

South Carolina General Assembly
121st Session, 2015-2016

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Bill 3579

~~Indicates Matter Stricken~~

Indicates New Matter

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~~Indicates Matter Stricken~~

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AMENDED

March 9, 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. [SEC 3/10/16 7:35 PM]

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. A. Article 3, Chapter 1, Title 57 of the 1976 Code is 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~~ There is established the Commission of the Department of Transportation which shall be composed of one member appointed by the Governor from each transportation district elected by the delegations of the congressional district and one member appointed by the Governor from the State at large. The Governor's at large appointment shall serve as chair of the Commission. The Governor's appointments are subject to the advice and consent of the Senate, from the State at large. 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)~~ No member of the General Assembly or member of his immediate family shall 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 county within a Department of Transportation district shall have a resident commission member for more than one consecutive term 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 Commissioners are elected appointed to a term of office of four years which expires on ~~February fifteenth~~ December 31 of the appropriate year. Commissioners shall continue to serve until their successors are ~~elected~~ appointed and confirmed and ~~qualify~~, provided that a commissioner may only serve in a hold-over capacity for a period not to exceed ~~six~~ five 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. No person is 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 commission member to maintain residency in the district for which he is elected 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."

B. Members of the Department of Transportation Commission serving on the effective date of this act may continue to serve on the commission until their terms expire. A commissioner who represents a transportation district serving on the effective date of this act shall be eligible to serve as the gubernatorial appointee to the commission for a full term as provided in this act.

SECTION 2. Section 57-1-410 of the 1976 Code is amended to read:

"Section 57-1-410. ~~The Governor shall appoint, with the advice and consent of the Senate, a Secretary of Transportation who shall serve at the pleasure of the Governor~~ The commission, after consultation with and approval by the Governor, shall appoint a Secretary of Transportation. Upon appointment, the commission must submit the name of its appointee to the Senate for the Senate's advice and consent. 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. 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 4. Article 1, Chapter 1, Title 57 of the 1976 Code is amended by adding:

"Section 57-1-100. (A) The General Assembly, in the annual general appropriations act, shall appropriate out of the estimated revenue of the general fund for the fiscal year for which the appropriations are made, \$400 million to the State Highway Fund.

(B) This appropriation must be contained in the Ways and Means Committee report on the general appropriations bill, the general appropriations bill at the time of third reading in the House of Representatives, the Senate Finance Committee report on the general appropriations bill, the general appropriations bill at the time of a third reading in the Senate, and in any conference report on the general appropriations bill."

SECTION 5. Article 7, Chapter 1, Title 57 of the 1976 Code is repealed.

SECTION 6. This act takes effect upon approval by the Governor.

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