

South Carolina General Assembly
124th Session, 2021-2022

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Bill 40

~~Indicates Matter Stricken~~

Indicates New Matter

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~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 22, 2021

S. 40

Introduced by Senator Grooms

S. Printed 4/22/21--H.

Read the first time April 16, 2021.

THE COMMITTEE ON EDUCATION AND PUBLIC WORKS

To whom was referred a Bill (S. 40) to amend Section 5-29-30 of the 1976 Code, relating to the right of municipalities to establish on-street parking facilities, to provide that municipalities may not, etc., respectfully

REPORT:

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

MERITA A. ALLISON for Committee.

STATEMENT OF ESTIMATED FISCAL IMPACT

Explanation of Fiscal Impact

State Expenditure

This bill, as amended, requires a municipality to get prior approval from DOT before establishing, altering, or restricting the use of parking facilities on a state highway facility. Additionally, parking on state highway facilities located in beach communities may only be restricted if DOT determines that the restrictions are necessary and issues an encroachment permit.

The amended bill specifies that communities eligible for beach renourishment funds must provide free public beach parking but may also offer paid public beach parking, so long as the revenues from such parking are used for the operation, maintenance, preservation, or funding of public beach parking facilities, beach access, beach renourishment, traffic and parking enforcement, first responders, sanitation, and litter control and removal for beaches.

The bill also changes the penalty for a person who willfully obstructs a highway or a ditch or drainage opening along any highway. In current law, the penalty is no more than \$100 or imprisonment for no more than 30 days. This legislation will change the penalty to no more than \$100 per day, imprisonment for no more than 30 days, or both.

Department of Transportation. DOT indicates that any additional expenditures related to approving a change in parking on a state highway facility will be managed within its existing appropriations. Therefore, there is no impact on the agency.

Judicial Department. RFA does not anticipate expenditure impact to the Judicial Department as a result of administering the revised penalties for obstructing a state highway; however, we have reached out to the Judicial Department regarding this issue and will update this impact if additional information becomes available.

State Revenue

This bill may increase revenue to the Judicial Department due to increased fines for obstructing a state highway or its ditches and drainage opening. However, since there is no data with which to estimate how many days a person may repeat the behavior of obstruction, the revenue impact on the Judicial Department is undetermined.

Local Revenue

The amended bill requires beach communities that are eligible for beach renourishment funds to include free public beach parking on state highway facilities. These beach communities may also include paid public beach parking on state highway facilities, providing that the parking revenues be used for the operation, maintenance, preservation, or funding of public beach parking facilities; beach access, maintenance, and renourishment; traffic and parking enforcement; first responders; sanitation; and litter control and removal for beaches.

RFA surveyed all coastal counties and municipalities in the state. Of the four municipalities that responded, the only one that currently has a paid parking program is the City of Folly Beach. The municipality reports that the amended bill will have no impact on their current revenues, provided that DOT determines that restricted parking on state highway facilities in Folly Beach is necessary.

Updated for Additional Agency Response on April 6, 2021

Introduced on January 12, 2021

State Expenditure

This bill requires a municipality to get approval from DOT before establishing, altering, or restricting the use of parking facilities on a state highway facility. Additionally, parking on state highway facilities located on barrier islands shall be free and may only be restricted if DOT determines that the restrictions are necessary.

The bill also requires the governmental entity responsible for maintaining a portion of a public highway to remove an obstruction as soon as possible, and it changes the penalty for a person who willfully obstructs a highway or a ditch or drainage opening along any highway. In current law, the penalty is no more than \$100 or imprisonment for no more than 30 days. This legislation will change the penalty to no more than \$100 per day, imprisonment for no more than 30 days, or both.

Department of Transportation. DOT indicates that any additional expenditures related to approving a change in parking on a state highway facility will be managed within its existing appropriations. Therefore, there is no

impact on the agency.

Judicial Department. This bill changes the penalty for a person who willfully obstructs a highway or a ditch or drainage opening along any state highway. In current law, the penalty is no more than \$100 or imprisonment for no more than 30 days. This legislation will change the penalty to no more than \$100 per day, imprisonment for no more than 30 days, or both. The Revenue and Fiscal Affairs Office has contacted the Judicial Department but does not expect any expenditure impact to the department based on these changes.

State Revenue

This bill may increase revenue to the Judicial Department due to increased fines for obstructing a state highway or its ditches and drainage opening. However, since there is no data with which to estimate how many days a person may repeat the behavior of obstruction, the revenue impact on the Judicial Department is undetermined.

Local Revenue

The bill requires parking on state highway facilities located on barrier islands to be free and may only be restricted if DOT determines that the restrictions are necessary. This may decrease revenue to coastal counties and municipalities if they currently charge for parking on state highway facilities. The Revenue and Fiscal Affairs Office has surveyed all coastal counties and municipalities of the state. Charleston County does not expect any fiscal impact, and the City of Isle of Palms, Town of Edisto Beach, and Town of Sullivan's Island do not currently have paid parking. The City of Folly Beach collected roughly \$444,000 in net paid parking revenue in FY 2019-20. This revenue is used to maintain public amenities along the beach and to support beach front services such as litter removal, waste and sanitation services, public safety and emergency services, and beach access and parking lot maintenance. This bill would remove that revenue.

This section of the fiscal impact statement has been updated to include local government responses.

Introduced on January 12, 2021

State Expenditure

This bill requires a municipality to get approval from DOT before establishing, altering, or restricting the use of parking facilities on a state highway facility. Additionally, parking on state highway facilities located on barrier islands shall be free and may only be restricted if DOT determines that the restrictions are necessary.

The bill also requires the governmental entity responsible for maintaining a portion of a public highway to remove an obstruction as soon as possible, and it changes the penalty for a person who willfully obstructs a highway or a ditch or drainage opening along any highway. In current law, the penalty is no more than \$100 or imprisonment for no more than 30 days. This legislation will change the penalty to no more than \$100 per day, imprisonment for no more than 30 days, or both.

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Local Revenue

The bill requires parking on state highway facilities located on barrier islands to be free and may only be restricted if DOT determines that the restrictions are necessary. This may decrease revenue to coastal counties and municipalities if they currently charge for parking on state highway facilities. The Revenue and Fiscal Affairs Office has surveyed coastal counties and municipalities of the state, and if additional information becomes available, we will update this fiscal impact.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

A BILL

TO AMEND SECTION 5-29-30 OF THE 1976 CODE, RELATING TO THE RIGHT OF MUNICIPALITIES TO ESTABLISH ON-STREET PARKING FACILITIES, TO PROVIDE THAT MUNICIPALITIES MAY NOT ESTABLISH OR ALTER PARKING FACILITIES ON ANY STATE HIGHWAY FACILITY WITHOUT THE PRIOR APPROVAL OF THE DEPARTMENT OF TRANSPORTATION; TO AMEND SECTION 57-5-840 OF THE 1976 CODE, RELATING TO ALTERATIONS BY A MUNICIPALITY OF STATE HIGHWAY FACILITIES, TO PROVIDE THAT RESTRICTIONS ON THE USE OF STATE HIGHWAY FACILITIES BY A MUNICIPALITY ARE SUBJECT TO PRIOR APPROVAL BY THE DEPARTMENT OF TRANSPORTATION; TO AMEND ARTICLE 5, CHAPTER 5, TITLE 57 OF THE 1976 CODE, RELATING TO CONSTRUCTION OF THE STATE HIGHWAY SYSTEM, BY ADDING SECTION 57-5-845, TO PROVIDE THAT PARKING ON STATE HIGHWAY FACILITIES LOCATED ON BARRIER ISLANDS IS FREE AND ANY RESTRICTIONS MAY ONLY BE MADE BY THE DEPARTMENT OF TRANSPORTATION; TO AMEND SECTION 57-7-210 OF THE 1976 CODE, RELATING TO OBSTRUCTIONS IN HIGHWAYS, TO PROVIDE THAT THE FINE FOR VIOLATIONS IS CALCULATED ON A PER-DAY BASIS; TO AMEND SECTION 57-7-220 OF THE 1976 CODE, RELATING TO THE REMOVAL OF OBSTRUCTIONS IN HIGHWAYS, TO PROVIDE THAT OBSTRUCTIONS ON ANY PORTION OF A PUBLIC HIGHWAY MUST BE REMOVED AS SOON AS POSSIBLE BY THE GOVERNMENTAL ENTITY RESPONSIBLE FOR MAINTAINING THE HIGHWAY; AND TO DEFINE NECESSARY TERMS.

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

SECTION 1. Section 57-5-840 of the 1976 Code is amended to read:

"Section 57-5-840. A municipality may not alter any ~~State~~ state highway facility without the prior approval of the ~~Department~~ department, and any use or restriction made by ~~the city~~ a municipality of ~~the~~ a highway or highway right of way for ~~city~~ municipality utilities, parking, or ~~for~~ other purposes ~~shall be~~ is subject to prior approval of the ~~Department~~ department by encroachment permit."

SECTION 2. Article 5, Chapter 5, Title 57 of the 1976 Code is amended by adding:

"Section 57-5-845. (A) Parking facilities on state highway facilities located in beach communities that are eligible for beach renourishment funds:

- (1) must include free public beach parking;
- (2) may include paid public beach parking; and
- (3) may only be restricted by the department if the department determines that the restrictions are necessary under the circumstances.

(B) Any municipality electing to charge for public beach parking may use the parking revenues for the operation, maintenance, preservation, or funding of:

- (1) public beach parking facilities;
- (2) beach access, maintenance, and renourishment;
- (3) traffic and parking enforcement;
- (4) first responders;
- (5) sanitation; and
- (6) litter control and removal for beaches."

SECTION 3. Section 57-7-210 of the 1976 Code is amended to read:

"Section 57-7-210. (A) For the purposes of this section, 'highway' includes the entire area within a highway right of way, including the shoulders and parking areas.

(B) It ~~shall be~~ is unlawful for any person wilfully to obstruct ditches and drainage openings along any highway, to place obstructions upon any such highway or to throw or place on any such highway any objects likely to cut or otherwise injure vehicles using them.

(C) A violation of this section shall be punishable by a fine of not more than one hundred dollars per day, ~~or~~ imprisonment for not more than thirty days, or both."

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

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