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Indicates New Matter

AMENDED

May 13, 2009

**S. 360**

Introduced by Senator Hayes

S. Printed 5/13/09--H.

Read the first time March 25, 2009.

**A** **BILL**

TO AMEND SECTION 4‑10‑310, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE IMPOSITION OF A ONE PERCENT CAPITAL PROJECT SALES AND USE TAX BY A COUNTY GOVERNING BODY, SO AS TO DELETE A REQUIREMENT THAT THE TAX IS TO COLLECT A LIMITED AMOUNT OF MONEY; TO AMEND SECTION 4‑10‑330, AS AMENDED, RELATING TO THE COUNTY ORDINANCE AND BALLOT QUESTION FOR THE REFERENDUM REQUIRED, SO AS TO FURTHER PROVIDE FOR THE CONTENTS OF THE ORDINANCE AND THE DATES AND PURPOSES OF THE REFERENDUM; AND TO AMEND SECTION 4‑10‑340, AS AMENDED, RELATING TO THE IMPOSITION AND TERMINATION OF THE TAX, SO AS TO FURTHER PROVIDE FOR THE TERMINATION OF A NEWLY IMPOSED AND A REIMPOSED TAX.

Amend Title To Conform

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

SECTION 1. Section 4‑10‑310 of the 1976 Code, as added by Act 138 of 1997, is amended to read:

“Section 4‑10‑310. Subject to the requirements of this article, the county governing body may impose a one percent sales and use tax by ordinance, subject to a referendum, within the county area for a specific purpose or purposes and for a limited amount of time ~~to collect a limited amount of money~~. The revenues collected pursuant to this article may be used to defray debt service on bonds issued to pay for projects authorized in this article. However, at no time may any portion of the county area be subject to more than one percent sales tax levied pursuant to this article, pursuant to Chapter 37 ~~of~~, Title 4, or pursuant to any local law enacted by the General Assembly.”

SECTION 2. Section 4‑10‑330(A) and (C) of the 1976 Code, as last amended by Act 292 of 2004, is further amended to read:

“(A) The sales and use tax authorized by this article is imposed by an enacting ordinance of the county governing body containing the ballot question formulated by the commission pursuant to Section 4‑10‑320(C), subject to referendum approval in the county. The ordinance must specify:

(1) the purpose for which the proceeds of the tax are to be used, which may include projects located within or without, or both within and without, the boundaries of the local governmental entities, including the county, municipalities, and special purpose districts located in the county area, and may include the following types of projects:

(a) highways, roads, streets, bridges, and public parking garages and related facilities;

(b) courthouses, administration buildings, civic centers, hospitals, emergency medical facilities, police stations, fire stations, jails, correctional facilities, detention facilities, libraries, coliseums, educational facilities under the direction of an area commission for technical education, or any combination of these projects;

(c) cultural, recreational, or historic facilities, or any combination of these facilities;

(d) water, sewer, or water and sewer projects;

(e) flood control projects and storm water management facilities;

(f) beach access and beach renourishment;

(g) jointly operated projects of the county, a municipality, special purpose district, and school district, or any combination of those entities, for the projects delineated in subitems (a) through (f) of this item;

(h) any combination of the projects described in subitems (a) through (g) of this item;

(2) the maximum time, ~~stated in terms of calendar or fiscal years or quarters, or a combination thereof,~~ in two-year increments not to exceed ~~seven~~ eight years from the date of imposition, or in the case of a reimposed tax, a period ending on April thirtieth of an odd‑numbered year, not to exceed seven years, for which the tax may be imposed;

(3)(a) If the county proposes to issue bonds to provide for the payment of any costs of the projects, the maximum amount of bonds to be issued, whether the sales tax proceeds are to be pledged to the payment of the bonds and, if other sources of funds are to be used for the projects, specifying the other sources;

(b) the maximum cost of the project or facilities or portion of the project or portion of the facilities, to be funded from proceeds of the tax or bonds issued as provided in this article and the maximum amount of net proceeds expected to be used to pay the cost or debt service on the bonds, as the case may be; and

(4) any other condition precedent, as determined by the commission, to the imposition of the sales and use tax authorized by this article or condition or restriction on the use of sales and use tax revenue collected pursuant to this article.

(C) Upon receipt of the ordinance, the county election commission must conduct a referendum on the question of imposing the sales and use tax in the area of the county that is to be subject to the tax. The referendum for ~~this purpose~~ imposition or reimposition of the tax must be held at the time of the general election unless the vote is to reimpose a tax in effect on or before June 1, ~~2002~~ 2009, and in existence at the time of such vote, in which case the referendum may be held on a general election day or at a time the governing body of the county and the Department of Revenue determine necessary to permit the tax to be reinstated and continue without interruption. The choice of election times rests with the governing body of the county. However, a referendum to reimpose an existing tax as permitted above may only be held once whether or not the referendum is held on a general election day or at another time. Two weeks before the referendum the election commission must publish in a newspaper of general circulation the question that is to appear on the ballot, with the list of projects and the cost of the projects. If the proposed question includes the use of sales taxes to defray debt service on bonds issued to pay the costs of any project, the notice must include a statement indicating that principal amount of the bonds proposed to be issued for the purpose and, if the issuance of the bonds is to be approved as part of the referendum, stating that the referendum includes the authorization of the issuance of bonds in that amount. This notice is in lieu of any other notice otherwise required by law.”

SECTION 3. Section 4‑10‑340 of the 1976 Code, as last amended by Act 334 of 2002, is further amended to read:

“Section 4‑10‑340. (A) If the sales and use tax is approved in the referendum, the tax is imposed on the first of May following the date of the referendum. If the reimposition of an existing sales and use tax imposed pursuant to this article is approved in the referendum, the new tax is imposed immediately following the termination of the earlier imposed tax and the reimposed tax terminates on the thirtieth of April in an odd‑numbered year, not to exceed seven years from the date of reimposition. If the certification is not timely made to the Department of Revenue, the imposition is postponed for twelve months.

(B) The tax terminates ~~on the earlier of:~~

~~(1)~~ the final day of the maximum time period specified for the imposition~~; or~~

~~(2)~~ ~~the end of the calendar quarter during which the Department of Revenue receives a certificate under Section 4‑10‑360 indicating that no more bonds approved in the referendum remain outstanding that are payable from the sales tax and that all the amount of the costs of the projects approved in the referendum will have been paid upon application of the net proceeds during this quarter~~.

(C)(1) Amounts collected in excess of the required net proceeds must first be applied, if necessary, to complete a project for which the tax was imposed~~; otherwise, the excess funds must be credited to the general fund of the governmental entities receiving the proceeds of the tax, in the proportion which they received the net proceeds of the tax while it was imposed~~.

(2) If funds still remain after first using the funds as described in item (1) and the tax is reimposed, the remaining funds must be used to fund the projects approved by the voters in the referendum to reimpose the tax, in priority order as the projects appeared on the enacting ordinance.

(3) If funds still remain after first using the funds as described in item (1) and the tax is not reimposed, the remaining funds must be used for the purposes set forth in Section 4‑10‑330(A)(1). These remaining funds may only be expended for the purposes set forth in Section 4‑10‑330(A)(1) following an ordinance specifying the authorized purpose or purposes for which the funds will be used.”

SECTION 4. A. Section 4‑10‑350(B) of the 1976 Code, as added by Act 138 of 1997, is amended to read:

“(B) The tax authorized by this article is in addition to all other local sales and use taxes and applies to the gross proceeds of sales in the applicable area that is subject to the tax imposed by Chapter 36 of Title 12 and the enforcement provisions of Chapter 54 of Title 12. The gross proceeds of the sale of items subject to a maximum tax in Chapter 36 of Title 12 are exempt from the tax imposed by this article. Unprepared food items eligible for purchase with United States Department of Agriculture food coupons are exempt from the tax imposed pursuant to this article. The tax imposed by this article also applies to tangible personal property subject to the use tax in Article 13, Chapter 36 of Title 12.”

B. Notwithstanding the general effective date of this act, this section takes effect on the approval of this act by the Governor and applies with respect to Capital Project Sales Tax Act taxes imposed or reimposed pursuant to a referendum held after that date.

SECTION 5. This act takes effect upon approval by the Governor; provided, that the amendments to Section 40‑10‑330(A)(1)(b) of the 1976 Code, as contained in SECTION 2, apply with respect to Capital Project Sales and Use Tax Act taxes imposed or reimposed pursuant to a referendum held after the effective date of this act.

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