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COMMITTEE REPORT

May 15, 2014

**S. 812**

Introduced by Senator O’Dell

S. Printed 5/15/14--H.

Read the first time February 26, 2014.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (S. 812) to amend Section 11‑50‑50, as amended, Sections 11‑50‑60, 11‑50‑90, and 11‑50‑160, Code of Laws of South Carolina, 1976, etc., respectfully

**REPORT:**

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

W. BRIAN WHITE for Committee.

**A** **BILL**

TO AMEND SECTION 11‑50‑50, AS AMENDED, SECTIONS 11‑50‑60, 11‑50‑90, AND 11‑50‑160, CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL RELATING TO THE SOUTH CAROLINA RURAL INFRASTRUCTURE AUTHORITY, SO AS TO UPDATE THE LIST OF COUNTIES IN WHICH A BOARD MEMBER MAY RESIDE OR REPRESENT, TO REMOVE THE AUTHORITY FROM THE JURISDICTION OF THE ADMINISTRATIVE PROCEDURES ACT, AND TO NO LONGER REQUIRE THE AUTHORITY TO OBTAIN REVIEW AND APPROVAL OF THE JOINT BOND REVIEW COMMITTEE BEFORE PROVIDING FINANCIAL ASSISTANCE, BUT TO REQUIRE THE AUTHORITY TO SUBMIT AN ANNUAL REPORT TO THE JOINT BOND REVIEW COMMITTEE REGARDING LOANS AND OTHER FINANCIAL ASSISTANCE.

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

SECTION 1. Section 11‑50‑50(1) of the 1976 Code, as last amended by Act 149 of 2012, is further amended to read:

“(1) six members who reside in or represent all or some portion of the counties designated as distressed or least developed pursuant to Section 12‑6‑3360 for 2009 or a county designated as such at the time of appointment; one appointed by the President Pro Tempore of the Senate, one appointed by the Speaker of the House of Representatives, one appointed by the Chairman of the Senate Finance Committee, one appointed by the Chairman of the House Ways and Means Committee, and two appointed by the Governor. Notwithstanding the provisions of Section 8‑13‑770, the members appointed pursuant to this item (1) by the President Pro Tempore of the Senate, Speaker of the House of Representatives, Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee may be members of the General Assembly and, if so appointed, shall serve ex officio; and”

SECTION 2. Section 11‑50‑60 of the 1976 Code, as added by Act 171 of 2010, is amended to read:

“Section 11‑50‑60. ~~(A)~~ In addition to the powers contained elsewhere in this chapter, the authority has all power necessary, useful, or appropriate to fund, operate, and administer the authority, and to perform its other functions including, but not limited to, the power to:

(1) have perpetual succession;

(2) adopt, promulgate, amend, and repeal bylaws, not inconsistent with provisions in this chapter for the administration of the authority’s affairs and the implementation of its functions including the right of the board to select qualifying projects and to provide loans and other financial assistance;

(3) sue and be sued in its own name;

(4) have a seal and alter it at its pleasure, although the failure to affix the seal does not affect the validity of an instrument executed on behalf of the authority;

(5) make loans to qualified borrowers to finance the eligible costs of qualified projects and to acquire, hold, and sell loan obligations at prices and in a manner as the board determines advisable;

(6) provide qualified borrowers with other financial assistance necessary to defray eligible costs of a qualified project;

(7) enter into contracts, arrangements, and agreements with qualified borrowers and other persons and execute and deliver all financing agreements and other instruments necessary or convenient to the exercise of the powers granted in this chapter;

(8) enter into agreements with eligible entities of this State for the purpose of planning and providing for the financing of qualified projects;

(9) establish policies and procedures for the making and administering of loans and other financial assistance, and establish fiscal controls and accounting procedures to ensure proper accounting and reporting by the authority and eligible entities;

(10) acquire by purchase, lease, donation, or other lawful means and sell, convey, pledge, lease, exchange, transfer, and dispose of all or any part of its properties and assets of every kind and character or any interest in it to further the public purpose of the authority;

(11) procure insurance, guarantees, letters of credit, and other forms of collateral or security or credit support from any public or private entity, including any department, agency, or instrumentality of this State, for the payment of any bonds issued by it, including the power to pay premiums or fees on any insurance, guarantees, letters of credit, and other forms of collateral or security or credit support;

(12) collect or authorize the trustee under any trust indenture securing any bonds to collect amounts due under any loan obligations owned by it, including taking the action required to obtain payment of any sums in default;

(13) unless restricted under any agreement with holders of bonds, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any loan obligations owned by it;

(14) borrow money through the issuance of bonds and other forms of indebtedness as provided in this chapter;

(15) expend funds to obtain accounting, management, legal, financial consulting, and other professional services necessary to the operations of the authority;

(16) expend funds credited to the authority as the board determines necessary for the costs of administering the operations of the authority;

(17) establish advisory committees as the board determines appropriate, which may include individuals from the private sector with banking and financial expertise;

(18) procure insurance against losses in connection with its property, assets, or activities including insurance against liability for its acts or the acts of its employees or agents or to establish cash reserves to enable it to act as a self‑insurer against any and all such losses;

(19) collect fees and charges in connection with its loans or other financial assistance;

(20) apply for, receive and accept from any source, aid, grants, and contributions of money, property, labor, or other things of value to be used to carry out the purposes of this chapter subject to the conditions upon which the aid, grants, or contributions are made;

(21) enter into contracts or agreements for the servicing and processing of financial agreements; and

(22) do all other things necessary or convenient to exercise powers granted or reasonably implied by this chapter.

~~(B)~~ ~~The authority is subject to the provisions of Article 1, Chapter 23, Title 1, the Administrative Procedures Act.~~”

SECTION 3. Section 11‑50‑90(A) of the 1976 Code, as added by Act 171 of 2010, is amended to read:

“(A) The authority may provide loans and other financial assistance to an eligible entity to pay for all or part of the eligible cost of a qualified project. ~~Before providing a loan or other financial assistance to a qualified borrower, the authority must obtain the review and approval of the Joint Bond Review Committee.~~ The term of the loan or other financial assistance must not exceed the useful life of the project. The authority may require the eligible entity to enter into a financing agreement in connection with its loan obligation or other financial assistance. The authority shall determine the form and content of loan applications, financing agreements, and loan obligations including the term and rate or rates of interest on a financing agreement.”

SECTION 4. Section 11‑50‑160 of the 1976 Code, as added by Act 171 of 2010, is amended to read:

“Section 11‑50‑160. Following the close of each state fiscal year, the authority shall submit an annual report of its activities for the preceding year to the Governor and to the General Assembly. Also, the authority shall submit an annual report of any loans or other financial assistance, excluding grants, to the Joint Bond Review Committee. An independent certified public accountant shall perform an audit of the books and accounts of the authority at least once in each state fiscal year.”

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

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