~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED--NOT PRINTED IN THE HOUSE

Amt. No. 1A (3579c090.bbm.dg16)

April 13, 2016

**H. 3579**

Introduced by Reps. Simrill, White, Lucas, Allison, Henderson, Limehouse, Newton, Ott, Clary, Collins, Delleney, Forrester, Gambrell, Hardwick, Hiott, Horne, Merrill, D.C. Moss, V.S. Moss, Murphy, Pitts, Sandifer, G.M. Smith, Sottile, Spires, Wells, Whitmire, Yow, Jefferson, Erickson, Funderburk, Hosey, Hixon, Clyburn, Knight, Herbkersman, H.A. Crawford, Felder, Willis, McCoy, Bradley, Douglas, Norrell, Long, Bales, Daning, Loftis, Tallon, Anthony, Howard, Gagnon, Riley, Williams, Hayes, G.A. Brown, R.L. Brown, Hart, Weeks, Whipper, Pope, Tinkler, Hicks, Brannon, Corley, Clemmons, Johnson, George, Alexander, Anderson and Duckworth

S. Printed 3/9/16--S.

Read the first time April 16, 2015.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “SOUTH CAROLINA INFRASTRUCTURE FINANCE REFORM AND TAX RELIEF ACT”; TO AMEND SECTIONS 57‑1‑310, 57‑1‑320, 57‑1‑325, AND 57‑1‑330, ALL AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE COMMISSION OF THE DEPARTMENT OF TRANSPORTATION, SO AS TO PROVIDE THAT ALL THE COMMISSIONERS MUST BE APPOINTED BY THE GOVERNOR AND SERVE AT THE PLEASURE OF THE GOVERNOR, TO PROVIDE THAT APPOINTEES MUST BE SCREENED BY THE JOINT TRANSPORTATION REVIEW COMMITTEE, AND TO PROVIDE THAT NO PERSON MAY SERVE AS A COMMISSIONER FOR MORE THAN TWELVE YEARS AND NO COUNTY MAY HAVE A RESIDENT COMMISSIONER FOR MORE THAN TWELVE CONSECUTIVE YEARS; TO AMEND SECTION 57‑1‑410, AS AMENDED, RELATING TO THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION, SO AS TO PROVIDE THAT THE COMMISSION OF THE DEPARTMENT OF TRANSPORTATION, INSTEAD OF THE GOVERNOR, SHALL APPOINT THE SECRETARY; TO AMEND SECTIONS 57‑1‑730 AND 57‑1‑740, AS AMENDED, RELATING RESPECTIVELY TO THE DUTIES OF THE JOINT TRANSPORTATION REVIEW COMMITTEE, BOTH SO AS TO REQUIRE THE COMMITTEE TO SCREEN APPOINTEES TO THE COMMISSION OF THE DEPARTMENT OF TRANSPORTATION IN A SIMILAR MANNER AS CURRENTLY ELECTED COMMISSIONERS ARE SCREENED; BY ADDING SECTION 57‑1‑95 SO AS TO PROHIBIT THE COMMENCEMENT OF ANY NEW ROAD CONSTRUCTION PROJECTS IN THIS STATE UNTIL JULY 1, 2020, AND TO PROVIDE EXCEPTIONS; TO AMEND SECTION 11‑43‑140, RELATING TO THE BOARD OF DIRECTORS OF THE SOUTH CAROLINA TRANSPORTATION INFRASTRUCTURE BANK, SO AS TO INCREASE THE BOARD TO THIRTEEN MEMBERS AND TO SET FORTH THE MEMBERSHIP, AND TO PROVIDE THAT NO MEMBER MAY SERVE MORE THAN TWELVE YEARS; TO AMEND SECTION 11‑43‑180, RELATING TO FINANCIAL ASSISTANCE GIVEN BY THE INFRASTRUCTURE BANK, SO AS TO PROHIBIT THE BANK FROM PROVIDING ANY LOANS OR OTHER FINANCIAL ASSISTANCE TO ANY PROJECT UNLESS THE ELIGIBLE COSTS OF THE PROJECT ARE AT LEAST TWENTY‑FIVE MILLION DOLLARS; BY ADDING SECTION 11‑43‑265 SO AS TO REQUIRE THE INFRASTRUCTURE BANK TO PRIORITIZE ALL PROJECTS IN ACCORDANCE WITH THE PRIORITIZATION CRITERIA ESTABLISHED IN ACT 114 OF 2007, AND TO PROVIDE AN EXCEPTION; BY ADDING SECTION 57‑1‑100 SO AS TO SET FORTH THE OPTIONAL PROCESS BY WHICH THE DEPARTMENT OF TRANSPORTATION TRANSFERS CERTAIN STATE ROADS TO THE COUNTIES OF THIS STATE, TO INCREASE THE AMOUNT DISTRIBUTED TO THE PARTICIPATING COUNTIES OVER TIME, TO PROVIDE THAT EACH PARTICIPATING COUNTY MUST RECEIVE ONE MILLION DOLLARS BEFORE THE FUNDS ARE DISTRIBUTED BASED ON A FORMULA, TO AMEND SECTION 12‑28‑2740, RELATING TO THE DISTRIBUTION OF THE GASOLINE USER FEE TO THE COUNTIES OF THIS STATE, TO ABOLISH THE CURRENT COUNTY TRANSPORTATION COMMITTEES AND THEN RECONSTITUTE THEM WITH THE ADDITION OF MUNICIPAL REPRESENTATION, AND TO SPECIFY THE MANNER IN WHICH “C” FUNDS MUST BE EXPENDED; TO AMEND SECTIONS 56‑5‑4210 AND 56‑5‑4220, BOTH RELATING TO ROAD RESTRICTIONS, SO AS TO SPECIFY CERTAIN RESTRICTIONS ON LOCALITIES; TO AMEND SECTION 12‑28‑310, RELATING TO THE USER FEE ON GASOLINE, SO AS TO REDUCE THE FEE TO TEN CENTS A GALLON; TO AMEND SECTION 56‑11‑410, RELATING TO THE ROAD TAX, SO AS TO REDUCE THE TAX TO TEN CENTS A GALLON; TO AMEND SECTION 56‑11‑450, RELATING TO THE CREDIT AGAINST ROAD TAX, SO AS TO REDUCE THE CREDIT TO TEN CENTS A GALLON; TO AMEND SECTION 12‑36‑2110, RELATING TO THE MAXIMUM TAX, SO AS TO INCREASE THE MAXIMUM TAX FROM THREE HUNDRED TO FIVE HUNDRED DOLLARS ON THE SALE OR LEASE OF A MOTOR VEHICLE; TO AMEND SECTION 12‑36‑2647, RELATING TO THE TAX REVENUES COLLECTED FROM THE SALE OR LEASE OF A MOTOR VEHICLE, SO AS TO CREDIT ALL THE REVENUES TO THE STATE HIGHWAY FUND EXCEPT FOR CERTAIN AMOUNTS THAT ARE USED FOR THE EDUCATION IMPROVEMENT ACT; BY ADDING ARTICLE 4 TO CHAPTER 28, TITLE 12 SO AS TO IMPOSE AN EXCISE TAX ON THE WHOLESALE PRICE OF MOTOR FUEL EQUAL TO THE CUMULATIVE STATE SALES TAX RATE, TO PROVIDE THAT THE REVENUE MUST BE CREDITED TO THE STATE HIGHWAY FUND, TO PROVIDE THAT THE EXCISE TAX MAY NOT EXCEED THE EQUIVALENT OF SIXTEEN CENTS A GALLON, AND TO PROVIDE THE MANNER IN WHICH THE EXCISE TAX IS CALCULATED AND ADMINISTERED; BY ADDING ARTICLE 9 TO CHAPTER 11, TITLE 57 SO AS TO IMPOSE AN EXCISE TAX ON MOTOR CARRIERS IN THE SAME MANNER AS THE EXCISE TAX ON MOTOR FUEL; AND TO AMEND SECTION 12‑6‑510, RELATING TO TAX RATES FOR INDIVIDUALS, ESTATES, AND TRUSTS, SO AS TO INCREASE THE SIZE OF THE TAX BRACKETS FOR EACH TAX RATE; AND TO AMEND SECTION 12‑6‑520, RELATING TO THE ANNUAL ADJUSTMENT OF INCOME TAX BRACKETS, SO AS PROVIDE THE BRACKETS SHALL NOT BE ADJUSTED IN TAX YEARS 2016 AND 2017.

Amend Title To Conform

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

SECTION 1. Sections 57‑1‑310 through Section 57‑1‑340 of the 1976 Code, all as last amended by Act 114 of 2007, are further amended to read:

“Section 57‑1‑310. (A) The congressional districts of this State are constituted and created Department of Transportation Districts of the State, designated by numbers corresponding to the numbers of the respective congressional districts. The Commission of the Department of Transportation shall be composed of one member from each transportation district ~~elected by the delegations of the congressional district~~ and one member ~~appointed by the Governor~~ from the State at large, all appointed by the Governor, upon the advice and consent of the General Assembly, by a roll call vote in each house of the General Assembly. ~~Such elections or appointment, as the case may be,~~ In making appointments to the commission, the Governor shall take into account race, ~~and~~ gender, and other demographic factors, such as residence in rural or urban areas, so as to represent, to the greatest extent possible, all segments of the population of the State; however, consideration of these factors in making an appointment ~~or in an election~~ in no way creates a cause of action or basis for an employee grievance for a person appointed ~~or elected~~ or for a person who fails to be appointed.

(B)~~(1)~~ ~~Candidates for election to the commission must be screened by the Joint Transportation Review Committee, as provided in Article 7 of this chapter, and determined to meet the qualifications contained in subsection (C) in order to be eligible for election~~.

~~(2)~~ ~~The at‑large appointment made by the Governor must be transmitted to the Joint Transportation Review Committee. The Joint Transportation Review Committee must determine whether the at‑large appointee meets the qualifications in subsection (C) and report its findings to the General Assembly and the Governor. Until the Joint Transportation Review Committee finds a gubernatorial appointee qualified, the appointee must not take the oath of office and the full rights and privileges and powers of the office shall not vest.~~

~~(C)~~ The qualifications that each commission member must possess, include, but are not limited to:

(1) a baccalaureate or more advanced degree from:

(a) a recognized institution of higher learning requiring face‑to‑face contact between its students and instructors prior to completion of the academic program;

(b) an institution of higher learning that has been accredited by a regional or national accrediting body; or

(c) an institution of higher learning chartered before 1962; or

(2) a background of at least five years in any combination of the following fields of expertise:

(a) transportation;

(b) construction;

(c) finance;

(d) law;

(e) environmental issues;

(f) management; or

(g) engineering.

~~(D)~~(C) ~~No~~ A member of the General Assembly or member of his immediate family ~~shall~~ may not be ~~elected or~~ appointed to the commission while the member is serving in the General Assembly; nor shall a member of the General Assembly or a member of his immediate family be ~~elected or~~ appointed to the commission for a period of four years after the member either:

(1) ceases to be a member of the General Assembly; or

(2) fails to file for election to the General Assembly in accordance with Section 7‑11‑15.

Section 57‑1‑320. ~~(A)~~ ~~A county that is divided among two or more Department of Transportation districts, for purposes of electing a commission member, is deemed to be considered in the district which contains the largest number of residents from that county.~~

~~(B)~~ ~~No~~ A county within a Department of Transportation district ~~shall~~ may not have a resident commission member for more than ~~one consecutive term~~ twelve consecutive years and in no event shall any two persons from the same county serve as a commission member simultaneously except as provided hereinafter.

~~Section 57‑1‑325.~~ ~~Legislators residing in the congressional district shall meet upon written call of a majority of the members of the delegation of each district at a time and place to be designated in the call for the purpose of electing a commissioner to represent the district. A majority present, either in person or by written proxy, of the delegation from a given congressional district constitutes a quorum for the purpose of electing a district commissioner. No person may be elected commissioner who fails to receive a majority vote of the members of the delegation.~~

~~The delegation must be organized by the election of a chairman and a secretary, and the delegations of each congressional district shall adopt such rules as they consider proper to govern the election. Any absentee may vote by written proxy. When the election is completed, the chairman and the secretary of the delegation shall immediately transmit the name of the person elected to the Secretary of State who shall issue to the person, after he has taken the usual oath of office, a certificate of election as commissioner. The Governor shall then issue a commission to the person, and pending the issuance of the commission, the certificate of election is sufficient warrant to the person to perform all of the duties and functions of his office as commissioner. Each commissioner shall serve until his successor is elected and qualified.~~

Section 57‑1‑330. (A) ~~For the purposes of electing a commission member, a legislator shall vote only in the congressional district in which he resides.~~ All commission members are elected to a term of office of four years which expires on February fifteenth of the appropriate year. However, a commission member may not serve more than two consecutive terms, and may not serve more than twelve years, regardless of when the term was served. Commissioners shall continue to serve until their successors are ~~elected~~ appointed and ~~qualify~~ confirmed, provided that a commissioner ~~may~~ only may serve in a hold‑over capacity for a period not to exceed six months. Any vacancy occurring in the office of commissioner shall be filled by ~~election or~~ appointment in the manner provided in this article for the unexpired term only. Except for the at‑large member, ~~no~~ a person is not eligible to serve as a commission member who is not a resident of that district at the time of his appointment. Failure by ~~an elected~~ such commission member to maintain residency in the district for which he is ~~elected~~ appointed shall result in the forfeiture of his office.

(B) ~~The at‑large commission member shall serve at the pleasure of the Governor.~~ The at‑large commission member may be appointed from any county in the State unless another commission member is serving from that county. Failure by the at‑large commission member to maintain residence in the State shall result in a forfeiture of his office.

~~(C)~~ ~~All elected commission members may be removed from office as provided in Section 1‑3‑240(C)(1).~~

Section 57-1-340. Each commission member, within thirty days after his ~~election or~~ appointment, and before entering upon the discharge of the duties of his office, shall take, subscribe, and file with the Secretary of State the oath of office prescribed by the Constitution of the State.”

SECTION 2. Section 57‑1‑410 of the 1976 Code, as last amended by Act 114 of 2007, is further amended to read:

“Section 57‑1‑410. The ~~Governor~~ commission shall appoint, with the advice and consent of the ~~Senate~~ General Assembly by a roll call vote in each house, a Secretary of Transportation who shall serve at the pleasure of the ~~Governor~~ commission. A person appointed to this position shall possess practical and successful business and executive ability and be knowledgeable in the field of transportation. The Secretary of Transportation shall receive such compensation as may be established under the provisions of Section 8‑11‑160 and for which funds have been authorized in the general appropriations act.”

SECTION 3. A. Section 57-1-360 of the 1976 Code, as added by Act 114 of 2007, is amended to read:

“Section 57-1-360. (A) The ~~commission must appoint a~~ State Auditor shall employ an individual to serve as the chief internal auditor of the department, and other professional, administrative, technical, and clerical personnel as the ~~commission~~ State Auditor determines to be necessary ~~in the proper discharge of the commission’s duties and responsibilities provided by law~~. The ~~commission~~ State Auditor also must provide professional, administrative, technical, and clerical personnel, as the ~~commission~~ State Auditor determines to be necessary, for the chief internal auditor to properly discharge his duties and responsibilities authorized by the ~~commission~~ State Auditor or provided by law. Except as otherwise provided, any employees hired pursuant to this section shall serve at the pleasure of the ~~commission~~ State Auditor.

(B)(1) ~~The chief internal auditor shall serve for a term of four years and may be removed by the commission only for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity.~~ The chief internal auditor must be a Certified Public Accountant and possess any other experience the ~~commission~~ State Auditor may require. The chief internal auditor must establish, implement, and maintain the exclusive internal audit function of all departmental activities. The ~~commission~~ State Auditor shall set the salary for the chief internal auditor as allowed by statute or applicable law.

(2) The audits performed by the chief internal auditor must comply with recognized governmental auditing standards. The department and any entity contracting with the department must fully cooperate with the chief internal auditor in the discharge of his duties and responsibilities and must timely produce all books, papers, correspondence, memoranda, and other records considered necessary in connection with an internal audit. All final audit reports must be submitted to the commission and the chairman of the Senate Transportation Committee, the chairman of the Senate Finance Committee, the chairman of the House of Representatives Education and Public Works Committee, and the chairman of the House of Representatives Ways and Means Committee before being made public.

(3) The ~~commission~~ State Auditor is vested with the exclusive management and control of the chief internal auditor.

(C) The department, at its own expense, must provide appropriate office space within its headquarters, building, and facility service, including janitorial, utility and telephone services, computer and technology services, and related supplies, for the chief internal auditor and his support staff.”

B. (A) The chief internal auditor of the Department of Transportation and all associated support staff, and all authorized appropriations associated with the chief internal auditor and associated support staff are transferred to and become part of the State Auditor’s Office, State Fiscal Accountability Authority. The chief internal auditor of the Department of Transportation and all associated support staff, whether classified or unclassified personnel, employed by the Department of Transportation on the effective date of this act, either by contract or by employment at will, shall become employees of the State Auditor’s Office, State Fiscal Accountability Authority, with the same compensation, classification, and grade level, as applicable.

(B) The chief internal auditor of the Department of Transportation on June 30, 2016, shall continue to serve until the State Auditor employs a successor. Nothing in this section shall prevent the State Auditor from retaining the chief internal auditor of the Department of Transportation as of June 30, 2016, pursuant to the provisions of this SECTION.

C. Section 57-1-490 of the 1976 Code, as amended by Act 114 of 2007, is further amended to read:

“Section 57-1-490. (A) The department shall be audited by a certified public accountant or firm of certified public accountants once each year to be designated by the State Auditor. The designated accountant or firm of accountants shall issue audited financial statements in accordance with generally accepted accounting principles, and such financial statements ~~shall~~ must be made available annually by October fifteenth to the General Assembly. The costs and expenses of the audit must be paid by the department out of its funds.

(B) The Materials Management Office of the Department of Administration annually must audit the department’s internal procurement operation to ensure that the department has acted properly with regard to the department’s exemptions contained in Section 11‑35‑710. The audit must be performed in accordance with applicable state law, including, but not limited to, administrative penalties for violations found as a result of the audit. The results of the audit must be made available by October fifteenth to the Department of Transportation Commission, the ~~Department of the Transportation’s chief internal auditor~~ State Auditor, the Governor, the chairmen of the Senate Finance and Transportation Committees, and the chairmen of the House of Representatives Ways and Means and Education and Public Works Committees. The costs and expenses of the audit must be paid by the department out of its funds.

(C) The Legislative Audit Council shall contract for an independent performance and compliance audit of the department’s finance and administration division, mass transit division, and construction engineering and planning division. This audit must be completed by January 15, 2010. The Legislative Audit Council may contract for follow‑up audits or conduct follow‑up audits as needed based upon the audit’s initial findings. The costs of these audits, including related administrative and management expenses of the Legislative Audit Council, are an operating expense of the department. The department shall pay directly to the Legislative Audit Council the cost of the audits.

(D) Copies of every audit conducted pursuant to this section must be made available to the Department of Transportation Commission, the ~~Department of Transportation chief internal auditor~~ State Auditor, the Governor, the chairmen of the Senate Finance and Transportation Committees, and the chairmen of the House of Representatives Ways and Means and Education and Public Works Committees.”

SECTION 4. Article 7, Chapter 1, Title 57 of the 1976 Code is repealed.

SECTION 5. Sections 1, 2, 3, and 4 take effect July 1, 2016, except that the members of the Commission of the Department of Transportation serving on June 30, 2016, shall continue to serve until their current term expires, and until their successor is appointed and confirmed. If a vacancy occurs in the seat of a member serving on June 30, 2016, before the member’s term otherwise expires, the vacancy must be filled in the manner specified in Chapter 1, Title 57 of the 1976 Code, as amended by this act, and the member filling the vacancy shall serve until the term expires. The members serving on June 30, 2016, if otherwise eligible, may be reappointed pursuant to Section 57‑1‑310, as amended by this act.

SECTION 6. Section 11‑43‑150 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( ) Before providing a loan or other financial assistance to a qualified borrower on a qualified project, the board of directors must submit the decision to the Department of Transportation Commission for its consideration. The Department of Transportation Commission can approve or reject the board of directors’ decisions or request additional information from the board of directors. This requirement does not apply to decisions by the board that relate to any payment or contractual obligations that the Department of Transportation has to the bank that are pledged to any bonds issued by the bank.”

SECTION 7. A. Section 11‑43‑180 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

“( ) The bank may not provide any loans or other financial assistance, including bond proceeds, to any project unless the eligible costs of the project are at least twenty‑five million dollars.”

B. This SECTION takes effect upon approval by the Governor and only applies to projects selected by the bank thereafter.

SECTION 8. A. Article 1, Chapter 43, Title 11 of the 1976 Code is amended by adding:

“Section 11‑43‑265. (A) Notwithstanding any other provision of law and subject to the provisions of subsection (B), the bank must prioritize all projects in accordance with the prioritization criteria provided in Section 57‑1‑370(B)(8).

(B) The General Assembly may enact a joint resolution allowing the bank to fund a project without using the prioritization criteria provided in subsection (A). The joint resolution must be specific as to the project and the amount authorized to be funded.”

B. This SECTION takes effect upon approval by the Governor and only applies to projects selected by the bank thereafter.

SECTION 9. Section 12‑36‑2647 of the 1976 Code, as added by Act 98 of 2013, is amended to read:

“Section 12‑36‑2647. Notwithstanding the provisions of Section 59‑21‑1010, ~~fifty percent of~~ the revenues of sales, use, and casual excise taxes derived pursuant to Sections 12‑36‑2620(1) and 12‑36‑2640(1) on the sale, use, or titling of a motor vehicle required to be licensed and registered by the South Carolina Department of Motor Vehicles, otherwise required to be credited as provided pursuant to Section 59‑21‑1010, ~~instead~~ must be credited to the ~~State Non‑Federal Aid Highway Fund established pursuant to Section 57‑11‑20~~ Department of Transportation. Revenues credited to the ~~State Non‑Federal Aid Highway Fund~~ Department of Transportation pursuant to this section must be used exclusively for highway, road, and bridge maintenance, construction, and repair.”

SECTION 10. Except where otherwise provided, this act takes effect July 1, 2016.

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