COMMITTEE REPORT

March 11, 2009

**S. 239**

Introduced by Senators Massey and Rose

S. Printed 3/11/09--S.

Read the first time January 13, 2009.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 239) to amend the Code of Laws of South Carolina, 1976, by adding Section 2‑7‑67 enacting the “Appropriations Bill Earmark Disclosure Act”, to provide for the disclosure, 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 SECTION 1 and inserting:

/ SECTION 1. Chapter 1, Title 2 of the 1976 Code is amended by adding:

“Section 2‑7‑67. (A)(1) Any member of the General Assembly who requests funds in an appropriations bill be appropriated to a specific county, municipality, or non‑profit organization shall make the request in writing on a form designed jointly by the House Ways and Means Committee and the Senate Finance Committee. The form must include the member’s name, the specifics of the request, including the county, municipality, or non‑profit organization for which the request was made, the purpose to be accomplished by the request, and such other information as the form may require. The form must be filed with the House Ways and Means Committee or Senate Finance Committee, as appropriate. The request must be published on the General Assembly’s website within three business days of filing. In the case of a request while an appropriations bill is under consideration by a committee of free conference, the form must be filed with the designee of the chairman of the committee of free conference and this filing applies, mutatis mutandis, in the manner of filing with a committee for purposes of consideration of the request in a committee of free conference. A request may not be considered in the House Ways and Means Committee or Senate Finance Committee or any subcommittee thereof or in a free conference committee for inclusion in an appropriations bill before the filing of the request form required pursuant to this subsection.

(B) For purposes of Chapter 4, Title 30, a request made pursuant to this section shall be considered a public record.

(C) For purposes of this section, ‘appropriations bill’ means the annual general appropriations bill, a supplemental appropriations bill, the joint resolution appropriating revenues of the capital reserve fund, a bill appropriating contingency reserve fund revenues, or any other bill appropriating state revenues while these bills are under consideration by the House Ways and Means Committee or Senate Finance Committee, or any subcommittee thereof, and any free conference committee on an appropriations bill. For purposes of this definition, a bill includes a joint resolution.” /

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:

$0 (No additional expenditures or savings are expected)

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 report this bill will have no impact on the General Fund of the State or on federal and/or other funds.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 2‑7‑67 ENACTING THE “APPROPRIATIONS BILL EARMARK DISCLOSURE ACT”, TO PROVIDE FOR THE DISCLOSURE OF INFORMATION SURROUNDING EARMARKS REQUESTED BY MEMBERS OF THE GENERAL ASSEMBLY FOR INCLUSION IN AN APPROPRIATIONS BILL, TO PROVIDE DEFINITIONS APPLICABLE FOR THIS DISCLOSURE, AND TO PROVIDE FOR THE ENFORCEMENT OF THESE DISCLOSURE REQUIREMENTS.

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

SECTION 1. Chapter 1, Title 2 of the 1976 Code is amended by adding:

“Section 2‑7‑67. (A) This section may be cited as the ‘Appropriations Bill Earmark Disclosure Act’.

(B) For purposes of this section:

(1) ‘Appropriations bill’ means the annual general appropriations bill, a supplemental appropriations bill, the joint resolution appropriating revenues of the capital reserve fund, a bill appropriating contingency reserve fund revenues, or any other bill appropriating state revenues while these bills are under consideration by the House Ways and Means Committee or Senate Finance Committee, or any subcommittee thereof, and any free conference committee on an appropriations bill. For purposes of this definition, a bill includes a joint resolution.

(2) ‘Earmark’ means:

(a) an appropriation for a specific program or project requested by a member of the General Assembly not originating in a written agency budget request; or

(b) language in an appropriations bill requested by a member of the General Assembly directing or steering the expenditure of funds appropriated to an agency for a purpose or to a county or municipality not included in the agency’s budget request.

(C)(1) A member of the General Assembly requesting an earmark in an appropriations bill shall make the request in writing on a form designed jointly by the House Ways and Means Committee and the Senate Finance Committee. Minimally, the form must include the member’s name, the specifics of the earmark request, including the county or municipality to which the earmark is steered if not statewide, the purpose to be accomplished by the earmark request, and such other information as the form may require. The form must be filed with the House Ways and Means Committee or Senate Finance Committee, as appropriate. All earmark requests must be date/time stamped at the time of filing. The committee shall maintain for public inspection during normal business hours a register containing a copy of each earmark request filed in order of filing and a copy of the earmark request must be published on the General Assembly’s website within three business days of filing. In the case of an earmark request while an appropriations bill is under consideration by a committee of free conference, the form must be filed with the designee of the chairman of the committee of free conference and this filing applies, mutatis mutandis, in the manner of filing with a committee for purposes of consideration of the earmark request in a committee of free conference. An earmark may not be considered in the House Ways and Means Committee or Senate Finance Committee or any subcommittee thereof or in a free conference committee for inclusion in an appropriations bill before the filing of the earmark request form required pursuant to this subsection.

(2) The chairman of the House Ways and means Committee and the Senate Finance Committee, the chairman of a subcommittee of those committees, and the chairman of a committee of free conference, while these committees are considering an appropriations bill, shall enforce the requirements of this section.

(D) Any director, officer, or employee of any state agency, institution, or instrumentality or any other entity requesting an appropriation to be included in any appropriations bill must disclose to the House Ways and Means Committee or the Senate Finance Committee upon making the request, if any portion of the appropriation is to be used to fund a program or project requested by a member of the General Assembly. The disclosure must be in writing and include at a minimum when the request for the project was made, the member requesting the project, a brief description of the project, and the cost of the project. The project must then be recorded and maintained as an earmark request as provided by this section, unless a earmark request including the project has already been filed by the member.”

SECTION 2. This act takes effect upon approval by the Governor and applies for appropriations made for fiscal years beginning after June 30, 2009.

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