**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3887**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Cobb‑Hunter

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Introduced in the House on April 2, 2009

Currently residing in the House Committee on **Ways and Means**

Summary: School districts

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/2/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\04-02-09.docx)‑123

4/2/2009 House Referred to Committee on **Ways and Means** [HJ](file:///h:\HJ%20Archive\2009\04-02-09.docx)‑124

4/7/2009 Scrivener's error corrected

**VERSIONS OF THIS BILL**

[4/2/2009](file:///p:\pprever\2009-10\3887_20090402.docx)

[4/7/2009](file:///p:\pprever\2009-10\3887_20090407.docx)

**A** **BILL**

TO AMEND SECTION 11‑27‑110, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SUBJECTING A LEASE PURCHASE OR FINANCING AGREEMENT TO A CONSTITUTIONAL DEBT LIMIT, SO AS TO PROVIDE A SCHOOL DISTRICT WITH AN AVERAGE DAILY MEMBERSHIP OF SIXTY-FIVE HUNDRED STUDENTS OR LESS MAY ENTER CERTAIN FINANCING AGREEMENTS THROUGH DECEMBER 31, 2012.

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

SECTION 1. Section 11‑27‑110(A) of the 1976 Code, as last amended by Act 388 of 2006, is further amended to read:

“(A) As used in this section:

(1) ‘asset’ means ~~any~~ a real property and a permanent ~~improvements thereon~~ improvement on it, including ~~structures, buildings, and fixtures~~ a structure, building, and fixture;

(2) ‘bond act’ means the:

(a) ~~the~~ county bond act, as contained in Chapter 15, ~~of~~ Title 4;

(b) ~~the~~ municipal bond act, as contained in Article 5, Chapter 21, ~~of~~ Title 5;

(c) ~~the~~ school bond act as contained in Article 1, Chapter 71, ~~of~~ Title 59;

(d) ~~the~~ provisions contained in Articles 3 and 5 of Chapter 11, ~~of~~ Title 6 pertaining to special purpose districts;

(e) ~~any~~ provision of law by which the State may issue ~~obligations~~ an obligation secured in whole or in part by the full faith, credit, and taxing power of the State; and

(f) ~~any other law,~~ general or special law, providing for the issuance of a general obligation ~~bonds~~ bond by the State or ~~any of its~~ a political ~~subdivisions~~ subdivision of it;

(3) ‘constitutional debt limit’ for the State or ~~any~~ a political subdivision of ~~the State which~~ it that has the power to incur general obligation bonded indebtedness, means the limitation of the principal amount of general obligation bonded indebtedness specified in Article X of the Constitution;

(4) ‘enterprise charge’ means a local accommodations tax or a local hospitality tax, or both ~~of them~~, imposed by one or more governmental entities, the proceeds from which may be used only for limited purposes ~~which~~ that either:

~~(i)~~(a) has been imposed within the two fiscal years ~~prior to~~ before the date of an enterprise financing agreement~~,~~; or

~~(ii)~~(b) to the extent a governmental entity pledges ~~such~~ a charge in connection with an enterprise financing agreement, the governmental entity covenants and agrees not to increase disbursements from its general fund to pay for costs ~~which~~ that could have been paid from the charge for a period of two fiscal years after the date of the acquisition or completion of the asset provided by the enterprise financing agreement;

(5) ‘enterprise financing agreement’ means a financing agreement entered into to provide an asset for a governmental enterprise:

~~(i)~~(a) the ~~revenues~~ revenue from which are expected to be sufficient to pay ~~the amounts~~ an amount due under the financing agreement~~,~~; or

~~(ii)~~(b) for which an enterprise charge has been imposed in an amount expected to be sufficient to pay ~~the amounts~~ an amount due under the financing agreement~~,~~; or

~~(iii)~~(c) a combination of revenues described under ~~(i)~~(a) and ~~(ii)~~(b) are expected to produce an amount sufficient to pay ~~the amounts~~ an amount due under the financing agreement;

(6) ‘financing agreement’ means, with respect to ~~any~~ a governmental entity, ~~any~~ a contract entered into after December 31, 1995, under the terms of which a governmental entity acquires the use of an asset which provides:

(a) for payments to be made in more than one fiscal year, whether by the stated term of the contract or under ~~any~~ a renewal ~~provisions~~ provision, optional or otherwise;

(b) that the payments ~~thereunder~~ under it are divided into principal and interest components or which contain ~~any~~ a reference to ~~any~~ a portion of ~~any~~ a payment under the agreement being treated as interest;

(c) that title to the asset will be in the name of or be transferred to the governmental entity if all payments scheduled or provided for in the financing agreement are made; and

(d) for ~~any~~ a contract entered into after December 31, 2006, pursuant to which installment payments of the purchase price are to be paid by a school district or other political subdivision to a nonprofit corporation, political subdivision, or ~~any other~~ another entity ~~in order~~ to finance the acquisition, construction, renovation, or repair of a school ~~buildings~~ building or other school ~~facilities~~ facility. However, for a school district with an average daily membership of sixty-five hundred or less for the current or immediately preceding academic year, this limitation only shall apply to a contract entered into on January 1, 2013, or later. This item ~~shall~~ must apply to ~~any contracts~~ a contract entered into after August 31, 2006, pursuant to which installment payments of the purchase price are to be paid by a school district or other political subdivision to a non‑profit corporation, political subdivision, or ~~any other~~ another entity, from ~~any~~ a source other than the issuance of general obligation indebtedness by the school district, in order to finance the acquisition, construction, renovation, or repair of a school ~~buildings~~ building or other school ~~facilities~~ facility.

However, the term excludes ~~any~~ a refinancing agreement and ~~contracts~~ contract entered into in connection with ~~issues~~ the issue of a general obligation ~~bonds~~ bond or revenue ~~bonds~~ bond issued pursuant to authorization provided in Article X of the Constitution;

(7) ‘governmental enterprise’ means ~~any~~ an activity undertaken by a governmental entity ~~which either~~ that:

~~(i)~~(a) derives revenues from or because of an activity on a basis other than the exercise of the power of taxation by that governmental entity~~,~~; or

~~(ii)~~(b) is entitled to be paid or supported from an enterprise charge;

(8) ‘governmental entity’ means:

(a) the State, whose general obligation debt service payments are limited pursuant to Section 13, Article X of the Constitution; or

(b) ~~any~~ a political subdivision of the State including a municipality, county, school district, special purpose district, or similar entity, whose general obligation debt is limited as provided in Sections 14 and 15, in Article X of the Constitution;

(9) ‘limited bonded indebtedness’ means the amount of bonded indebtedness that may be incurred by a governmental entity without a referendum or, where the context requires, the amount of ~~such~~ the indebtedness then outstanding;

(10) ‘principal balance’ means the total amount, excluding ~~any~~ an amount characterized as interest, payable ~~as of any~~ at the time of consideration under ~~any~~ a financing agreement, including ~~any renewals~~ a renewal or ~~extensions~~ extension of the agreement; and

(11) ‘refinancing agreement’ means an agreement ~~or agreements~~ that would be a financing agreement except that:

~~(i)~~(a) it refinances an asset acquired under the terms of a contract ~~or contracts~~ that is not a financing agreement solely by virtue of being dated prior to January 1, 1996, September 1, 2006, ~~or~~ January 1, 2007, or January 1, 2013; and

~~(ii)~~(b) the sum of all payments to be made under ~~such~~ this agreement is less than the sum of the payments under the contract or contracts it refinances.”

SECTION 2. This act takes effect upon approval by the Governor.

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