COMMITTEE REPORT

April 9, 2019

**H. 4332**

Introduced by Reps. G.M. Smith and Stavrinakis

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Read the first time March 27, 2019.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (H. 4332) to amend Sections 11‑41‑20, 11‑41‑30, and 11‑41‑70, Code of Laws of South Carolina, 1976, all relating to the, etc., respectfully

**REPORT:**

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

G. MURRELL SMITH, JR. for Committee.

**A** **BILL**

TO AMEND SECTIONS 11‑41‑20, 11‑41‑30, AND 11‑41‑70, CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL RELATING TO THE STATE GENERAL OBLIGATION ECONOMIC DEVELOPMENT BOND ACT, SO AS TO PROVIDE FURTHER FINDINGS, TO PROVIDE FOR STRATEGIC INFRASTRUCTURE PROJECTS AS ECONOMIC DEVELOPMENT PROJECTS, AND TO ALLOW FOR FREIGHT TRANSPORTATION AS INFRASTRUCTURE.

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

SECTION 1. Section 11‑41‑20 of the 1976 Code is amended by adding an item at the end to read:

“(9) That, as a fact, it is in the best interest of the State that, subject to the requirements of this chapter as amended hereby and, subject to the constitutional debt limit capacity provided by the General Assembly in Act 254 of 2002 and Act 187 of 2004, to provide for the issuance of bonds pursuant to this chapter to defray the cost of certain infrastructure to be owned, operated, and maintained by an agency or instrumentality of the State, or political subdivision of the State, for use (i) by the general public, (ii) by entities engaged in freight transport, or (iii) as a site for industrial development, and that the provision of such infrastructure will serve a public purpose.”

SECTION 2. Section 11‑41‑30(2) and (3) 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 subsubitem (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.

(iii) ‘Economic development project’ or ‘project’ also includes a strategic infrastructure project. ‘Strategic infrastructure project’ means an undertaking to provide infrastructure described in Sections 11‑41‑30(3)(a), (b), (c), (d), (e), and (f), each of which in the case of a strategic infrastructure project must be owned, operated, and maintained by an agency or instrumentality of the State, or political subdivision of the State. A strategic infrastructure project is not subject to the job creation and capital investment requirements imposed on projects as defined in item(2)(a) and (b), but is subject to the requirements of Section 11‑41‑70(2)(c).

(b) ‘Project’ also includes a life sciences facility in this State defined as a business engaged in pharmaceutical, medicine, and related laboratory instrument manufacturing, processing, or research and development. Included in this definition are the following North American Industrial Classification Systems, NAICS Codes published by the Office of Management and Budget of the federal government:

(i) 3254 Pharmaceutical and Medical Manufacturing;

(ii) 334516 Analytical Laboratory Instrument Manufacturing.

With respect to a life sciences facility, the sponsor must invest in the project at least one hundred million dollars and create at the project at least two hundred new jobs with an average annual cash compensation level of at least twice the annual per capita income in this State. Per capita income must be determined by using the most recent per capita income data available at the time the request for funding is made pursuant to this chapter.

(c) To qualify as an economic development project defined in subitems (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.

(d) ‘Economic development project’ or ‘project’ also includes training and research facilities and the necessary equipment therefor, owned by the State or any agency, instrumentality, or political subdivision thereof, for a program for purposes of providing the necessary trained personnel to support the state’s economically vital tourism industry. A project as defined in this subsection is also referred to herein as a ‘tourism training infrastructure project’. A tourism training infrastructure project is not subject to the job creation and capital investment requirements imposed on projects as defined in subsections (a) and (b) above.

(e) ‘Economic development project’ or ‘project’ also includes a national and international convention and trade show center in this State, owned by the State or any agency, instrumentality, or political subdivision thereof. A ‘national and international convention and trade show center’ means a not less than two hundred thousand square foot facility consisting of meeting and exhibit space at which are held major conventions, trade shows, and special events that bring delegates into the State and community including, but not limited to, consumer shows, sporting events, and other meetings. Included in the space requirement is an adjacent facility allowing specific events thereby making additional time and space available for the major conventions, trade shows, and special events contemplated by this definition. However, if any adjacent facility is contemplated or initiated under the terms and conditions of this subitem, these plans must be submitted to the Joint Bond Review Committee for review and comment. A national and international convention and trade show center is not subject to the job creation and capital investment requirements imposed on projects as defined in subsections (a) and (b) above.

(3) ‘Infrastructure’ must relate specifically to, but is not required to be located at, the economic development project and means:

(a) land acquisition;

(b) site preparation;

(c) road, ~~and~~ highway, and freight transportation improvements;

(d) rail spur construction;

(e) water service;

(f) wastewater treatment;

(g) employee training which may include equipment used for such purpose;

(h) environmental mitigation;

(i) training and research facilities and the necessary equipment therefor~~.~~; and

(j) buildings and renovations to buildings whether new or existing (i) associated with an economic development project as defined in Section 11‑41‑30(2) that includes air carrier hub terminal facilities as defined in Section 55‑11‑500(a), or (ii) located on land that is owned by the State or an agency, instrumentality, or political subdivision thereof.”

SECTION 3. Section 11‑41‑70(2) of the 1976 Code is amended to read:

“(2) a description of the infrastructure for which the bonds are to be issued, including a certification by the secretary of the department or in the case of a tourism training infrastructure project or a national and international convention and trade show center by an appropriate official of the State or agency, instrumentality, or political subdivision thereof that will own such project that the economic development project to benefit from the expenditure of the proceeds of the bonds consists of the following:

(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

(b) in the case of a life sciences facility, an investment by the sponsor in the project of not less than one hundred million dollars and creation by the sponsor at the project of no fewer than two hundred new jobs with an average cash compensation of at least twice the per capita income in this State. Per capita income must be determined by using the most recent per capita income data available at the time the request for funding is made pursuant to this chapter; or

(c) in the case of a strategic infrastructure project, (i) that the Secretary has determined in writing that the infrastructure to be financed by the project consists of infrastructure identified in Section 11‑41‑30(3)(a), (b), (c), (d), (e), or (f), which will be owned, operated, and maintained by any agency or instrumentality of the State, or political subdivision of the State, (ii) that such agency, instrumentality, or political subdivision has by written resolution determined that there is an immediate need for such infrastructure based upon factual findings stated therein, and has agreed to undertake the development and construction of and to own, operate, and maintain the infrastructure, and (iii) that the Coordinating Council for Economic Development has reviewed the proposal of the department for the project, and by written resolution has determined that the project will assist the department in promoting economic development in the State by providing infrastructure that is needed by industry located in or considering locating in the State. In the case of infrastructure described in Sections 11‑41‑30(3)(a) or (b), the foregoing determinations and resolutions shall confirm that (i) the purpose thereof is for acquisition or improvements to a site intended for industrial development, and (ii) the site is located in a county which, as of the date of the Secretary’s written determination pursuant to this Section 11‑41‑70(2)(c), is designated as Tier III or Tier IV pursuant to Section 12‑6‑3360(B), or will be so designated upon the commencement of the next following taxable year; or

~~(c)~~(d) in the case of a tourism training infrastructure project, training and research facilities including the necessary equipment therefor, owned by the State or any agency, instrumentality, or political subdivision thereof, for a program for which project there has been executed an agreement between the State and the state agency, instrumentality, or political subdivision owning such facilities providing that, upon the termination of the program the proceeds of the sale of any facilities financed with the proceeds of bonds issued pursuant to this chapter will be reimbursed by such state agency, instrumentality, or political subdivision to the general fund of the State; or

~~(d)~~(e) subject to the provisions of Section 11‑41‑75, in the case of a national and international convention and trade show center, partial payment of costs for infrastructure associated with a meeting and exhibit space as defined in Section 11‑41‑30(2)(e), owned by the State or any agency, instrumentality, or political subdivision thereof for which project there has been executed an agreement between the State and the state agency, instrumentality, or political subdivision owning such meeting and exhibit space providing that, upon either the sale of the meeting and exhibit space partially financed with proceeds of bonds issued pursuant to this chapter or the failure of the state agency, instrumentality, or political subdivision to: (1) purchase land within eighteen months of the effective date of subitem (d), (2) begin construction within five years of the effective date of this item (d) of a meeting and exhibit space as defined in Section 11‑41‑30(2)(e), or (3) complete the project within fifteen years of the effective date of this item (d), then the state agency, instrumentality, or political subdivision owning such meeting and exhibit space will reimburse the amount of bond proceeds to the General Fund of the State, plus interest thereon from the date of expenditure to the date of such reimbursement at a rate equal to the total interest cost rate on the issuance of bonds used to make such expenditure. The state agency, instrumentality, or political subdivision must notify the State Treasurer immediately upon the sale of any land acquired with proceeds of bonds issued pursuant to this chapter. The state agency, instrumentality, or political subdivision also must provide sufficient proof to the State Treasurer that the deadlines to purchase land, begin construction, and complete the project imposed pursuant to this item have been met. If the state agency, instrumentality, or political subdivision sells the land or fails to meet any of these deadlines, then the State Treasurer shall take the appropriate action necessary to recover all bond proceeds and interest disbursed to the state agency, instrumentality, or political subdivision to finance the project;”

SECTION 4. If any section, subsection, 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, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

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

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