POLLED OUT OF COMMITTEE

MAJORITY FAVORABLE WITH AMENDMENT

March 24, 2010

**H. 4343**

Introduced by Reps. Wylie, Harrell, Cooper, Stringer, Merrill, Allen, Allison, Ballentine, Bannister, Bedingfield, Bowen, Cato, Cole, Daning, Dillard, Erickson, Forrester, Gunn, Hamilton, Hardwick, Hearn, Hiott, Horne, Huggins, Kelly, Kirsh, Littlejohn, Loftis, Millwood, Mitchell, Nanney, Norman, Owens, Parker, Scott, G.R. Smith, Sottile, Umphlett, White, Willis, T.R. Young, Lucas, Neilson, Bales, Clemmons, Weeks, Stavrinakis, Hutto and Viers

S. Printed 3/24/10--S. [SEC 3/25/10 1:38 PM]

Read the first time March 2, 2010.

**THE COMMITTEE ON TRANSPORTATION**

To whom was referred a Bill (H. 4343) to amend the Code of Laws of South Carolina, 1976, by adding Chapter 19 to Title 55 so as to establish the South Carolina Air Service Incentive and Development Fund under, etc., respectfully

**REPORT:**

Has polled the Bill out with amendment, to wit:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Title 55 of the 1976 Code is amended by adding:

“CHAPTER 19

Air Service Incentive and Development Fund

Section 55‑19‑10. (A) There is established within the South Carolina Aeronautics Commission a fund which shall be known and referred to as the South Carolina Air Service Incentive and Development Fund and which shall be administered by the commission. The General Assembly in the annual general appropriations act or in other acts may provide or appropriate monies for the South Carolina Air Service Incentive and Development Fund. All expenditures from the fund shall be for a program to provide more air flight options, more competition for air travel and more affordable air fares for this State, including regional airports.

(B) The monies credited to the South Carolina Air Service Incentive and Development Fund shall be disbursed as a grant by the commission to regional economic development organizations, local governing bodies, or the governing bodies of airports and shall be used for the development and implementation of a program to provide more air flight options, more competition for air travel, and more affordable air fares for this State. Each grant shall be matched by monies from the grantee or the local jurisdiction in which it is located, on the basis of at least twenty‑five percent from the grantee or the local jurisdiction in which it is located with the remainder from the South Carolina Air Service Incentive and Development Fund.

(C) Annually, before November fifteenth, beginning one year after the effective date of this chapter, the commission shall evaluate and present a report on the effectiveness of this program to the House Ways and Means Committee, the Senate Finance Committee, and the Joint Transportation Review Committee which shall include a detailed summary of the expenditures from the fund and local matching monies received under the program and the results obtained for such expenditures.

(D) Any monies remaining in the Air Service Incentive and Development Fund at the end of any fiscal year must be carried forward from fiscal year to fiscal year and earnings of the fund shall remain part of the fund.

Section 55‑19‑20. On a fiscal year basis, the commission shall accept grant applications from the governing bodies of regional economic development organizations, local governing bodies, or the governing bodies of airports to accomplish the purposes of the program in accordance with the following guidelines:

(1) proposals shall specify how the program will provide more flight options, more competition for air travel, and more affordable air fares for the people of the State of South Carolina. An applicant shall demonstrate that due diligence has been conducted with respect to a proposal for funding. Due diligence must be documented with an analysis of feasibility from a professional air service consultant or a letter of intent from a commercial scheduled air carrier;

(2) proposals shall specify the amount of funding requested through the South Carolina Air Service Incentive and Development Fund and indicate the source of the local match;

(3) proposals shall specify how the applicant will document the effectiveness of funding received under this program;

(4) proposals shall specify how expenditures and results from this program and local matching monies will be reported; and

(5) proposals shall specify how grant monies will be repaid to the State.

Section 55‑19‑30. (A) Grants from the South Carolina Air Service Incentive and Development Fund must be considered and may be awarded in accordance with the purposes of the program, which are more flight options, more competition for air travel, and more affordable air fares for this State. Selection criteria include the following:

(1) More air flight options including:

(a) number of scheduled, nonstop flights by commercial scheduled passenger air carriers to domestic or international destinations, or both;

(b) number of scheduled, one‑stop flights by commercial scheduled passenger air carriers to domestic or international destinations, or both;

(c) number of connecting cities by commercial scheduled passenger air carriers to domestic or international destinations, or both;

(2) More competition for air travel including:

(a) number of scheduled, nonstop flights by commercial scheduled passenger air carriers to domestic or international destinations, or both, served by two or more airlines;

(b) number of scheduled, one‑stop flights by commercial scheduled passenger air carriers to domestic or international destinations, or both, served by two or more airlines;

(c) average airfare for scheduled, connecting flights in terms of origin and destination passengers;

(3) More affordable air fares for South Carolina including:

(a) average airfare for scheduled, round‑trip, nonstop flights by commercial scheduled passenger air carriers to domestic or international destinations, or both;

(b) average airfare for scheduled, round‑trip, one‑stop flights by commercial scheduled passenger air carriers to domestic destinations;

(c) average airfare for scheduled, round‑trip, one‑stop flights by commercial scheduled passenger air carriers to domestic or international destinations, or both.

(B) In making awards, the commission must give:

(1) highest priority to maintaining affordable airfares;

(2) high priority to publicly traded network carriers; and

(3) due consideration to the method of repayment, the likelihood of timely repayment, and the amount of the local match.

Section 55‑19‑40. (A) The South Carolina Aeronautics Commission may borrow funds from the Insurance Reserve Fund to fund the South Carolina Air Services Incentive and Development Fund, provided that at no time may the total outstanding principal amount borrowed exceed fifteen million dollars. Any money borrowed from the Insurance Reserve Fund must be repaid as provided in this section. In any fiscal year following Fiscal Year 2010‑2011 in which the annual aircraft property tax revenues collected pursuant to Section 12-37-19 exceed five million two hundred thousand dollars, the revenues in excess of five million two hundred thousand dollars shall be used to repay the Insurance Reserve Fund instead of being paid into the State General Fund. The money borrowed from the Insurance Reserve Fund must be repaid together with interest calculated by the State Treasurer’s Office in an amount determined to approximate investment earnings that otherwise may have been realized on the monies.

(B) If there are no outstanding loans pursuant to this section or any and all loans entered pursuant to this section have been fully repaid, in any fiscal year in which annual aircraft property tax revenues collected pursuant to Section 12-37-19 exceed five million two hundred thousand dollars, the revenues in excess of five million two hundred thousand dollars shall be paid into the South Carolina Air Services Incentive and Development Fund instead of being paid into the State General Fund.

Section 55-19-50. (A) The commission may not award a grant from the South Carolina Air Service Incentive and Development Fund without the opportunity for review by the Joint Transportation Review Committee.

(B) Prior to awarding a grant, the commission shall file with the review committee a copy of the grant application and a written statement that identifies:

(1) the reasons the grant should be made;

(2) the manner and time within which the grant is to be repaid; and

(3) a detailed analysis of the selection criteria utilized by the commission and the manner in which those criteria are expected to achieve with the purposes of the program.

(C) Within forty‑five days after the review committee receives the grant application and statement, the review committee may hold a public hearing concerning the proposed grant and, whether or not a public hearing is held, shall issue a report to the commission. The report shall include any recommendations approved by the committee.

(1) If the review committee’s report does not contain any recommended changes, the commission may award the grant.

(2) If the review committee’s report contains recommendations, the commission shall review the recommendations and may work with the grant applicant to revise the application in light of the recommendations and file a revised application with the review committee.

(3) Following its review of the review committee’s report, the commission may resubmit the initial application for reconsideration or a revised application for consideration.

(a) If the commission resubmits the initial application with no changes as recommended by the review committee, the commission shall include with the resubmitted application correspondence stating the reasons why the recommendations were not adopted. The review committee may hold additional hearings and issue additional reports at its discretion. Not earlier than forty‑five days after the filing of any correspondence and resubmitting the initial application with the committee, the commission may award the grant based on the initial application.

(b) If the commission submits a revised application that contains one or more, but not all, of the changes recommended by the review committee, the commission shall include with the application correspondence stating the reasons why the recommendations were not adopted. The review committee may hold additional hearings and issue additional reports at its discretion. Not earlier than forty‑five days after the filing of any correspondence and revised application with the committee, the commission may award the grant based on the revised application.

(c) If the commission submits a revised application that incorporates all of the changes recommended by the review committee, the commission may award the grant following the review committee’s consideration of, and report concerning, the revised application.

(D) In the event that the commission determines that the review process required by this section would result in frustrating the purposes of this program, the commission may award a grant. Any grant awarded pursuant to this subsection must contain a provision that the grant is subject to review by the review committee, and the terms, conditions, or amount of the grant are subject to change based on any recommendations made by the review committee.

(E) To carry out their respective duties, the commission and the review committee shall work in consultation and cooperation with the Budget and Control Board.”

SECTION 2. Section 57-1-730 of the 1976 Code is amended by adding an appropriately numbered new item to read:

“( ) provide oversight of the South Carolina Air Service Incentive and Development Fund pursuant to Section 55-19-50.”

SECTION 3. Section 57-1-740(D)(1) and (2)(a) of the 1976 Code is amended to read:

“(D)(1) When the notice of intention filing period closes, the review committee shall begin to conduct an investigation of candidates, as it considers appropriate, and may utilize the services of any agency of state government to assist in the investigation. Upon request of the review committee for assistance, an agency shall cooperate fully. The review committee must reopen the notice of intention filing period if only one person files a notice of intention during the initial filing period.

(2)(a)(i) Upon completion of the candidate investigations, the chairman of the review committee shall schedule a public hearing concerning the qualifications of the candidates. Any person who desires to testify at the hearing, including the candidates, must furnish a written statement of his proposed testimony to the chairman of the review committee. This statement shall be furnished no later than forty‑eight hours prior to the date and time set for the hearing. The review committee shall determine the persons who shall testify at the hearing. All testimony, including documents furnished to the review committee, shall be submitted under oath and persons knowingly furnishing false information either orally or in writing shall be subject to the penalties provided by law for perjury and false swearing.

(ii) During the course of the investigation, the review committee may schedule an executive session at which the candidates, and other persons who the review committee wishes to interview, may be interviewed on matters pertinent to the candidate’s qualification for the office to be filled.

(iii) The review committee shall render its tentative findings as to whether the candidates are qualified to serve on the commission as a district member and its reasons for making the findings within a reasonable time after the hearing. The review committee must reopen the screening process if the committee’s tentative findings result in the determination that only one candidate or none of the candidates are qualified and meet the requirements provided by law to serve as a member of the Department of Transportation Commission. A candidate that the review committee determines to be qualified and meets the requirements provided by law prior to reopening the screening process does not have to be re-screened by the review committee prior to the election for that congressional district.”

SECTION 4. Section 57-1-740(D)(2)(c) of the 1976 Code is amended to read:

“(c)(i) The review committee must transmit to the congressional district delegation the names of all qualified candidates.

(ii) No member of the congressional district delegation may pledge his vote to elect a ~~nominee~~ candidate ~~until the qualifications of the candidates to fill the vacancy have been determined by the review committee and~~ until the review committee has formally released its report as to the qualifications of the nominee to the appropriate congressional district delegation. The formal release of the report of qualifications shall occur no earlier than forty‑eight hours after the ~~name~~ names of the ~~nominee has~~ qualified candidates have been initially released to members of the congressional district delegation. ~~For purposes of this section, “indirectly seeking a pledge” means the candidate, or someone acting on behalf of and at the request of the candidate, requests another person to contact a member of the General Assembly on behalf of the candidate before the nomination for that office is formally made by the review committee.~~

(iii) No candidate may directly or indirectly seek the pledge of a vote from a member of the candidate’s congressional delegation or, directly or indirectly, contact a member of the General Assembly or the Joint Transportation Review Committee regarding screening for the commission until the committee has formally released to the appropriate congressional delegation its report as to the qualifications of all candidates in a particular district. For purposes of this section, ‘indirectly seek the pledge’ means the candidate, or someone acting on behalf of and at the request of the candidate, requests another person to contact a member of the General Assembly or the review committee on behalf of the candidate before the review committee’s formal release of the report of qualifications.

(iv) The prohibitions of this section do not extend to an announcement of candidacy by the candidate and statements by the candidate detailing the candidate’s qualifications.”

Renumber sections to conform.

Amend title to conform.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 19 TO TITLE 55 SO AS TO ESTABLISH THE SOUTH CAROLINA AIR SERVICE INCENTIVE AND DEVELOPMENT FUND UNDER THE SOUTH CAROLINA AERONAUTICS COMMISSION TO PROVIDE GRANTS TO REGIONAL ECONOMIC DEVELOPMENT ENTITIES OR AIR SERVICE DEVELOPMENT TASK FORCES TO PROVIDE MORE FLIGHT OPTIONS, MORE COMPETITION FOR AIR TRAVEL AND MORE AFFORDABLE AIR FARES FOR THE CITIZENS OF THE REGION AND THIS STATE, AND TO PROVIDE THE SELECTION CRITERIA AND SELECTION PROCESS FOR THESE GRANTS TO BE MADE FROM FUNDS PROVIDED TO OR APPROPRIATED FOR THE FUND BY THE GENERAL ASSEMBLY.

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

SECTION 1. Title 55 of the 1976 Code is amended by adding:

“CHAPTER 19

Air Service Incentive and Development Fund

Section 55‑19‑10. (A) There is established within the South Carolina Aeronautics Commission a fund which shall be known and referred to as the South Carolina Air Service Incentive and Development Fund and which shall be administered by the commission. The General Assembly in the annual general appropriations act or in other acts shall provide or appropriate monies for the South Carolina Air Service Incentive and Development Fund which in the aggregate shall not exceed the sum of fifteen million dollars. All expenditures from the fund shall be for a program to provide more air flight options, more competition for air travel and more affordable air fares for this State, including regional airports.

(B) The monies credited to the South Carolina Air Service Incentive and Development Fund shall be disbursed as a grant by the commission to regional economic development entities or air service development task forces as established by law and shall be used for the development and implementation of a program to provide more air flight options, more competition for air travel and more affordable air fares for this State. Each grant shall be matched by monies from the grantee or the local jurisdiction in which it is located, on the basis of seventy‑five percent from the South Carolina Air Service Incentive and Development Fund to twenty‑five percent from the grantee or the local jurisdiction in which it is located.

(C) Annually at the beginning of each regular session of the General Assembly commencing one year after the effective date of this chapter, the commission shall evaluate and present a report on the effectiveness of this program to the House Ways and Means Committee and the Senate Finance Committee which shall include a summary of the expenditures from the fund and local matching monies received under the program and the results obtained for such expenditures.

(D) Monies in the Air Service Incentive and Development Fund may be carried forward from fiscal year to fiscal year and earnings of the fund shall remain part of the fund.

Section 55‑19‑20. The Aeronautics Commission shall accept grant proposals on a fiscal year basis within available funds from the governing bodies of regional economic development entities or air service development task forces to accomplish the purposes of the program in accordance with the following guidelines:

(1) proposals shall specify how the program will provide more flight options, more competition for air travel, and more affordable air fares for the State of South Carolina. In this regard, an applicant shall demonstrate that due diligence has been conducted with respect to a proposal for funding. Due diligence must be documented with an analysis of feasibility from a professional air service consultant or a letter of intent from a commercial scheduled air carrier;

(2) proposals shall specify the amount of funding requested through the South Carolina Air Service Incentive and Development Fund and indicate the source of the required local match of twenty‑five percent;

(3) proposals shall specify how the program applicant will document the effectiveness of funding received under this program; and

(4) proposals also shall specify how expenditures and results from this program and local matching monies will be reported.

Section 55‑19‑30. (A) Grants from the South Carolina Air Service Incentive and Development Fund must be considered and may be awarded in accordance with the purposes of the program, which are more flight options, more competition for air travel, and more affordable air fares for this State. Selection criteria include the following:

(1) More air flight options including:

(a) number of scheduled, daily nonstop flights by commercial scheduled passenger air carriers to United States destinations;

(b) number of scheduled, daily one‑stop flights by commercial scheduled passenger air carriers to United States destinations;

(c) number of scheduled, daily one‑stop flights by commercial scheduled passenger air carriers to international destinations;

(d) number of connecting cities by a scheduled commercial passenger air carrier to United States destinations that are ranked in the region’s top twenty‑five markets in terms of origin and destination passengers;

(2) More competition for air travel including:

(a) number of scheduled, daily nonstop flights by commercial scheduled passenger air carriers to United States destinations served by two or more airlines;

(b) number of scheduled, daily one‑stop flights by commercial scheduled passenger air carriers to United States destinations served by two or more airlines;

(c) number of scheduled, daily one‑stop flights by commercial scheduled passenger air carriers to international destinations served by two or more airlines;

(d) average airfare for scheduled, connecting flights for the region’s top twenty‑five markets in terms of origin and destination passengers;

(3) More affordable air fares for South Carolina including:

(a) average airfare for scheduled, round‑trip, nonstop flights by commercial scheduled passenger air carriers to United States destinations;

(b) average airfare for scheduled, round‑trip, one‑stop flights by commercial scheduled passenger air carriers to United States destinations;

(c) average airfare for scheduled, round‑trip, one‑stop flights by commercial scheduled passenger air carriers to international destinations.

(B) In making awards, the Executive Director of the South Carolina Aeronautics Commission must give highest priority to maintaining affordable airfares to eastern and western United States destinations. High priority must be given to United States owned, publicly traded network carriers. Priority also must be given to proposals that impact a majority of South Carolinians.

Section 55‑19‑40. (A) The South Carolina Aeronautics Commission may borrow up to fifteen million dollars from the Insurance Reserve Fund to fund the South Carolina Air Services Incentive and Development Fund. Any money borrowed from the Insurance Reserve Fund must be repaid as prescribed herein. In any fiscal year following Fiscal Year 2010‑2011 in which the annual aircraft property tax revenues collected pursuant to Title 12, Chapter 33, Article 19 exceed six million dollars, the revenues in excess of six million dollars shall be used to repay the Insurance Reserve Fund instead of being paid into the State General Fund. The money borrowed from the Insurance Reserve Fund must be repaid together with interest calculated by the State Treasurer’s Office in an amount determined to approximate the lost investment earnings on the monies.

(B) If there are no outstanding loans pursuant to this section or any and all loans entered pursuant to this section have been fully repaid, in any fiscal year in which annual aircraft property tax revenues collected pursuant to Title 12, Chapter 33, Article 19 exceed six million dollars, the revenues in excess of six million dollars shall be paid into the South Carolina Air Services Incentive and Development Fund instead of being paid into the State General Fund.”

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

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