**South Carolina General Assembly**

119th Session, 2011-2012

**A268, R233, H4033**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Patrick and Loftis

Document Path: l:\council\bills\ggs\22074zw11.docx

Companion/Similar bill(s): 1100

Introduced in the House on April 6, 2011

Introduced in the Senate on April 14, 2011

Last Amended on May 16, 2012

Passed by the General Assembly on May 30, 2012

Governor's Action: June 11, 2012, Vetoed

Legislative veto action(s): Veto overridden

Summary: Widening and dredging waterways

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/6/2011 House Introduced, read first time, placed on calendar without reference ([House Journal‑page 10](file:///h:\hj%20archive\2011\04-06-11.docx))

4/7/2011 House Member(s) request name added as sponsor: Loftis

4/13/2011 House Debate adjourned ([House Journal‑page 54](file:///h:\hj%20archive\2011\04-13-11.docx))

4/13/2011 House Read second time ([House Journal‑page 60](file:///h:\hj%20archive\2011\04-13-11.docx))

4/13/2011 House Roll call Yeas‑89 Nays‑0 ([House Journal‑page 60](file:///h:\hj%20archive\2011\04-13-11.docx))

4/14/2011 House Read third time and sent to Senate ([House Journal‑page 10](file:///h:\hj%20archive\2011\04-14-11.docx))

4/14/2011 Senate Introduced and read first time ([Senate Journal‑page 11](file:///h:\sj%20archive\2011\04-14-11.docx))

4/14/2011 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 11](file:///h:\sj%20archive\2011\04-14-11.docx))

1/9/2012 Senate Referred to Subcommittee: Cleary (ch), Ford, S.Martin, Gregory

3/7/2012 Senate Committee report: Majority favorable with amend., minority unfavorable **Judiciary** ([Senate Journal‑page 13](file:///h:\sj%20archive\2012\03-07-12.docx))

5/16/2012 Senate Minority Report Removed ([Senate Journal‑page 18](file:///h:\sj%20archive\2012\05-16-12.docx))

5/16/2012 Senate Committee Amendment Adopted ([Senate Journal‑page 18](file:///h:\sj%20archive\2012\05-16-12.docx))

5/16/2012 Senate Amended ([Senate Journal‑page 18](file:///h:\sj%20archive\2012\05-16-12.docx))

5/16/2012 Senate Read second time ([Senate Journal‑page 18](file:///h:\sj%20archive\2012\05-16-12.docx))

5/16/2012 Senate Roll call Ayes‑31 Nays‑9 ([Senate Journal‑page 18](file:///h:\sj%20archive\2012\05-16-12.docx))

5/22/2012 Senate Read third time and returned to House with amendments ([Senate Journal‑page 13](file:///h:\sj%20archive\2012\05-22-12.docx))

5/29/2012 House Debate adjourned ([House Journal‑page 34](file:///h:\hj%20archive\2012\05-29-12.docx))

5/30/2012 House Concurred in Senate amendment and enrolled ([House Journal‑page 121](file:///h:\hj%20archive\2012\05-30-12.docx))

5/30/2012 House Roll call Yeas‑100 Nays‑0 ([House Journal‑page 122](file:///h:\hj%20archive\2012\05-30-12.docx))

6/5/2012 Ratified R 233

6/11/2012 Vetoed by Governor

6/19/2012 House Veto overridden by originating body Yeas‑82 Nays‑24

6/20/2012 Senate Veto sustained Ayes‑26 Nays‑14

6/20/2012 Senate Reconsider vote whereby veto was sustained

6/20/2012 Senate Veto overridden Ayes‑31 Nays‑11

7/2/2012 Effective date 06/20/12

7/9/2012 Act No. 268

**VERSIONS OF THIS BILL**

[4/6/2011](file:///p:\pprever\2011-12\4033_20110406.docx)

[4/6/2011-A](file:///p:\pprever\2011-12\4033_20110406A.docx)

[3/7/2012](file:///p:\pprever\2011-12\4033_20120307.docx)

[5/16/2012](file:///p:\pprever\2011-12\4033_20120516.docx)

(A268, R233, H4033)

**AN ACT TO AMEND SECTION 4‑10‑330, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CAPITAL PROJECT SALES TAX ACT, SO AS TO PROVIDE THAT THE AUTHORIZED PROJECTS THAT ARE ALLOWED TO BE FUNDED BY A COUNTY CAPITAL PROJECT SALES TAX INCLUDE DREDGING, DEWATERING, CONSTRUCTION OF SPOIL SITES, AND DISPOSAL OF SPOIL MATERIALS; AND TO AMEND SECTIONS 5‑37‑40, 5‑37‑50, AND 5‑37‑100, ALL AS AMENDED, RELATING TO THE MUNICIPAL IMPROVEMENT ACT, SO AS TO PROVIDE THAT A MUNICIPAL IMPROVEMENT DISTRICT MAY BE CREATED FOR THE SOLE PURPOSE OF THE WIDENING AND DREDGING OF WATERWAYS WITHOUT PRIOR WRITTEN CONSENT OF OWNERS OF OWNER‑OCCUPIED RESIDENTIAL PROPERTY AT THE TIME THE IMPROVEMENT DISTRICT IS CREATED.**

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

**Capital Project sales tax purposes**

SECTION 1. Section 4‑10‑330(A)(1) of the 1976 Code, as last amended by Act 49 of 2009, 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) dredging, dewatering, and constructing spoil sites, disposing of spoil materials, and other matters directly related to the act of dredging;

(h) 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 (g) of this item;

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

**Establishment of improvement districts**

SECTION 2. Section 5‑37‑40 of the 1976 Code, as last amended by Act 290 of 2010, is further amended to read:

“Section 5‑37‑40.(A) If the governing body finds that:

(1) improvements would be beneficial within a designated improvement district;

(2) the improvements would preserve or increase property values within the district;

(3) in the absence of the improvements, property values within the area would be likely to depreciate, or that the proposed improvements would be likely to encourage development in the improvement district;

(4) the general welfare and tax base of the city would be maintained or likely improved by creation of an improvement district in the city; and

(5) it would be fair and equitable to finance all or part of the cost of the improvements by an assessment upon the real property within the district, the governing body may establish the area as an improvement district and implement and finance, in whole or in part, an improvement plan in the district in accordance with the provisions of this chapter. However, except in the case of an improvement district in which the sole improvements are the widening and dredging of canals and waterways that are connected to canals as described in Section 48‑39‑130(D)(10), owner‑occupied residential property that is taxed, or will be taxed pursuant to Section 12‑43‑220(c), must not be included within an improvement district unless the owner, at the time the improvement district is created, gives the governing body written permission to include the property within the improvement district.

(B) If an improvement district is located in a redevelopment project area created pursuant to Chapter 6, Title 31, the improvement district being created under the provisions of this chapter must be considered to satisfy items (1) through (5) of subsection (A). The ordinance creating an improvement district may be adopted by a majority of council after a public hearing at which the plan is presented, including the proposed basis and amount of assessment, or upon written petition signed by a majority in number of the owners of real property within the district that is not exempt from ad valorem taxation as provided by law. However, except in the case of an improvement district in which the sole improvements are the widening and dredging of canals and waterways that are connected to canals as described in Section 48‑39‑130(D)(10), owner‑occupied residential property that is taxed, or will be taxed pursuant to Section 12‑43‑220(c), must not be included within an improvement district unless the owner, at the time the improvement district is created, gives the governing body written permission to include the property within the improvement district.”

**Resolution regarding improvement plan**

SECTION 3. Section 5‑37‑50 of the 1976 Code, as last amended by Act 290 of 2010, is further amended to read:

“Section 5‑37‑50.The governing body, by resolution adopted, shall describe the improvement district and the improvement plan to be effected, including a property within the improvement district to be acquired and improved, the projected time schedule for the accomplishment of the improvement plan, the estimated cost and the amount of the cost to be derived from assessments, bonds, or other general funds, together with the proposed basis and rates of assessments to be imposed within the improvement district. However, except in the case of an improvement district in which the sole improvements are the widening and dredging of canals and waterways that are connected to canals as described in Section 48‑39‑130(D)(10), owner‑occupied residential property that is taxed, or will be taxed pursuant to Section 12‑43‑220(c), must not be included within an improvement district unless the owner, at the time the improvement district is created, gives the governing body written permission to include the property within the improvement district. The resolution also shall establish the time and place of a public hearing to be held within the municipality not sooner than twenty days nor more than forty days following the adoption of the resolution, at which an interested person may attend and be heard, either in person or by attorney, on a matter in connection with the improvement district.”

**Ordinance creating improvement districts**

SECTION 4. Section 5‑37‑100 of the 1976 Code, as last amended by Act 290 of 2010, is further amended to read:

“Section 5‑37‑100. No sooner than ten days nor more than one hundred twenty days following the conclusion of the public hearing provided in Section 5‑37‑50, the governing body, by ordinance, may provide for the creation of the improvement district as originally proposed or with the changes and modifications in it as the governing body may determine, and provide for the financing by assessment, bonds, or other revenues as provided in this chapter. However, except in the case of an improvement district in which the sole improvements are the widening and dredging of canals and waterways that are connected to canals as described in Section 48‑39‑130(D)(10), owner‑occupied residential property that is taxed pursuant to Section 12‑43‑220(c), must not be included within an improvement district unless the owner gives the governing body written permission to include the property within the improvement district. The ordinance may not become effective until at least seven days after it has been published in a newspaper of general circulation in the municipality. The ordinance may incorporate by reference plats and engineering reports and other data on file in the offices of the municipality. The place of filing and reasonable hours for inspection must be made available to all interested persons.”

**Time effective**

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2012.

Vetoed by the Governor -- 6/11/12.

Veto overridden by House -- 6/19/12.

Veto overridden by Senate -- 6/20/12.

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