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Indicates New Matter

INTRODUCED

April 11, 2013

**S. 578**

Introduced by Senators Leatherman, Ford, Setzler, Thurmond, Peeler, Hembree, L. Martin, McElveen, Sheheen, Campbell, Young, Alexander, Cleary, Courson, Johnson, Grooms, Williams, O’Dell, Massey, Bennett, Cromer, Shealy, Turner, Matthews, Fair and Pinckney

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Read the first time April 11, 2013.

**A** **BILL**

TO AMEND VARIOUS PROVISIONS OF CHAPTER 41, TITLE 11 OF THE 1976 CODE, THE STATE GENERAL OBLIGATION ECONOMIC DEVELOPMENT BOND ACT, TO PROVIDE FOR THE ISSUANCE OF GENERAL OBLIGATION DEBT TO SUPPORT AN ENHANCED ECONOMIC DEVELOPMENT PROJECT, TO MAKE FINDINGS THAT THE ISSUANCE OF THE BONDED INDEBTEDNESS SUPPORTS A PUBLIC PURPOSE AND IS IN THE BEST INTERESTS OF THE STATE, TO PROVIDE QUALIFYING INVESTMENT AND JOB CREATION CRITERIA, AND TO PROVIDE FOR THE TERMS, CONDITIONS, AND REQUIREMENTS FOR THE ISSUANCE OF THE BONDED INDEBTEDNESS.

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

SECTION 1. The General Assembly hereby finds, as a fact, that the construction of infrastructure, as defined in, and subject to the terms and conditions of, 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 such benefits outweigh the costs of such infrastructure; that for such 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 such economic development bonds, issued for such purpose, serve a public purpose in fostering economic development and increasing employment in the State. The General Assembly further finds, as a fact, that the primary beneficiaries of the issuance of such economic development bonds and the construction of such infrastructure are the State of South Carolina and its residents.

SECTION 2. Section 11‑41‑20 of the 1976 Code is amended to read:

“Section 11‑41‑20. As incident to this chapter, the General Assembly finds:

(1) That by Section 4, Act 10 of 1985, the General Assembly ratified an amendment to Article X, Section 13(6)(c), Constitution of this State, 1895. One amendment in Article X, Section 13(6)(c) limits the issuance of general obligation debt of the State such that maximum annual debt service on all general obligation bonds of the State, excluding highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, must not exceed 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.

(2) That Article X, Section 13(6)(c), further provides that the percentage rate of general revenues of the State by which general obligation bond debt service is limited may be reduced to four or increased to seven percent by legislative enactment passed by a two‑thirds vote of the total membership of the Senate and a two‑thirds vote of the total membership of the House of Representatives.

(3) That pursuant to Article X, Section 13(6)(c), the General Assembly, in Act 254 of 2002 and Act 187 of 2004, increased to five and one‑half percent the percentage rate of the general revenues of the State by which general obligation bond debt service is limited with the additional debt service capacity available at any time as a consequence of the increase available only for the repayment of general obligation bonds issued to provide infrastructure required for significant economic development projects within the State, including those related to the life sciences industry that create high‑paying jobs and meet certain investment criteria.

(4) That pursuant to Article X, Section 13(6)(c), the General Assembly, in Act 187 of 2004, increased to six percent the percentage rate of the general revenues of the State by which general obligation bond debt service is limited with the additional debt service capacity available at any time as a consequence of the increase available only for the repayment of general obligation bonds issued to advance economic development and to facilitate and increase research within the State at the research universities.

(5) That Article X, Section 13(5) of the Constitution of this State, 1895, provides that if general obligation debt be authorized by two‑thirds of the members of each House of the General Assembly, then there shall be no conditions or restrictions limiting the incurring of such indebtedness except those restrictions and limitations imposed in the authorization to incur such indebtedness, and the provisions of Article X, Section 13(3) of the Constitution of this State.

(6) That Article X, Section 13(5) provides additional constitutional authority for bonds authorized by this chapter.

(7) In order to continue fostering economic development within the State as set out in subsections (3) and (4) of this section, it is in the best interests of the State that the General Assembly authorize an additional amount of general obligation debt pursuant to Section 13(5), Article X, of the Constitution of this State, with such indebtedness limited to a principal amount of general obligation debt not exceeding one hundred seventy million dollars at any time, provided that no more than a total of one hundred seventy million dollars of proceeds may be used for any one project regardless of available capacity.

(8) That in order 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)(a)(ii), the General Assembly finds that sufficient debt service capacity exists below the original five percent threshold established by Section 13(6)(c), Article X, Constitution of this State, 1895, 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. Section 11‑41‑30(2)(a) of the 1976 Code is amended to read:

“(2)(a)(i) ‘Economic development project’ or ‘project’ means either (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 at 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 Section 11-41-30(2)(a)(i), 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 at the project is not less than two thousand. Subject to the satisfaction of the additional criteria set forth in this paragraph 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.”

SECTION 4. Section 11‑41‑30(2)(c) of the 1976 Code is amended to read:

“(2)(c) To qualify as an economic development project defined in subsections (a) and (b) above 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 5. 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 6. 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 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 or pursuant to Section 11-41-50(C), but excluding economic development bonds issued pursuant to Section 11‑41‑50(B), 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 Section 11‑41‑50(C), 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 Section 13(6)(c), Article X of the Constitution of this State, 1895, 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 7. Section 11‑41‑60 of the 1976 Code is 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 Article X, Section 13(6)(c) of the Constitution of this State, 1895. The maximum annual debt service on bonds issued pursuant to subsection (C) of Section 11‑41‑50, when combined with the debt service on all other general obligation bonds issued under the five percent limitation established in Section 13(6)(c), Article X of the Constitution of this State, 1895, which limitation does not include bonds issued pursuant to subsection (A) or subsection (B) of Section 11‑41‑50, 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 8. 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 not less than two thousand; or”

SECTION 9. 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), ~~or~~ 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 10. 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 11. 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 12. This act takes effect upon approval by the Governor.

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