~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 15, 2014

**S. 940**

Introduced by Senators Young, Massey, Setzler and Peeler

S. Printed 5/15/14--H. [SEC 5/19/14 1:59 PM]

Read the first time April 1, 2014.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (S. 940) to amend Section 4‑10‑470, Code of Laws of South Carolina, 1976, relating to the Education Capital Improvements Sales and Use Tax, so as to allow, 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, SECTION 1, page 3, by adding two appropriately lettered subsections at the end of Section 4‑10‑470 to read:

/ ( )(1) The Education Capital Improvements Sales and Use Tax authorized by this article also may be imposed in a county which does not meet the collection requirements of subsection (A) so long as the county in which the tax is to be imposed:

(a) is comprised of more than one school district and the county has a county board of education; and

(b) has no other local sales tax imposition at the time of the referendum.

(2) Notwithstanding any other provision of this article, if the Education Capital Improvements Sales and Use Tax is imposed pursuant to this subsection, then:

(a) at least ten percent of the proceeds must be used to provide property tax relief by using the proceeds to offset the existing debt service millage levy on general obligation bonds pursuant to Section 4‑10‑445; and

(b) the tax revenue distributed to each district must be in the proportion that the district’s average daily membership (ADM) attributes to the total ADM of all the school districts in the county, limited to ADM attributable to the county.

(3) the resolution required pursuant to Section 4‑10‑425 must be agreed to by a majority vote of the board of trustees of each school district located in whole or in part in the county.

(4) For purposes of this subsection, a sales tax is a tax levied pursuant to this chapter, pursuant to Chapter 37, Title 4, or pursuant to any local law enacted by the General Assembly.

(5) Once a county meets the provisions of item (1) and imposes the education capital improvement sales and use tax, it thereafter remains eligible to impose this tax pursuant to this subsection.

( ) The Education Capital Improvements Sales and Use Tax authorized by this article also may be imposed in a county which does not meet the collection requirements of subsection (A) so long as:

(1) immediately prior to the imposition date, if approved:

(a) the county is imposing the local option sales tax imposed pursuant to Article 1, and the county has not imposed that tax for twenty years or more, in which any portion of a calendar year counts as a year, and no other local sales and use tax that is administered by the Department of Revenue is imposed in the county; and

(2) the county collected at least one hundred thousand dollars in state accommodations taxes as imposed pursuant to Section 12‑36‑920(A) in the most recent fiscal year for which full collection figures are available.

Once a county meets the provisions of item (1) and the threshold in item (2), it thereafter remains eligible to impose this tax pursuant to this subsection. /

Renumber sections to conform.

Amend title to conform.

W. BRIAN WHITE for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT 1/**

This bill, as amended, would affect the eligibility requirements concerning the Education Capital Improvements Sales and Use Tax. Currently, Charleston and Horry County are eligible and are imposing this tax pursuant to Section 4-10-470(A). As proposed, Aiken School District 1 would become eligible pursuant to subsection B, the counties of Cherokee, Chesterfield, Clarendon, Darlington, Dillon, Jasper, Lexington, and Marlboro would become eligible pursuant to subsection C, and the counties of Beaufort and Georgetown would become eligible pursuant to subsection D. Of these counties/school districts, only Aiken, Beaufort, Cherokee, and Georgetown may impose the tax in FY 2015-16; these counties/school districts either have no school district tax, have a school district tax which is expected to terminate, or are eligible pursuant to either subsection B or D. Assuming they each impose the tax; this bill would result in a $47,754,613 increase in local revenues for FY 2015-16.

**Explanation of Amendment (03/11/14) – By the Senate**

Counties, not eligible pursuant to Section 4-19-470(A), can impose the tax so long as the county area is subject to no more than a 2 percent total sales tax, has only one school district within its boundaries, and has collected at least $750,000 from the state accommodations tax. Additionally, a county would become eligible to impose the tax if the county had imposed a local sales tax to fund education capital improvements on January 1, 2014; only after the local sales tax has been terminated can a county then impose the Education Capital Improvements sales tax. At least ten percent of the proceeds, from those counties which become eligible pursuant to Section 4-19-470(B) as proposed, must be used to provide property tax relief.

**Explanation of Amendment (03/19/14) – By the Senate**

This amendment specifies, in subsection B, the fiscal year to be that of 2012-13 in which the county is required to have collected at least $750,000 from the state accommodations tax.

*Approved By:*

Frank A. Rainwater

Board of Economic Advisors

1/ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**A** **BILL**

TO AMEND SECTION 4‑10‑470, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE EDUCATION CAPITAL IMPROVEMENTS SALES AND USE TAX, SO AS TO ALLOW A COUNTY THAT DOES NOT COLLECT A CERTAIN AMOUNT IN ACCOMMODATIONS TAX TO IMPOSE THE SALES TAX SO LONG AS NO PORTION OF THE COUNTY AREA IS SUBJECT TO MORE THAN TWO PERCENT TOTAL SALES TAX.

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

SECTION 1. Section 4‑10‑470 of the 1976 Code, as added by Act 316 of 2008, is amended to read:

“Section 4‑10‑470. (A) The Education Capital Improvements Sales and Use Tax authorized by this article may only be imposed in counties which have collected at least seven million dollars in state accommodations taxes as imposed pursuant to Section 12‑36‑920(A) in the most recent fiscal year for which full collection figures are available. Once a county meets this threshold it thereafter remains eligible to impose this tax.

(B)(1) The Education Capital Improvements Sales and Use Tax authorized by this article also may be imposed in a school district without regard to the requirements of subsection (A) if:

(a) at any time, no portion of the school district in which the tax is to be imposed is subject to more than two percent total local sales tax; and

(b) the school district in which the tax is to be imposed encompasses the entire county area of one county and extends into one adjacent county.

(2) Notwithstanding any other provision of this article, if the Education Capital Improvements Sales and Use Tax is imposed pursuant to this subsection, then:

(a) stated in calendar years, the tax may not be imposed for more than ten years;

(b) at least ten percent of the proceeds must be used to provide property tax relief by using the proceeds to offset the existing debt service millage levy on general obligation bonds pursuant to Section 4‑10‑445; and

(c) the total debt service on bonds issued by the school district resulting from the imposition, net of any premium or accrued interest, shall not exceed ninety percent of the total amount of Education Capital Improvements Sales and Use Tax proceeds estimated to be allocated to the school district during the imposition, minus any amounts dedicated to property tax relief. The Board of Economic Advisors shall provide the estimate of the total amount.

(3) The State Treasurer, in consultation with the governing body of the imposing district and the county treasurers and auditors of the affected counties, shall distribute and administer the revenues as provided in this article, mutatis mutandis. A resolution for the imposition of the tax in the school district must be directed to the election commissions of the affected counties and a referendum required pursuant to this article must be conducted in the school district. The question in the referendum must be revised to reflect the imposition of the tax in the school district rather than the county. If a majority of those voting in the school district approve the tax, then the tax is imposed in the school district as provided in this article and all references in this article to county, with respect to the imposition, administration, collection, and distribution of the revenues of the tax are deemed to mean the school district. Definitions included in Section 4‑10‑415 must be construed to extend to a tax allowed to be imposed pursuant to this subsection.

(4) Notwithstanding any other provision of law, if, within a school district there is imposed the Education Capital Improvements Sales and Use Tax pursuant to this subsection, then no other sales tax may be imposed in that school district if the subsequent imposition causes the total sales tax to exceed two percent in any portion of the school district. This limitation applies so long as this subsection is utilized to impose the Education Capital Improvements Sales and Use Tax.

(5) Notwithstanding any other provision of law, if the tax imposed pursuant to this subsection and another sales tax are approved at the same referendum, and the approval of both subjects any portion of the school district to more than two percent total local sales tax, then only the tax whose approving resolution was adopted first may be imposed, and the other tax is deemed to not have been approved.

(6) For purposes of this subsection, a sales tax is a tax levied pursuant to this chapter, pursuant to Chapter 37, Title 4, or pursuant to any local law enacted by the General Assembly.

(C) Notwithstanding any other provision of this section, the Education Capital Improvements Sales and Use Tax authorized by this article also may be imposed in a county so long as the county or school district imposed a local sales and use tax to fund education capital improvements on January 1, 2014. The Education Capital Improvements Sales and Use Tax may be imposed pursuant to this subsection at any time after the local sales and use tax terminates.

(D) The Education Capital Improvements Sales and Use Tax authorized by this article also may be imposed in a county which does not meet the collection requirements of subsection (A) so long as:

(1) the county only has one school district which encompasses the entire county area in which the tax is to be imposed; and

(2) the county collected at least one million dollars in state accommodations taxes as imposed pursuant to Section 12‑36‑920(A) in the most recent fiscal year for which full collection figures are available. Once a county meets this threshold, it thereafter remains eligible to impose this tax pursuant to this subsection.”

SECTION 2. Section 4‑10‑460 of the 1976 Code, as added by Act 316 of 2008, is amended to read:

“Section 4‑10‑460. The tax authorized in this article may be renewed and imposed within a county in the same manner as proceedings for the initial imposition of the tax. A referendum on the question of reimposition of a tax must not be held ~~more~~ earlier than within the calendar year which is two years before the ~~date upon~~ calendar year in which the tax then in effect is scheduled to terminate, but any reimposition is effective immediately upon the termination of the tax previously imposed.”

SECTION 3. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑