**South Carolina General Assembly**

120th Session, 2013-2014

**H. 3900**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Harrell, White, Bernstein, Spires, Sottile, Kennedy, J.E. Smith, Cobb‑Hunter, Merrill, H.L. Ott, Stavrinakis, Crosby, Horne, Patrick, Knight, Goldfinch, Sellers, Erickson, G.M. Smith, Rivers, Daning, Rutherford, Gambrell, Brannon, Gilliard, Bannister, Barfield, Bowers, R.L. Brown, Cole, Funderburk, Hayes, Herbkersman, Hixon, Limehouse, McCoy, W.J. McLeod, Mitchell, V.S. Moss, Powers Norrell, Tallon, Murphy and Hodges

Document Path: l:\council\bills\bbm\10887htc13.docx

Introduced in the House on April 9, 2013

Currently residing in the House Committee on **Ways and Means**

Summary: Economic Development Bond Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/9/2013 House Introduced and read first time ([House Journal‑page 49](file:///h:\HJ%20Archive\2013\04-09-13.docx))

4/9/2013 House Referred to Committee on **Ways and Means** ([House Journal‑page 49](file:///h:\HJ%20Archive\2013\04-09-13.docx))

4/10/2013 House Member(s) request name added as sponsor: Murphy, Hodges

**VERSIONS OF THIS BILL**

[4/9/2013](file:///p:\pprever\2013-14\3900_20130409.docx)

**A** **BILL**

TO AMEND SECTIONS 11‑41‑20, 11‑41‑30, 11‑41‑40, 11‑41‑50, 11‑41‑60, 11‑41‑70, AND 11‑41‑90, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE GENERAL OBLIGATION ECONOMIC DEVELOPMENT BOND ACT, SO AS TO MAKE ADDITIONAL FINDINGS, TO REVISE THE DEFINITION OF “ECONOMIC DEVELOPMENT PROJECT”, AND TO ADD A DEFINITION FOR AN “ENHANCED ECONOMIC DEVELOPMENT PROJECT” THAT EXTENDS TO A PROJECT ORIGINALLY QUALIFYING AS AN ECONOMIC DEVELOPMENT PROJECT BASED ON AT LEAST A FOUR HUNDRED MILLION DOLLAR INVESTMENT AND CREATION OF AT LEAST FOUR HUNDRED NEW JOBS IN THIS STATE WHICH QUALIFIES AS AN ENHANCED ECONOMIC DEVELOPMENT PROJECT BECAUSE OF A TOTAL INVESTMENT OF 1.1 BILLION DOLLARS AND THE CREATION OF A TOTAL OF AT LEAST TWO THOUSAND JOBS IN THIS STATE, TO AUTHORIZE THE ISSUANCE OF ONE HUNDRED TWENTY MILLION DOLLARS IN STATE GENERAL OBLIGATION ECONOMIC DEVELOPMENT BONDS IN CONNECTION WITH THE DEVELOPMENT OF AN ENHANCED ECONOMIC DEVELOPMENT PROJECT, TO PROVIDE FOR THE APPLICATION OF THE CONSTITUTIONAL LIMIT ON GENERAL OBLIGATION DEBT TO THESE ADDITIONAL BONDS AND THE APPLICATION OF NOTICE AND TIMELY ISSUANCE REQUIREMENTS FOR THESE ADDITIONAL BONDS.

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

SECTION 1. The General Assembly finds that the construction of infrastructure, as defined in, and subject to the terms and conditions of Chapter 41, Title 11 of the 1976 Code, the State General Obligation Economic Development Bond Act, for use by private parties enhances the recruitment of businesses to the State and the expansion of businesses within the State, facilitates the operation and growth of businesses in the State, and thereby provides significant and substantial direct and indirect benefits to the State and its residents, including employment and other opportunities; that these benefits outweigh the costs of this infrastructure; that for the above stated reasons, it is in the best interest of the State to authorize the issuance of economic development bonds as defined in, and subject to the terms and conditions of, the State General Obligation Economic Development Bond Act; and that these economic development bonds, issued for this purpose, serve a public purpose in fostering economic development and increasing employment in the State.

The General Assembly further finds that the primary beneficiaries of the issuance of these economic development bonds and the construction of this infrastructure are the State of South Carolina and its residents.

SECTION 2. Section 11‑41‑20 of the 1976 Code is amended by adding a new item at the end to read:

“(8) That to support significant economic development projects in this State which will satisfy the investment and new jobs creation criteria set forth in Section 11‑41‑30(2)(b), the General Assembly finds that sufficient debt service capacity exists below the original five percent threshold established by Article X, Section 13(6)(c) of the Constitution of this State, to allow the issuance of general obligation debt, with such indebtedness limited to a principal amount of general obligation debt not to exceed one hundred twenty million dollars, and that the authorization of this general obligation debt supports a public purpose and is in the best interest of the State.”

SECTION 3. A. Section 11‑41‑30(2)(a) of the 1976 Code is amended to read:

“(a)(i) ‘Economic development project’ or ‘project’ means:

(A) a project in this State as defined in Section 12‑44‑30(16) in which a total of at least four hundred million dollars is invested in the project by the sponsor and at least four hundred new jobs are created at the project by the sponsor; or

(B) an expansion of an existing economic development project for which economic development bonds have previously been issued, if in connection with the expansion, in addition to and not including the investment made and new jobs created in connection with the existing project for which economic development bonds have previously been issued, a total of at least four hundred million dollars is invested in the project by the sponsor and at least four hundred new jobs are created in the project by the sponsor.

(ii) ‘Enhanced economic development project’ or ‘enhanced project’ means an economic development project for which the sponsor satisfies the jobs and investment criteria set forth in subsubitem (i) of this subitem, and, further:

(A) the total investment in the project by the sponsor is not less than 1.1 billion dollars; and

(B) the total number of new jobs created in the project is at least two thousand. Subject to the satisfaction of the additional criteria set forth in this subsubitem (ii) and further subject to Sections 11‑41‑50(C), 11‑41‑60, and 11‑41‑70 an enhanced project constitutes an economic development project for purposes of this chapter.”

B. Section 11‑41‑30(2)(c) of the 1976 Code is amended to read:

“(c) To qualify as an economic development project ~~as~~ defined in ~~subsections~~ subitems (a) and (b) ~~above~~ of this item for purposes of this chapter, the applicable investment and job creation requirements must be attained no later than the eighth year after the project first begins operations.”

SECTION 4. Section 11‑41‑40 of the 1976 Code is amended to read:

“Section 11‑41‑40. To obtain funds for allocation to the department or to the State or agency, instrumentality, or political subdivision, as the case may be, for financing of infrastructure, there are issued from time to time state general obligation economic development bonds under the conditions prescribed by this chapter. Subject to Section 11‑41‑90(6), bonds for an economic development project may be issued in one or more series, pursuant to one or more notifications required by Section 11‑41‑70.”

SECTION 5. Section 11‑41‑50 of the 1976 Code is amended to read:

“Section 11‑41‑50. (A) Pursuant to ~~Section 13(6)(c),~~ Article X, Section 13(6)(c) of the Constitution of this State, ~~1895,~~ the General Assembly provides that economic development bonds may be issued pursuant to this subsection at such times as the maximum annual debt service on all general obligation bonds of the State, including economic development bonds outstanding and being issued pursuant to this subsection (C) of this section, but excluding economic development bonds issued pursuant to subsection (B) of this section, research university infrastructure bonds pursuant to Chapter 51 of this title, highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, will not exceed five and one‑half percent of the general revenues of the State for the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds. The State at any time may not issue general obligation bonds, excluding economic development bonds issued pursuant to this chapter, (but not excluding economic development bonds issued pursuant to subsection (C) of this section), research university infrastructure bonds issued pursuant to Chapter 51 of this title, highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, if at the time of issuance the maximum annual debt service on all such general obligation bonds, outstanding and being issued exceeds five percent of the general revenues of the State for the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds.

(B) In addition to and exclusive of the economic development bonds provided for and issued pursuant to subsection (A) of this section, the General Assembly provides that pursuant to Section 13(5), Article X of the Constitution of this State, ~~1895,~~ (i) additional economic development bonds may be issued under this chapter in an aggregate principal amount that does not exceed one hundred seventy million dollars, and (ii) in addition to the authorization contained in the preceding clause, additional economic development bonds may be issued provided that the aggregate principal amount of economic development bonds then outstanding under clauses (i) and (ii), together with the economic development bonds to be issued pursuant to this clause (ii), does not at any time exceed the principal amount specified in clause (i). From the proceeds of the economic development bonds authorized pursuant to this subsection, no more than a total of one hundred seventy million dollars of proceeds may be used for any one project regardless of available capacity.

(C) In addition to and exclusive of the economic development bonds provided for and issued pursuant to subsections (A) and (B) of this section, the General Assembly provides that pursuant to Article X, Section 13(6)(c) of the Constitution of this State, economic development bonds may be issued under this chapter in an aggregate principal amount that does not exceed one hundred twenty million dollars to support enhanced projects.”

SECTION 6. Section 11‑41‑60 of the 1976 Code, as last amended by Act 124 of 2009, is further amended to read:

“Section 11‑41‑60. The maximum annual debt service on bonds issued pursuant to subsection (A) of Section 11‑41‑50 must not exceed one‑half of one percent of the general revenues for the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds. Bonds issued pursuant to subsection (B) of Section 11‑41‑50 shall not be subject to the limitation on maximum annual debt service prescribed by ~~Section 13(6)(c),~~ Article X, Section 13(6)(c) of the Constitution of this State~~, 1895~~. The maximum annual debt service on general obligation bonds issued pursuant to Section 11‑41‑50(C), when combined with the debt service on all other general obligation bonds issued under the five percent limitation established in Article X, Section 13(6)(c) of the Constitution of this State, which limitation does not include economic development bonds issued pursuant to Section 11‑41‑50(A) or (B), research university infrastructure bonds issued pursuant to Chapter 51 of this title, highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, must not exceed five percent of the general revenues of the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds.”

SECTION 7. Section 11‑41‑70(2)(a) of the 1976 Code is amended to read:

“(2)(a)(i) in the case of an economic development project as defined in Section 11‑41‑30(2)(a)(i), an investment by the sponsor at the project of not less than four hundred million dollars and creation by the sponsor at the project of no fewer than four hundred new jobs; or

(ii) in the case of an enhanced economic development project defined in Section 11‑41‑30(2)(a)(ii), an investment by the sponsor at the project of not less than four hundred million dollars, and the creation at the project of no fewer than four hundred new jobs by the sponsor, and, further:

(A) the total investment at the project by the sponsor is not less than 1.1 billion dollars; and

(B) the total number of new jobs created at the project is at least two thousand; or”

SECTION 8. Section 11‑41‑90 of the 1976 Code is amended to read:

“Section 11‑41‑90. To effect the issuance of bonds, the State Budget and Control Board shall adopt a resolution providing for the issuance of bonds pursuant to the provisions of this chapter. The authorizing resolution must include:

(1) a statement of whether the bonds are being authorized and issued pursuant to Section 11‑41‑50(A), Section 11‑41‑50(B), or Section 11‑41‑50(C);

(2) a schedule showing the aggregate of bonds issued, the annual principal payments required to retire the bonds, and the interest on the bonds;

(3) the amount of bonds proposed to be issued;

(4) a schedule showing future annual principal requirements and estimated annual interest requirements on the bonds to be issued; ~~and~~

(5) certificates evidencing that the provisions of Sections 11‑41‑50 and 11‑41‑60 have been or will be met; and

(6) A statement that the resolution required by this section for the issuance of bonds pursuant to this chapter is adopted not later than eighteen months after the date of the first notification to the Joint Bond Review Committee and the State Budget and Control Board with respect to such economic development project pursuant to Section 11‑41‑70.”

SECTION 9. The General Assembly finds that the sections presented in this act constitute one subject as required by Article III, Section 17 of the South Carolina Constitution, 1895, in particular finding that each change and each topic relates directly to or in conjunction with other sections to the subject of major economic development opportunities in this State as clearly enumerated in the title. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

SECTION 10. If any section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 11. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑