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COMMITTEE REPORT

March 31, 2009

**H. 3268**

Introduced by Rep. Cooper

S. Printed 3/31/09--H. [SEC 4/1/09 2:37 PM]

Read the first time January 14, 2009.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (H. 3268) to amend Section 12‑28‑2920, Code of Laws of South Carolina, 1976, relating to the construction of toll roads, so as to revise the method of disbursal of funds, etc., respectfully

**REPORT:**

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

DANIEL T. COOPER for Committee.

**A** **BILL**

TO AMEND SECTION 12‑28‑2920, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CONSTRUCTION OF TOLL ROADS, SO AS TO REVISE THE METHOD OF DISBURSAL OF FUNDS DERIVED FROM TOLLS, TO PROVIDE FOR THE DISBURSAL OF FUNDS DERIVED FROM QUALIFIED TOLL PROJECTS, TO PROVIDE WHEN TOLLS COLLECTED FROM QUALIFIED TOLL PROJECTS SHALL CEASE, AND TO DEFINE THE TERM “QUALIFIED TOLL PROJECT”; AND TO AMEND SECTION 57‑3‑200, RELATING TO THE DEPARTMENT OF TRANSPORTATION’S AUTHORITY TO ENTER INTO AGREEMENTS TO FINANCE, CONSTRUCT, AND MAINTAIN HIGHWAYS, ROADS, STREETS, AND BRIDGES, SO AS TO PROVIDE GUIDELINES FOR THE DEPARTMENT’S EXPENDITURE OF FUNDS ON QUALIFIED TOLL PROJECTS AND THE SETTING OF TOLLS ALONG TRANSPORTATION FACILITIES.

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

SECTION 1. Section 12‑28‑2920 of the 1976 Code is amended to read:

“Section 12‑28‑2920. (A) The department shall review projects for the possibility of constructing toll roads to defray the cost of these projects pursuant to the authority granted the department in Section 57‑5‑1330. No project may be funded by means of imposing a toll on the users of the project unless in conjunction with federal funds authorized for use on toll roads it is determined to be substantially feasible by the department. The funds derived from tolls must be:

(1) credited to the State Highway Fund or retained and applied by the entity or entities developing, or, in the case of a Qualified Toll Project, operating the toll road pursuant to an agreement authorized under Section 57‑3‑200 for the purpose of funding:

(a) the cost of construction, financing, operation, and maintenance of the toll project; or

(b) in the case of a Qualified Toll Project, acquisition, cost of construction, equipping, improvement, financing, refinancing, operation, and maintenance of the toll project; or

(2) used to service bonded indebtedness for highway transportation purposes incurred pursuant to paragraph 9, Section 13, Article X of the South Carolina Constitution.

(B) Upon repayment of the cost of construction, financing, toll charges shall cease, or in the case of a Qualified Toll Project upon the repayment of the cost of acquisition, construction, equipping, improvement, financing, refinancing, operation, maintenance, and satisfaction of the obligations of all of the parties to an agreement authorized under Section 57‑3‑200, toll charges on such qualified toll projects shall cease.

(C) For purposes of this section and Section 57‑3‑200, a ‘Qualified Toll Project’ is a toll project involving an agreement between the department and another entity or entities on which tolls were being collected before January 1, 2008. The department has the authority to assign, amend, and extend the terms of a Qualified Toll Project agreement. However, an amendment or extension does not create a pecuniary obligation on the part of the department, the State of South Carolina, its agencies or subdivisions, or its taxpayers to pay any debt associated with the Qualified Toll Project.”

SECTION 2. Section 57‑3‑200 of the 1976 Code is amended to read:

“Section 57‑3‑200. (A) From the funds appropriated to the Department of Transportation and from any other sources which may be available to the department, the Department of Transportation may expend ~~such~~ funds ~~as it deems~~ necessary to enter into partnership agreements with political subdivisions including authorized transportation authorities, and private entities to finance, by tolls and other financing methods~~,~~:

(1) the cost of acquiring, constructing, equipping, maintaining, and operating highways, roads, streets, and bridges in this State~~.~~;

(2) in the case of a Qualified Toll Project, as defined in Section 12‑28‑2920, the cost of acquiring, constructing, equipping, improving, maintaining, financing, refinancing, and operating highways, roads, streets, and bridges in this State.

(B) The department shall establish the initial toll to be charged to the traveling public for the use of the transportation facility and any revisions to those tolls after providing public notice and a hearing. However, in the case of a Qualified Toll Project, the department, after setting the initial toll rate or rates, may delegate to the political subdivision, transportation authority, or private entity the power to revise the toll for inflation in an amount not to exceed the increase in the Consumer Price Index.

(C) The provisions of this section must not be construed to confer upon the Department of Transportation or political subdivisions any power to finance by toll or other means the acquisition, construction, equipping, maintenance or operation which the Department of Transportation or other political subdivisions do not possess under other provisions of this code.”

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

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