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Indicates New Matter

AMENDED

April 26, 2016

**H. 5077**

Introduced by Rep. White

S. Printed 4/26/16--H.

Read the first time March 9, 2016.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill as amended would have no expenditure or revenue impact on the general fund, federal funds, or other funds of the state. The bill would potentially lower the interest rates and subsequent interest expense for revenue bonds issued by local governments for joint authority water and sewer systems due to expanded statutory protections for bondholders. However, the exact impact on local expenditures will depend upon future bond issuances and is undetermined.

**Explanation of Fiscal Impact**

**Explanation of Amendment by the Ways and Means Committee on April 20, 2016**

**State Expenditure**

The amendment adds two sections relating to the South Carolina Research University Infrastructure bonds and the repeal of the maximum five percent annual debt service limitation for highway and state institutions of higher learning general obligation bonds. The state expenditure impact of sections two and three of the amended bill are analyzed immediately below. The local expenditure impact of section one of the amended bill pertaining to joint authority water and sewer systems is analyzed below and is unchanged from the bill as filed.

**Section 2.** This section deletes the $250,000,000 limitation on the amount of general obligation debt for financing research infrastructure projects at the research universities pursuant to Section 11-51-40. The requirement that the maximum annual debt service limitation on this debt must not exceed one-half of one percent of general fund revenues, pursuant to Section 11-51-50, is unaffected. At the end of June 2015, the total amount of research university infrastructure debt outstanding was $128,770,000, and the associated annual debt service was $21,521,356, which was 0.32 percent of the total general fund revenues for FY 2014-15. The deletion of the $250,000,000 limitation on the amount of general obligation debt for financing research infrastructure projects at the research universities pursuant to Section 11-51-40 would have no expenditure or revenue impact on the general fund, federal funds, or other funds without further authorizations by the Research Centers of Excellence Review Board subject to approval by the Joint Bond Review Committee and the State Fiscal Accountability Authority.

**Section 3.** This section deletes paragraph two of Section 11-27-30. This paragraph required state school bonds be secured only in the manner provided by subparagraph (c), paragraph 6, Section 13 of Article X of the South Carolina Constitution, which limits the annual debt service on general obligation bonds for any public purpose to five percent of general revenue of the State. This paragraph also limited the aggregate outstanding principal indebtedness for capital improvement bonds, after deducting the part of any sinking fund to the retirement of these bonds, to the lesser of $137,500,000 or the five percent annual debt service limitation. A further limitation was imposed on the aggregate outstanding principal indebtedness on school bus bonds, after deducting the part of any sinking fund to the retirement of these bonds, to state that the amount shall never exceed $9,000,000. These limitations are on bonds that mature no later than July 1, 1991.

However, other limitations on general obligation school bond debt continue to apply. For example, paragraph 5, Section 13 of Article X allows general obligation debt to be authorized by a two-thirds vote of each body of the General Assembly or by a majority vote in a referendum. In either case, paragraph 5, Section 13 states there shall be no conditions or restrictions limiting the incurring of this general obligation debt except what is imposed by the new authorization or the maximum thirty year maturity of the debt required in paragraph 3 of Section 13, Article X.

Currently, the five percent annual debt service on general obligation debt includes State School Bonds, State Capital Improvement Bonds, State School Facilities bonds, State Transportation Infrastructure Bonds, and State Air Carrier Bonds. The five percent limitation was increased twice by the General Assembly for State Economic Development Bonds in 2002 and State Research University Infrastructure Bonds in 2006. Both of these authorizations increased the annual debt service limitation by one-half of one percent for a total of six percent. At the end of June 2015, the total amount of debt outstanding subject to the six percent limitation was $622,105,000 and the associated annual debt service was $154,184,248, which was 2.30 percent of the total general fund revenues for FY 2014-15. We estimate that the repeal of 11-27-30(2) would have no expenditure or revenue impact on the general fund, federal funds, or other funds without further authorizations by the General Assembly or by a majority vote in a referendum called by the General Assembly.

**Local Expenditure**

**Section 1.** Section 6-25-113 is amended to allow bondholders to place liens against property owned by joint authority water and sewer systems as permitted under Sections 6-21-330 through 6-21-360 of the Revenue Bond Act for Utilities. Joint authority water and sewer systems authorized under the Joint Authority Water and Sewer Systems Act are those established by two governing bodies joining together in order to provide service to the areas of the two governing bodies. This bill would amend Section 6-25-113 by extending the provisions of the Revenue Bond Act for Utilities to apply to bond issuances of joint systems. This would allow for statutory enforcement of a lien by a bondholder including allowing for lawsuits and actions to compel the system to fulfil obligations including setting of sufficient rates and collecting revenues to pay the obligations. The impact on local governments would be to potentially lower the interest rates required by bondholders due to expanded statutory provisions for recompense against default. This may lower interest expense for local governments. However, the exact impact on local expenditures will depend upon future bond issuances and is undetermined.

**Explanation of Bill Filed on March 9, 2016**

**Local Expenditure**

This bill amends Section 6-25-113 by allowing bondholders to place liens against property owned by joint authority water and sewer systems as permitted under Sections 6-21-330 through 6-21-360 of the Revenue Bond Act for Utilities. Joint authority water and sewer systems authorized under the Joint Authority Water and Sewer Systems Act are those established by two governing bodies joining together in order to provide service to the areas of the two governing bodies. This bill would amend Section 6-25-113 by extending the provisions of the Revenue Bond Act for Utilities to apply to bond issuances of joint systems. This would allow for statutory enforcement of a lien by a bondholder including allowing for lawsuits and actions to compel the system to fulfil obligations including setting of sufficient rates and collecting revenues to pay the obligations. The impact on local governments would be to potentially lower the interest rates required by bondholders due to expanded statutory provisions for recompense against default. This may lower interest expense for local governments. However, the exact impact on local expenditures will depend upon future bond issuances and is undetermined.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 6‑25‑113, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PAYMENT OF BONDS BY A JOINT AUTHORITY WATER AND SEWER SYSTEM, SO AS TO ALLOW A LIEN TO BE PLACED ON THE AUTHORITY’S PROPERTY IN ACCORDANCE WITH THE REVENUE BOND ACT FOR UTILITIES.

Amend Title To Conform

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

SECTION 1. Section 6‑25‑113 of the 1976 Code, as last amended by Act 59 of 2007, is further amended to read:

“Section 6‑25‑113. The bonds are special obligations of the joint system issuing them. The principal of, premium, if any, and interest on the bonds are not payable from the general funds of the joint system, nor do they constitute a legal or equitable pledge, charge, lien, or encumbrance upon any of its property, except as permitted by Sections 6‑21‑330 through 6‑21‑360 of the Revenue Bond Act for Utilities, or upon any of its income, receipts, or revenues, except the funds which are pledged under the resolution authorizing the bonds or the trust agreement securing the bonds. Neither the faith and credit nor the taxing power of the State or an authority is, or may be, pledged for the payment of the principal of or interest on the bonds, and no holder of the bonds has the right to compel the exercise of the taxing power by the State or an authority or the forfeiture of any of its property in connection with any default. However, the provisions of this section do not affect the ability of any member county or authority from providing a pledge of all or part of any revenues derived as payments in lieu of taxes with respect to a project. Every bond must recite in substance that the principal of and interest on the bond is payable solely from the revenues and other funds pledged to its payment and that the joint system is not obligated to pay the principal or interest except from such revenues and funds so pledged.”

SECTION 2. Section 11‑51‑40 of the 1976 Code is amended to read:

“Section 11‑51‑40. To obtain funds for allocation to the research universities for the financing of research infrastructure projects, and for the other purposes set forth in Section 11‑51‑125, there may be issued general obligation debt pursuant to the conditions prescribed by this chapter~~; provided, however, that the amount of the general obligation debt issued pursuant to this chapter that may be outstanding at any one time shall not exceed two hundred fifty million dollars~~.”

SECTION 3. Paragraph 2. of Section 11‑27‑30 of the 1976 Code is deleted.

SECTION 4. This act takes effect upon approval by the Governor.

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