House Minority Leader;

(3) two members appointed by the Governor; and

(4) the Director of the Department of Revenue, to serve ex officio.

Members of the General Assembly may not be appointed to the commission. Members of the commission must have substantial academic or professional experience or specialization in one or more areas of public finance, government budgeting and administration, tax administration, economics, accounting, or tax law.

(B) The members of the commission:

(1) must meet as soon as practicable after appointment and organize itself by electing one of its members as chairman and such other officers as the commission may consider necessary. Thereafter, the commission must meet as necessary to fulfill the duties required by this joint resolution at the call of the chairman or by a majority of the members. A quorum consists of six members. The commission may engage or employ staff or consultants as may be necessary and prudent to assist the commission in the performance of its duties and responsibilities. Any staff or consultants must possess an academic background or substantial career experience in one or more fields including, but not limited to, economics, government budgeting and administration, urban and regional economic development, economic forecasting, or state and local public finance;

(2) shall serve without compensation, but are allowed the usual per diem and mileage as provided by law for members of boards, commissions, and committees while on official business to be paid by the member’s appointing entity. Staffs of the Senate Finance Committee and the House Ways and Means Committee shall be available to assist the commission in its work. Any other expenses incurred by the commission shall be paid equally from each respective houses approved account subject to the approval of the respective Operations and Management Committees; and

(3) unless authorized by a further or subsequent enactment, conclude the commission’s business and dissolve the commission effective January 1, 2011. The General Assembly may extend the dates by which the commission must submit reports required by this joint resolution.

(C) The duties of the commission shall be to:

(1) develop criteria for assessing the effectiveness of the current tax system structure, as well as the likely systemic impact of any proposed changes effecting tax revenues and report the criteria to the General Assembly within six months of the effective date of this joint resolution, provided that all such criteria must be designed with an emphasis on the systemic balance of the state’s revenue structure from the standpoint of adequacy, equity, and efficiency and with the goal of maintaining and enhancing the State as an optimum competitor in efforts to attract businesses and individuals to locate, live, work, and invest in the State;

(2) no later than February 25, 2010, prepare and deliver a report and recommendation to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee setting forth the sales tax exemptions or limitations to be retained, modified or repealed, including the text of an amendment to the provisions of Article 21 of Chapter 36, Title 12, that effectuates the recommendations contained in the commission’s report; and

(3) study and recommend to the General Assembly changes regarding the assessment of state taxes levied and other provisions affecting state revenue to fund the operation and responsibilities of state government. The commission’s study must be a detailed, comprehensive, and careful evaluation of the state’s tax system structure, to include all revenue laws of the State together with all other laws of the State which have a bearing on the study of the revenue laws and the results of the study and any legislative recommendations must be delivered no later than January 1, 2011. Any recommendations by the commission must not include changes to: (1) taxes levied by any local taxing entity except for sales taxes on items exempt from state sales tax pursuant to Section 12-36-2120, or (2) property tax relief provided by the General Assembly.

(D) The text of the amending language required in subsection (C)(2) must be delivered to the Code Commissioner who must take steps to prepare the substance of the amendment to be enrolled and engrossed in the Code of Laws with the provisions of the amendment to take effect January 1, 2011, if the report is approved by enactment of a joint resolution which deals exclusively with the single subject and question of approval of the report and the associated amendment, in its entirety. The legislation containing the amendment to enact the recommendations of the report made by the commission must be introduced in both houses by Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee. An amendment is germane to legislation recommended by the commission only if the amendment seeks to make a technical change necessary to effectuate the purpose of the particular provision to be amended. An amendment that seeks to add, delete, or substantively change a recommendation or other provision affecting state revenue included in any legislation recommended by the commission may only be adopted or concurred in by a two-thirds majority of those present and voting in each respective house.

(E) Further legislative recommendations made by the commission must be introduced in both houses by Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee respectively.

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

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