~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 7, 2012

**H. 4033**

Introduced by Reps. Patrick and Loftis

S. Printed 3/7/12--S.

Read the first time April 14, 2011.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4033) to amend Sections 5‑37‑40, 5‑37‑50, and 5‑37‑100, all as amended, Code of Laws of South Carolina, 1976, all relating to the Municipal Improvement Act, etc., respectfully

**REPORT:**

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

Amend the bill, as and if amended, by striking the bill in its entirety and inserting therein the following:

/ A BILL

TO AMEND SECTION 4-10-330, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CAPITAL PROJECT SALES TAX ACT, 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; TO AMEND SECTIONS 5‑37‑40, 5‑37‑50, AND 5‑37‑100, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, 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:

SECTION 1. Section 4‑10‑330(A)(1) of the 1976 Code is amended to read:

“Section 4‑10‑330. (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;

~~(g)~~(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 ~~(f)~~(g) of this item;

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

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 or waterways, owner‑occupied residential property ~~which~~ 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 ~~which~~ 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 or waterways, owner‑occupied residential property ~~which~~ 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.”

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 or waterways, owner‑occupied residential property ~~which~~ 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.”

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. ~~Not~~ 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 or waterways, owner‑occupied residential property ~~which~~ 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.”

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

Renumber sections to conform.

Amend title to conform.

Majority favorable. Minority unfavorable.

RAYMOND E. CLEARY III THOMAS C. DAVIS

For Majority. For Minority.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

There is no fiscal impact on the General Fund of the State or on federal and/or other funds.

**LOCAL GOVERNMENT IMPACT:**

The State Budget Division surveyed municipal governments to access the impact of this bill. The responses indicated there is no fiscal impact to municipalities with the adoption of this bill.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND SECTIONS 5‑37‑40, 5‑37‑50, AND 5‑37‑100, ALL AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL RELATING TO THE MUNICIPAL IMPROVEMENT ACT, SO AS TO PROVIDE THAT THE WIDENING AND DREDGING OF CERTAIN WATERWAYS MAY BE INCLUDED WITHIN A MUNICIPAL IMPROVEMENT DISTRICT WHEN THE OWNER GIVES THE GOVERNING BODY WRITTEN PERMISSION TO INCLUDE THE PROPERTY AT THE TIME THE IMPROVEMENT DISTRICT IS CREATED.

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

SECTION 1. 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 or waterways, owner‑occupied residential property ~~which~~ 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 ~~which~~ 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 or waterways, owner‑occupied residential property ~~which~~ 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.”

SECTION 2. 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 or waterways, owner‑occupied residential property ~~which~~ 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.”

SECTION 3. 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. ~~Not~~ 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 or waterways, owner‑occupied residential property ~~which~~ 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.”

SECTION 4. This act takes effect upon approval by the Governor.

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