

**South Carolina General Assembly**  
124th Session, 2021-2022

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**Bill 4408**

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AMENDED--NOT PRINTED IN THE HOUSE

Amt. No. 1A (4408C002.NBD.DG22)

May 4, 2022

**H. 4408**

Introduced by Rep. G.M. Smith

S. Printed 5/4/22--H. [SEC 5/5/22 11:14 AM]

Read the first time February 17, 2022.

**A JOINT RESOLUTION**

TO AUTHORIZE THE EXPENDITURE OF FEDERAL FUNDS DISBURSED TO THE STATE IN THE AMERICAN RESCUE PLAN ACT OF 2021, AND TO SPECIFY THE MANNER IN WHICH THE FUNDS MAY BE EXPENDED.

Amend Title To Conform

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

Part I

Authorization to Expend Federal Funds

SECTION 1. (A) The source of revenue authorized for expenditure in this section is (i) the State Fiscal Recovery Funds and (ii) the Capital Projects Fund disbursed to the State pursuant to the federal "American Rescue Plan Act of 2021", Public Law No. 117-2, (hereinafter referred to as "ARPA"). The expenditure authorizations contained in this section are for the maximum amounts that may be disbursed or expended by the receiving government entity. All disbursements and expenditures must be made in compliance with the provisions contained in this act. The receiving entities are:

(1) Department of Transportation.....\$453,499,758

Of the amount authorized for expenditure by the Department of Transportation \$297,462,293 is reimbursement for general fund and Education Improvement Act revenue not collected and \$156,037,465 is reimbursement for

motor fuel user fee revenue not collected due to the COVID-19 pandemic as calculated by the Executive Budget Office.

(2) Rural Infrastructure Authority.....\$900,000,000

(3) Office of Regulatory Staff.....\$400,000,000

Of the amount authorized for expenditure by the Office of Regulatory Staff \$185,765,655 is from the Capital Projects Fund and the remaining \$214, 234,345 is from the State Fiscal Recovery Funds disbursed to the State pursuant to ARPA.

(4) Department of Health and Environmental Control.....\$104,400,000

(5) Office of Resilience.....\$100,000,000

(6) Department of Administration.....\$8,000,000

(B) If any disbursement to any recipient, or subrecipient, resulting from an authorization contained herein is disallowed by federal law, regulation, or order, then the recipient or subrecipient shall promptly return the disbursed funds to the disbursing entity.

## Part II

### Directives to State Agencies Concerning the Authorization to Expend Federal Funds

#### Department of Transportation

SECTION 2. There is established in the State Treasury an account to be known as the Transportation Infrastructure Acceleration Account. The account is separate from the general fund of the State and all other funds and accounts. The account shall consist of the federal funds authorized pursuant to SECTION 1(A)(1) of this act. The funds in the Transportation Infrastructure Acceleration Account shall be used by the Department of Transportation to accelerate completion of projects included in the Statewide Transportation Improvement Program. These funds are not intended to satisfy state matching requirements for any other federal grants to the extent that such use is disallowed by ARPA.

SECTION 3. Funds in the Transportation Infrastructure Acceleration Account may be released to the Department of Transportation upon the direction of the Executive Budget Office. The Executive Budget Office may not direct the release of funds until the Department of Transportation has submitted its plans for the funds to the Joint Bond Review Committee for its review and comment.

#### Rural Infrastructure Authority

SECTION 4. There is established in the State Treasury an account to be known as the ARPA Water and Sewer Infrastructure Account. The account is separate from the general fund of the State and all other funds and accounts. The account shall consist of federal funds authorized pursuant to SECTION 1(A)(2) of this act. The funds in the ARPA Water and Sewer Infrastructure Account shall be used by the Rural Infrastructure Authority to administer and operate three grant programs designed to provide for improvements in water, wastewater, and storm water infrastructure throughout the State. In each of the three grant programs, units of local government, special purpose districts, commissions of public works, and joint municipal organizations may apply for grants. A unit of local government may apply for a grant on behalf of non-profit water and sewer systems. Grants may be awarded for the completion of water, wastewater, and storm water projects as defined in ARPA.

SECTION 5. (A) The Rural Infrastructure Authority shall utilize \$800,000,000 of the funds in the ARPA Water and Sewer Infrastructure Account to operate, in cooperation with the Department of Health and Environmental Control, a competitive infrastructure grant program. Of the funds in the account for the competitive infrastructure grant program, the Rural Infrastructure Authority may allocate up to \$6,000,000 of the

funds for its administrative costs and shall transfer up to \$6,000,000 to the Department of Health and Environmental Control for related permitting activities. One hundred million dollars shall be available for projects designated by the Secretary of Commerce as being significant to economic development and may be funded at up to fifty million dollars per project with no local match requirement. The Rural Infrastructure Authority shall transfer five hundred thousand dollars to each of the ten South Carolina Councils of Government for planning assistance, development of grant application proposals, and compliance assistance related to improvements in water, wastewater, and stormwater infrastructure for smaller systems.

(B) Grants pursuant to this program must be issued equitably based upon established priorities and parameters. Applicants may request up to ten million dollars per project or application. Awards shall be made from the funds authorized for the competitive infrastructure grant program, less any amounts allocated for purposes designated in subsection (A). Large utilities, defined as those serving a population equal to or greater than thirty thousand people, shall be eligible for sixty percent of the funds, and small and medium utilities, defined as those serving a population of less than thirty thousand people or are located in a Tier III or Tier IV county at the time of the grant pursuant to Section 12-6-3360 of the 1976 Code, shall be eligible for forty percent of the funds.

(C) Local financial support is required for each grant award and must be committed in writing and available prior to project bidding. Design, engineering, and other nonconstruction costs are considered part of the local financial support. For large utilities, the local financial support must be equal to or greater than twenty-five percent of the project cost. For small and medium utilities, the local financial support must be equal to or greater than fifteen percent of the project cost.

(D) Priority consideration must be given to applications for projects based upon a comparative analysis in the following relative order of need:

- (1) regional solutions - projects that implement solutions that impact multiple systems;
- (2) water quality - projects that address consent orders, violations, or other public health or environmental impacts;
- (3) resilience and storm protection - projects that help utilities prepare for emergencies;
- (4) other aging infrastructure - projects that upgrade or replace infrastructure that has exceeded its useful life; and
- (5) capacity - projects that improve service for existing residents while preparing for future opportunities.

(E) To provide for equitable distribution of funds from the account, the following factors must be considered when awarding grants:

- (1) documented priority needs;
- (2) the transformational impact of the project on the relevant community;
- (3) the extent to which additional funds may be leveraged by the grant;
- (4) the readiness of the applicant to proceed with the project and meet program deadlines;
- (5) the project's feasibility; and
- (6) geographic diversity.

SECTION 6. (A) The Rural Infrastructure Authority shall utilize \$20,000,000 of the funds in the ARPA Water and Sewer Infrastructure Account to operate a planning grant program for very small water systems. This program will assist very small systems that are unable to provide the required local investment for the competitive infrastructure grant program or that cannot identify a competitive project for assistance. Applicants

for grants from this program must identify the assistance needed. Grants from this program may be awarded in an amount up to one million dollars per system. For purposes of this section, a very small water system is defined as a water system serving a population equal to or less than three thousand three hundred people.

(B) Grant recipients may utilize grant funding pursuant to this program for approved purposes including, but not limited to, capital improvement planning, rate studies and other financial assessments, asset management, smoke testing, mapping, televising of lines and other necessary analyses, as well as preliminary planning and design for capital improvement projects. As a condition for receiving a grant pursuant to this program, recipients must demonstrate the intent to implement the recommendations arising from approved planning assistance.

SECTION 7. (A) The Rural Infrastructure Authority shall utilize \$80,000,000 of the funds in the ARPA Water and Sewer Infrastructure Account to operate a regional solutions grant program. Applicants may request up to ten million dollars per project or application. The maximum grant request may be waived by the Rural Infrastructure Authority if the proposed project provides a regional solution that will result in consolidation of or for projects located in Tier III or Tier IV counties.

(B) Local financial support equal to or greater than fifteen percent of the cost of the project is required for each grant award and must be committed in writing and available prior to project bidding. Design, engineering, and other non-construction costs will be considered part of the local financial support. The local financial support requirement may be waived by the Rural Infrastructure Authority if the proposed project provides a regional solution that will result in consolidation or for projects located in Tier III or Tier IV counties.

(C) Priority consideration will be given to applications for projects based upon a comparative analysis in the following relative order of need:

- (1) the project results in a consolidation or operating agreement with at least one small system with viability concerns;
- (2) the project results in an expanded partnership agreement with at least one small system with viability concerns; and
- (3) the project results in a consolidation or operating agreement with other systems.

(D) To provide for equitable distribution of funds from the account, the following factors must be considered when awarding grants:

- (1) documented priority needs;
- (2) the transformational impact of the project on the relevant community;
- (3) the extent to which additional funds may be leveraged by the grant;
- (4) the readiness of the applicant to proceed with the project and meet program deadlines;
- (5) the project's feasibility; and
- (6) geographic diversity.

SECTION 8. The Rural Infrastructure Authority shall be permitted to modify or waive the program parameters contained in SECTIONS 4, 5, 6, and 7 to ensure the timely and equitable distribution of funds in compliance with federal guidelines for these funds. Modifications to funding amounts authorized for specific use by each program must first be submitted with justification to the Joint Bond Review Committee for review and comment. The Rural Infrastructure Authority shall submit a report of all other modifications to the Joint Bond Review Committee.

SECTION 9. There is established in the State Treasury an account to be known as the ARPA Broadband Account. This account is separate and distinct from the general fund of the State and all other funds and accounts. The account shall consist of federal funds authorized pursuant to SECTION 1(A)(3) of this act. The funds in the ARPA Broadband Account shall be used to expand broadband infrastructure to households, businesses, and communities in the State that are unserved or underserved by broadband services. Unserved areas are defined as households that lack access to a wireline connection capable of reliably delivering at least minimum speeds of 25 Mbps download and 3 Mbps upload. Priority must be given to unserved areas with no current Internet Service Provider, Difficult Development Areas as identified by US Housing and Urban Development, and census blocks that have a high concentration of unserved public K-12 student households as documented by the South Carolina Department of Education.

SECTION 10. (A) The Office of Broadband Coordinator, an office within the Office of Regulatory Staff, is authorized to expend funds from the ARPA Broadband Account to:

- (1) administer a grant program to expand broadband infrastructure to households, businesses, and communities in the State that are unserved or underserved by broadband services;
  - (2) provide technical assistance and coordination;
  - (3) host and participate in stakeholder discussions and advisory groups;
  - (4) support continued mapping efforts including, but not limited to, costs associated with storage, security, and data collection;
  - (5) engage in and undertake such other activities related to or necessary to fulfilling the requirements of expanding broadband infrastructure to households, businesses, and communities in the State that are unserved or underserved by broadband services;
  - (6) expend funds for alternative and enabling technologies including, but not limited to, wireless broadband service, low earth orbit satellite, middle-mile fiber, enhanced cellular service, and carrier neutral broadband infrastructure; and
  - (7) reimburse any state funds as may be allowed by ARPA, or related guidance issued by the United States Department of the Treasury, for reasonable costs associated with administering the grant program and fulfilling the Office of Broadband Coordinator's obligations established by this act.
- (B) The grant program may include an opportunity to reimburse a portion of construction costs, incurred on or after March 15, 2021, related to the expansion of broadband during the pandemic.
- (C) All expenditures, reimbursements, and grants awarded by the Office of Broadband Coordinator must be in compliance with ARPA and the methods and guidance issued by the United States Department of Treasury for the allocation and oversight of ARPA funding.

SECTION 11. (A) The Office of Broadband Coordinator may award grants from the ARPA Broadband Account to broadband service providers and other entities for authorized projects that achieve the purpose of expanding broadband infrastructure to households, businesses, and communities in the State that are unserved or underserved by broadband services. The speed at which an applicant can complete the proposed project shall be considered among significant criteria for awarding grants.

(B) Electric Cooperatives that own broadband facilities pursuant to the provisions of S.C. Code Sections 58-9-3000, et seq., the Broadband Accessibility Act of 2020 are eligible to receive grants from the ARPA Broadband Account.

(C) Grants may be disbursed to recipients in tranches. The number and amount of funding in each tranche shall be determined by the Office of Broadband Coordinator.

SECTION 12. (A) Grant recipients and other entities receiving funds pursuant to SECTION 11 shall report to the Office of Broadband Coordinator concerning the progress of the recipient's project. The reports shall provide the most accurate and granular representation of then-currently available broadband infrastructure installed by the recipient, the type of technology installed, the sustainable download and upload speeds available at each serviceable location, and such other information that the Office of Broadband Coordinator requires.

(B) The Office of Broadband Coordinator shall maintain as confidential all individual company-designated proprietary information. All such individual proprietary information is exempt from the provisions contained in S.C. Code Sections 30-4-10, et seq., the South Carolina Freedom of Information Act.

(C) The Office of Regulatory Staff is authorized to contract with broadband service providers and to procure professional grant management, vendor, consulting, or other services for oversight and compliance of funds designated, granted, and disbursed pursuant to this act and for such other purposes as the Office of Regulatory Staff may deem necessary to implement the purposes of this act.

(D) It is vital to the state's interest that grant funds be awarded for the deployment of broadband infrastructure in rural communities in the most expeditious manner possible. Accordingly, contracting with broadband service providers and the procurement of professional grant management, vendor, consulting, or other services and pursuant to this act should be done pursuant to the provisions of S.C. Code Section 11-35-1570 of the 1976 Code. The Executive Director of the Office of Regulatory Staff shall coordinate the process used to contract with broadband service providers and to procure grant management, vendor, or consulting services and shall be responsible for the development of specifications to be included in any contract awarded. The State Fiscal Accountability Authority shall serve as the procuring officer for the procurement process and is responsible for administrative duties related to the process and the contract awarded. The State Fiscal Accountability Authority shall assign such personnel as necessary to assist the Office of Regulatory Staff in carrying out its duties under this act.

SECTION 13. The Office of Broadband Coordinator is directed to take all necessary action to secure any broadband funding made available to this State pursuant to Section 604 of the Social Security Act, as added by Section 9901 of ARPA and to make appropriate grants from those funds in compliance with the provisions contained in Sections 9 through 12 of this act.

#### Office of Resilience

SECTION 14. (A) There is established in the State Treasury an account to be known as the ARPA Office of Resilience Account. This account is separate and distinct from the general fund of the State and all other funds and accounts. The account shall consist of federal funds authorized pursuant to subsection (A)(5) of SECTION 1 of this act. The funds in the ARPA Resilience Account must be used to complete stormwater infrastructure projects and acquisitions of property in the floodplain throughout the State to lessen the impacts of future flood events.

(B) All expenditures, reimbursements, and grants awarded by the Office of Resilience must be in compliance with ARPA and the methods and guidance issued by the United States Department of Treasury for the allocation and oversight of ARPA funding.

#### Department of Health and Environmental Control

SECTION 15. The amount authorized for expenditure by the Department of Health and Environmental Control in SECTION (1)(A)(4) shall be utilized by the department for the construction of a public health laboratory. The department shall make quarterly reports to the Joint Bond Review Committee for review and comment.

#### Department of Administration

SECTION 16. The Department of Administration shall utilize up to the amount authorized in SECTION(1)(A)(6) for contracting for professional grant management services of ARPA funds and other federal COVID-19 relief funds. The department shall use the contract awarded pursuant to the procurement process established by Section 2(A) of Act 135 of 2020, for professional grant management services.

### Part III

#### Miscellaneous Provisions

SECTION 17. The expenditure authorizations contained in this act are supplemental to the expenditure authorizations for receiving entities as contained in Act 94 of 2021, the General Appropriations Act for Fiscal Year 2021-22, and future expenditure authorizations enacted by the General Assembly through December 31, 2026.

SECTION 18. Earnings and interest on accounts created pursuant to this act must be credited to the account and any balance at the end of the fiscal year carries forward to the account in the succeeding fiscal year for the same purpose.

SECTION 19. The General Assembly finds that the sections presented in this act constitute one subject as required by Article III, Section 17 of the South Carolina Constitution, in particular finding that each change and each topic relates directly to or in conjunction with other sections to the subject of authorizing the disbursal and expenditure of federal funds received by the State pursuant to ARPA as clearly enumerated in the title.

The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

SECTION 20. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, then 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 21. This joint resolution shall become law upon approval of the Governor.

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