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COMMITTEE REPORT

January 26, 2021

**H. 3607**

Introduced by Reps. Lucas, G.M. Smith and McGarry

S. Printed 1/26/21--H.

Read the first time January 12, 2021.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (H. 3607) to amend Section 11‑41‑20, Code of Laws of South Carolina, 1976, relating to the State General Obligation Economic Development Bond Act, so as to allow, 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 SECTION 11‑41‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE GENERAL OBLIGATION ECONOMIC DEVELOPMENT BOND ACT, SO AS TO ALLOW FOR THE ISSUANCE OF BONDS TO DEFRAY THE COST OF INFRASTRUCTURE FOR CERTAIN ECONOMIC DEVELOPMENT PROJECTS; TO AMEND SECTION 11‑41‑30, RELATING TO DEFINITIONS FOR SUCH BONDS, SO AS TO INCLUDE GOVERNMENT‑OWNED PROJECTS AND UNDERTAKINGS THAT SUPPORT OR PROMOTE A FOUNDATION FOR ECONOMIC GROWTH AND INDUSTRIAL DEVELOPMENT, AND TO EXPAND THE DEFINITION OF “INFRASTRUCTURE”; TO AMEND SECTIONS 11‑41‑50 AND 11‑41‑60, RELATING TO SUCH BONDS, SO AS TO MAKE A CONFORMING CHANGE; TO AMEND SECTION 11‑41‑70, RELATING TO BOND NOTIFICATION REQUIREMENTS, SO AS TO SPECIFY REQUIREMENTS FOR THE ISSUANCE OF BONDS FOR SUCH GOVERNMENT‑OWNED PROJECTS; TO AMEND SECTION 11‑41‑80, RELATING TO THE RESOLUTION EFFECTING THE ISSUANCE OF SUCH BONDS, SO AS TO SPECIFY THAT THE STATE FISCAL ACCOUNTABILITY AUTHORITY SHALL ADOPT THE RESOLUTION, AND TO AMEND SECTION 11‑41‑90, RELATING TO THE AUTHORIZING RESOLUTION, SO AS TO MAKE A CONFORMING CHANGE.

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

SECTION 1. A. Section 11‑41‑20(1) and (2) of the 1976 Code is amended to read:

“(1) That ~~by Section 4, Act 10 of 1985, the General Assembly ratified an amendment to~~ Section 13(6)(c), Article X of the Constitution of this State, 1895~~. One amendment in Section 13(6)(c), Article X~~, limits the issuance of general obligation debt of the State such that maximum annual debt service on all general obligation bonds of the State, excluding highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, must not exceed five percent of the general revenues of the State for the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds.

(2) That by Section 4, Act 10 of 1985, the General Assembly ratified an amendment to Section 13(6)(c), Article X, to further ~~provides~~ provide that the percentage rate of general revenues of the State by which general obligation bond debt service is limited may be reduced to four or increased to seven percent by legislative enactment passed by a two‑thirds vote of the total membership of the Senate and a two‑thirds vote of the total membership of the House of Representatives.”

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

“(9) The General Assembly finds that sufficient debt service capacity exists below the original five percent threshold established by Section 13(6)(c), Article X, to allow for the issuance of bonds pursuant to this chapter to defray the cost of infrastructure for projects defined in Section 11‑41‑30(2)(f), and that the provision of such infrastructure in accordance with this chapter will serve a public purpose.”

SECTION 2. A. Section 11‑41‑30(2) of the 1976 Code is amended by adding a subitem at the end to read:

“(f) ‘Economic development project’ or ‘project’ also means an undertaking with statewide benefit that provides infrastructure described in item (3) to support or promote a foundation for economic growth and industrial development. Such undertaking must be owned, operated, and maintained by the State, or an agency, instrumentality, or political subdivision of the State; provided, however, that nothing shall prohibit the state or local government owning the project from contracting with public or private entities for the management and operation of all or a portion thereof. A project meeting this definition is not subject to the job creation and capital investment requirements imposed on projects as defined in items (2)(a) and (b).”

B. Section 11‑41‑30(3) of the 1976 Code is amended to read:

“(3) ‘Infrastructure’ ~~must~~ means assets, improvements, and expenditures that relate specifically to, ~~but is not required to be~~ whether or not located at, the economic development project a~~nd means~~ , including the acquisition, disposition, and mitigation of real property and improvements thereon, and the acquisition, construction, reconstruction, renovation, relocation, disposition, and demolition of structures, facilities, equipment, information technology, utilities, and any other improvements, services, and expenditures related to or in support of the economic development project, and particularly, without limitation:

(a) land acquisition;

(b) site preparation and development;

(c) road ~~and~~, highway, rail, air, waterborne, and other transportation improvements;

(d) ~~rail spur construction~~ water, stormwater, and wastewater facilities, improvements, and services;

(e) ~~water service~~ electric, gas, telecommunications, internet, broadband, and other utility facilities, improvements, and services;

(f) ~~wastewater treatment~~ research facilities;

(g) ~~employee~~ training ~~which may include equipment used for such purpose~~ programs and facilities;

(h) environmental mitigation;

(i) ~~training and research facilities and the necessary equipment therefor.~~ improvements necessary to maintain compliance with any regulatory requirements or standards; 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. A. Section 11‑41‑50(A) of the 1976 Code is amended to read:

“(A) Pursuant to Section 13(6)(c), Article X of the Constitution of this State, 1895, the General Assembly provides that economic development bonds may be issued pursuant to this subsection at such times as the maximum annual debt service on all general obligation bonds of the State, including economic development bonds outstanding and being issued pursuant to this subsection or pursuant to Section 11‑41‑50(C) or (D), but excluding economic development bonds issued pursuant to Section 11‑41‑50(B), research university infrastructure bonds pursuant to Chapter 51 of this title, highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, will not exceed five and one‑half percent of the general revenues of the State for the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds. The State at any time may not issue general obligation bonds, excluding (1) economic development bonds issued pursuant to this chapter, but not excluding economic development bonds issued pursuant to Section 11‑41‑50(C)~~,~~ or (D); (2) research university infrastructure bonds issued pursuant to Chapter 51 of this title~~,~~ ; (3) highway bonds~~,~~ ; (4) state institution bonds~~,~~ ; (5) tax anticipation notes~~,~~ ; and (6) bond anticipation notes, if at the time of issuance the maximum annual debt service on all such general obligation bonds, outstanding and being issued exceeds five percent of the general revenues of the State for the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds.”

B. Section 11‑41‑50 of the 1976 Code is amended by adding a subsection at the end to read:

“(D) In addition to and exclusive of the economic development bonds provided for and issued pursuant to subsections (A), (B), and (C), the General Assembly provides that pursuant to Section 13(6)(c), Article X, economic development bonds may be issued under this chapter to support a project defined in Section 11‑41‑30(2)(f).”

SECTION 4. Sections 11‑41‑60 and 11‑41‑70 of the 1976 Code are amended to read:

“Section 11‑41‑60. The maximum annual debt service on bonds issued pursuant to Section 11‑41‑50(A) must not exceed one‑half of one percent of the general revenues for the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds. Bonds issued pursuant to Section 11‑41‑50(B) shall not be subject to the limitation on maximum annual debt service prescribed by Section 13(6)(c), Article X. The maximum aggregate annual debt service on bonds issued pursuant to either Section 11‑41‑50(C) or (D), when combined with the debt service on all other general obligation bonds issued under the five percent limitation established in Section 13(6)(c), which limitation does not include (1) bonds issued pursuant to subsection (A) or subsection (B) of Section 11‑41‑50~~,~~ ; (2) research university infrastructure bonds issued pursuant to Chapter 51 of this title~~,~~ ; (3) highway bonds~~,~~ ; (4) state institution bonds~~,~~ ; (5) tax anticipation notes~~,~~; and (6) bond anticipation notes, must not exceed five percent of the general revenues of the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds.

Section 11‑41‑70. Before issuing economic development bonds, the department or in the case of a tourism training infrastructure project or a national and international convention and trade show center, the State or agency, instrumentality, or political subdivision thereof that will own such project shall notify the Joint Bond Review Committee and the State Fiscal Accountability Authority of the following:

(1) the amount then required for allocation to the department or to the State or agency, instrumentality, or political subdivision thereof to defray the costs of the proposed infrastructure; and

(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 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) 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 this item (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; or

(e) in the case of a project described in Section 11‑41‑30(2)(f), government‑owned infrastructure (i) that the secretary of the department has determined in writing that (A) the infrastructure will benefit the economic development of the State and is anticipated to have statewide economic benefits, and (B) there is an immediate need for, and the infrastructure to be financed by the project consists of, infrastructure identified in Section 11‑41‑30(3), which will be owned, operated, and maintained by the State, or any agency, instrumentality, or political subdivision of the State, or any combination thereof, (ii) that, in the case of a political subdivision, the political subdivision has by ordinance, if a county or municipality, or resolution, if a special purpose district, public service district, or other political subdivision, determined that there is an immediate need for such project and the infrastructure to be provided thereby based upon factual findings stated therein, and by such ordinance or resolution has agreed to undertake the development and construction of, and to own, operate, and maintain, such infrastructure, and (iii) that the Coordinating Council for Economic Development has reviewed the proposal of the department therefor, and by written resolution has determined that the project will assist the department in promoting economic development in the State; and

(3) a tentative time schedule setting forth the period of time during which the sum requested is to be expended; and

(4) a debt service table showing the annual principal and interest requirements for all bonds then outstanding; and

(5) the total amount of all bonds issued.”

SECTION 5. Section 11‑41‑80 of the 1976 Code is amended to read:

“Section 11‑41‑80. Following the receipt of the notification presented pursuant to Section 11‑41‑70 and after review by the Joint Bond Review Committee, and approval by the State Fiscal Accountability Authority, the State Fiscal Accountability Authority, by resolution duly adopted, shall effect the issue of bonds, or pending the issue of the bonds, effect the issue of bond anticipation notes pursuant to Chapter 17 of this title.”

SECTION 6. Section 11‑41‑90(1) of the 1976 Code is amended to read:

“(1) a statement of whether the bonds are being authorized and issued pursuant to Section 11‑41‑50(A), Section 11‑41‑50(B), ~~or~~ Section 11‑41‑50(C), or Section 11‑41‑50(D);”

SECTION 7. This act takes effect upon approval by the Governor.

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