COMMITTEE REPORT

February 3, 2010

**S. 717**

Introduced by Senators Coleman, Setzler, Land, Campbell and Hayes

S. Printed 2/3/10--S. [SEC 2/4/10 2:35 PM]

Read the first time April 15, 2009.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 717) to amend Sections 12‑36‑2120 and 12‑37‑220, both as amended, Code of Laws of South Carolina, 1976, relating to sales tax exemptions, etc., respectfully

**REPORT:**

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

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT 1/**

This bill would reduce sales and income tax revenue by an estimated $480,000 in FY2009-10. Of this amount, general fund sales and use tax would amount to $320,000, EIA funds would amount to $80,000 and Homestead Exemption funds would amount to $80,000 in FY2009-10. In the second and third years, sales and use tax would be reduced by an estimated $240,000 in FY2010-11 and FY2011-12, respectively. Of this amount, general fund sales and use tax would amount to $160,000, EIA funds would amount to $40,000 and Homestead Exemption funds would amount to $40,000 in FY2010-11 and FY2011-12, respectively. Additionally, since most of these entities property taxes are already exempt, this bill is not expected to negatively impact local property tax revenues.

## Explanation

This bill would amend Section 12-36-2120 by adding an appropriately numbered item to exempt sales and use tax on the purchase of machinery and equipment, including lighting, filming and computer equipment, building and other raw materials used in test specimens, and electricity and electrical transformers and substations purchased for use in the operation of a facility placed in service after July 2, 2009. The non-profit facility would be used principally for the researching and testing of the impact of natural disasters such as wind, fire, water, earthquake, and hail on building materials and construction methods used in residential, commercial and agricultural buildings. To qualify for the sales and use tax exemption, the non-profit organization must invest at least $20,000,000 in real or personal property in this state over a three year period. There is at least one entity that has announced that it is proceeding on a project in South Carolina that will qualify for this sale tax exemption. The project will focus its research on mitigating insurance losses due to catastrophic events by testing the effects of the natural hazards of wind, fire, flood, earthquake, and hail on architectural models. According to the entity’s website, the facility expects to invest $25,000,000 for a research campus facility and an additional $15,000,000 to cover maintenance, repairs, and to help defray annual infrastructure-related costs, such as access to power. When fully operational, the project expects to employ approximately twenty employees. We expect that one-half of the $40,000,000 investment will occur in the first year of operation with the remaining investment equally divided between the subsequent two years. Based upon the Board of Economic Advisors’ cost-benefit model methodology, capital investment project expenditures typically are divided as 60 percent for labor expenses and 40 percent for materials and equipment expenditures. Multiplying a capital investment of $20,000,000 in the first year by 40 percent and applying a sales and use tax rate of six percent yields an estimated $480,000 in FY2009-10 in sales and use taxes that would be collected from this project in the absence of this amendment. Of this amount, general fund sales and use tax would amount to $320,000, EIA funds would amount to $80,000 and Homestead Exemption funds would amount to $80,000 in FY2009-10. In the second and third years, sales and use tax would amount to an estimated $240,000 in FY2010-11 and FY2011-12, respectively. Of this amount, general fund sales and use tax would amount to $160,000, EIA funds would amount to $40,000 and Homestead Exemption funds would amount to $40,000 in FY2010-11 and FY2011-12, respectively.

This bill would also add an appropriately numbered item to Section 12-37-220 to exempt all property used in the operation of a facility with a capital investment of $20,000,000 or more at a single site that is owned by an organization that qualifies as a tax exempt organization pursuant to Internal Revenue Code Section 501(c)(3) when the facility is principally used for researching and testing the impact of natural hazards such as wind, fire, water, earthquake, and hail on building materials used in residential, commercial, and agricultural buildings. There is at least one entity that has announced it is proceeding on a project in Chester County, South Carolina that will qualify for this property tax exemption. According to the entity’s website, the facility expects to invest $25,000,000 for a research campus facility and an additional $15,000,000 to cover maintenance, repairs, and to help defray annual infrastructure-related costs, such as access to power. When fully operational, the project expects to employ approximately twenty employees. Chester County has already exempted this entity from 85% of its property taxes through a special source revenue credit for the first ten years. Since most of these entities property taxes are already exempt, this section of the bill is not expected to negatively impact local property tax revenues.

*Approved By:*

William C. Gillespie

Board of Economic Advisors

1/ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**A** **BILL**

TO AMEND SECTIONS 12‑36‑2120 AND 12‑37‑220, BOTH AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SALES TAX EXEMPTIONS AND PROPERTY TAX EXEMPTIONS, SO AS TO EXEMPT MACHINERY, EQUIPMENT, BUILDING AND OTHER RAW MATERIALS, AND ELECTRICITY USED BY A FACILITY OWNED BY A TAX EXEMPT ORGANIZATION INVESTING AT LEAST TWENTY MILLION DOLLARS OVER THREE YEARS IN THE FACILITY WHEN THAT FACILITY IS USED PRINCIPALLY FOR RESEARCHING AND TESTING THE IMPACT OF NATURAL HAZARDS SUCH AS WIND, FIRE, EARTHQUAKE, AND HAIL ON BUILDING MATERIALS USED IN RESIDENTIAL, COMMERCIAL, AND AGRICULTURAL BUILDINGS.

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

SECTION 1. Section 12‑36‑2120 of the 1976 Code, as last amended by Act 338 of 2008, is further amended by adding a new item at the end appropriately numbered to read:

“( ) machinery and equipment, building and other raw materials, and electricity used in the operation of a facility owned by an organization which qualifies as a tax exempt organization pursuant to the Internal Revenue Code Section 501(c)(3) when the facility is principally used for researching and testing the impact of such natural hazards as wind, fire, water, earthquake, and hail on building materials used in residential, commercial, and agricultural buildings. To qualify for this exemption, the taxpayer shall notify the department of its intent to qualify and shall invest at least twenty million dollars in real or personal property at a single site in this State over the three‑year period beginning on the date provided by the taxpayer to the department in its notices. After the taxpayer notifies the department of its intent to qualify and use the exemption, the department shall issue an appropriate exemption certificate to the taxpayer to be used for qualifying purposes. Within six months of the third anniversary of the taxpayer’s first use of the exemption, the taxpayer shall notify the department in writing that it has met the twenty million dollar investment requirement or, that it has not met the twenty million dollar investment requirement. The department may assess any tax due on the machinery and equipment purchased tax free pursuant to this item but due the State as a result of the taxpayer’s failure to meet the twenty million dollar investment requirement. The running of the periods of limitations for assessment of taxes provided in Section 12‑54‑85 is suspended for the time period beginning with notice to the department before the taxpayer uses the exemption and ending with notice to the department that the taxpayer either has met or has not met the twenty million dollar investment requirement.”

SECTION 2. Section 12‑37‑220(B) of the 1976 Code, as last amended by Act 357 of 2008, is further amended by adding a new item at the end appropriately numbered to read:

“( ) All property used in the operation of a facility with a capital investment of twenty million dollars or more at a single site which is owned by an organization which qualifies as a tax exempt organization pursuant to the Internal Revenue Code Section 501(c)(3) when the facility is principally used for researching and testing the impact of such natural hazards as wind, fire, water, earthquake, and hail on building materials used in residential, commercial, and agricultural buildings.”

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

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