**South Carolina General Assembly**

120th Session, 2013-2014

**A290, R324, S940**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Young, Massey, Setzler and Peeler

Document Path: l:\council\bills\bh\26025dg14.docx

Companion/Similar bill(s): 4512

Introduced in the Senate on January 15, 2014

Introduced in the House on April 1, 2014

Last Amended on June 19, 2014

Passed by the General Assembly on June 19, 2014

Governor's Action: June 24, 2014, Signed

Summary: Capital improvement sales and use tax

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/15/2014 Senate Introduced and read first time ([Senate Journal‑page 7](file:///H:\SJ%20Archive\2014\01-15-14.docx))

1/15/2014 Senate Referred to Committee on **Finance** ([Senate Journal‑page 7](file:///H:\SJ%20Archive\2014\01-15-14.docx))

2/5/2014 Senate Committee report: Favorable with amendment **Finance** ([Senate Journal‑page 27](file:///H:\SJ%20Archive\2014\02-05-14.docx))

2/6/2014 Senate Committee Amendment Adopted ([Senate Journal‑page 23](file:///H:\SJ%20Archive\2014\02-06-14.docx))

2/6/2014 Senate Amended ([Senate Journal‑page 23](file:///H:\SJ%20Archive\2014\02-06-14.docx))

2/27/2014 Senate Amended ([Senate Journal‑page 33](file:///H:\SJ%20Archive\2014\02-27-14.docx))

3/11/2014 Senate Amended ([Senate Journal‑page 14](file:///H:\SJ%20Archive\2014\03-11-14.docx))

3/12/2014 Scrivener's error corrected

3/19/2014 Senate Amended ([Senate Journal‑page 30](file:///H:\SJ%20Archive\2014\03-19-14.docx))

3/20/2014 Scrivener's error corrected

3/26/2014 Senate Amended ([Senate Journal‑page 50](file:///H:\SJ%20Archive\2014\03-26-14.docx))

3/26/2014 Senate Read second time ([Senate Journal‑page 50](file:///H:\SJ%20Archive\2014\03-26-14.docx))

3/26/2014 Senate Roll call Ayes‑35 Nays‑9 ([Senate Journal‑page 50](file:///H:\SJ%20Archive\2014\03-26-14.docx))

3/27/2014 Senate Read third time and sent to House ([Senate Journal‑page 20](file:///H:\SJ%20Archive\2014\03-27-14.docx))

4/1/2014 House Introduced and read first time ([House Journal‑page 13](file:///H:\HJ%20Archive\2014\04-01-14.docx))

4/1/2014 House Referred to Committee on **Ways and Means** ([House Journal‑page 13](file:///H:\HJ%20Archive\2014\04-01-14.docx))

5/15/2014 House Committee report: Favorable with amendment **Ways and Means** ([House Journal‑page 45](file:///H:\HJ%20Archive\2014\05-15-14.docx))

5/19/2014 Scrivener's error corrected

5/22/2014 House Amended ([House Journal‑page 54](file:///H:\HJ%20Archive\2014\05-22-14.docx))

5/22/2014 House Read second time ([House Journal‑page 54](file:///H:\HJ%20Archive\2014\05-22-14.docx))

5/22/2014 House Roll call Yeas‑94 Nays‑2 ([House Journal‑page 58](file:///H:\HJ%20Archive\2014\05-22-14.docx))

5/22/2014 House Unanimous consent for third reading on next legislative day ([House Journal‑page 59](file:///H:\HJ%20Archive\2014\05-22-14.docx))

5/23/2014 House Read third time and returned to Senate with amendments ([House Journal‑page 2](file:///H:\HJ%20Archive\2014\05-23-14.docx))

5/29/2014 Senate Non‑concurrence in House amendment ([Senate Journal‑page 105](file:///H:\SJ%20Archive\2014\05-29-14.docx))

6/3/2014 House House insists upon amendment and conference committee appointed Reps. JR Smith, White, Clyburn ([House Journal‑page 36](file:///H:\HJ%20Archive\2014\06-03-14.docx))

6/4/2014 Senate Conference committee appointed Setzler, O'Dell, Young ([Senate Journal‑page 77](file:///H:\SJ%20Archive\2014\06-04-14.docx))

6/17/2014 House Conference report received and adopted

6/17/2014 House Roll call Yeas‑103 Nays‑0

6/19/2014 Senate Conference report adopted ([Senate Journal‑page 56](file:///H:\SJ%20Archive\2014\06-19-14.docx))

6/19/2014 Senate Roll call Ayes‑35 Nays‑5 ([Senate Journal‑page 56](file:///H:\SJ%20Archive\2014\06-19-14.docx))

6/19/2014 Senate Ordered enrolled for ratification ([Senate Journal‑page 61](file:///H:\SJ%20Archive\2014\06-19-14.docx))

6/20/2014 Ratified R 324

6/24/2014 Signed By Governor

7/8/2014 Effective date 06/24/14

7/9/2014 Act No. 290

**VERSIONS OF THIS BILL**

[1/15/2014](file:///p:\pprever\2013-14\940_20140115.docx)

[2/5/2014](file:///p:\pprever\2013-14\940_20140205.docx)

[2/6/2014](file:///p:\pprever\2013-14\940_20140206.docx)

[2/27/2014](file:///p:\pprever\2013-14\940_20140227.docx)

[3/11/2014](file:///p:\pprever\2013-14\940_20140311.docx)

[3/12/2014](file:///p:\pprever\2013-14\940_20140312.docx)

[3/19/2014](file:///p:\pprever\2013-14\940_20140319.docx)

[3/20/2014](file:///p:\pprever\2013-14\940_20140320.docx)

[3/26/2014](file:///p:\pprever\2013-14\940_20140326.docx)

[5/15/2014](file:///p:\pprever\2013-14\940_20140515.docx)

[5/19/2014](file:///p:\pprever\2013-14\940_20140519.docx)

[5/22/2014](file:///p:\pprever\2013-14\940_20140522.docx)

[6/19/2014](file:///p:\pprever\2013-14\940_20140619.docx)

(A290, R324, S940)

**AN ACT TO AMEND SECTION 4‑10‑470, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE EDUCATION CAPITAL IMPROVEMENTS SALES AND USE TAX, SO AS TO ALLOW CERTAIN COUNTIES TO IMPOSE THE TAX BASED UPON CERTAIN FACTORS; AND TO AMEND SECTION 4‑10‑460, RELATING TO THE REIMPOSITION OF THE EDUCATION CAPITAL IMPROVEMENTS SALES AND USE TAX, SO AS TO PROVIDE THAT THE REFERENDUM FOR REIMPOSITION MUST NOT BE HELD EARLIER THAN WITHIN THE CALENDAR YEAR WHICH IS TWO YEARS BEFORE THE CALENDAR YEAR IN WHICH THE TAX IN EFFECT IS SCHEDULED TO TERMINATE.**

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

**Counties in which education capital improvements sales and use tax may be imposed**

SECTION 1. Section 4‑10‑470 of the 1976 Code, as added by Act 316 of 2008, is amended to read:

“Section 4‑10‑470. (A) The Education Capital Improvements Sales and Use Tax authorized by this article may only be imposed in counties which have collected at least seven million dollars in state accommodations taxes as imposed pursuant to Section 12‑36‑920(A) in the most recent fiscal year for which full collection figures are available. Once a county meets this threshold it thereafter remains eligible to impose this tax.

(B)(1) The Education Capital Improvements Sales and Use Tax authorized by this article also may be imposed in a county without regard to the requirements of subsection (A) if:

(a) at the time of the referendum, no portion of the county in which the tax is to be imposed is subject to more than two percent total local sales tax; and

(b) the county in which the tax is to be imposed is encompassed completely by one entire school district, and that school district also extends into one adjacent county.

(2) Notwithstanding any other provision of this article, if the Education Capital Improvements Sales and Use Tax is imposed pursuant to this subsection, then:

(a) stated in calendar years, the tax may not be imposed for more than ten years;

(b) at least ten percent of the proceeds must be used to provide a credit against existing debt service millage on general obligation bonds in the same manner as in item (3) with the applicable adjustment to the numerator. The offset only may be applied within the county, and not to the portion of the adjacent county, in a manner similar to item (3); and

(c) the total debt service on bonds issued by the school district resulting from the imposition, net of any premium or accrued interest, shall not exceed ninety percent of the total amount of Education Capital Improvements Sales and Use Tax proceeds estimated to be allocated to the school district during the imposition, minus any amounts dedicated to the credit required pursuant to subitem (b). The Board of Economic Advisors shall provide the estimate of the total amount.

(3)(a) The revenues allotted to the district must be used to provide a nonrefundable credit against the millage imposed for debt service to service bonds issued by the district resulting from the imposition, on property taxable in the county only. The amount of the credit is determined by multiplying the value of the taxable property, before the exemption provided in Section 12‑37‑250, by a fraction in which the numerator is the total estimated revenue allotted to the district during the applicable fiscal year of the district minus the amounts set forth in item (2), and the denominator is the total of the property tax value of taxable property in the county as defined pursuant to Section 12‑37‑3135(5), including the value exempted in Section 12‑37‑250, in the district as of January first of the applicable property tax year. For motor vehicles subject to the payment of property taxes pursuant to Article 21, Chapter 37, Title 12, the credit provided pursuant to this subsection applies against the tax liability for motor vehicle tax years beginning after December of the year in which the credit is calculated. The credit applies first against the liability arising from millage imposed for debt obligations for schools, and then against any liability arising from school operations.

(b) The credit provided by this article is in addition to any credits allowed pursuant to Article 1 of this chapter, and to the extent that there is unused credit, then the credit provided by this article may be applied proportionately against other property tax liability.

(c) Before the provisions of subitem (b) apply, an amount equal to the credit that would apply against the property tax liability for school operations imposed on an owner‑occupied residence but for the exemption allowed pursuant to Section 12‑37‑220(B)(47) is allowed as a credit to be applied proportionately against all nonschool‑related property tax otherwise due on the residence.

(d) If proceeds from the imposition are unused after the termination of the tax, then the unused funds must be used to provide a credit in the same manner as provided in subitem (a) over the next three property tax years.

(4) Notwithstanding any other provision of law, if, within a county there is imposed the Education Capital Improvements Sales and Use Tax pursuant to this subsection, then no other local sales tax may be imposed in that county if the subsequent imposition causes the total sales tax to exceed two percent in any portion of the county. This limitation applies so long as this subsection is utilized to impose the Education Capital Improvements Sales and Use Tax.

(5) Notwithstanding any other provision of law, if the tax imposed pursuant to this subsection and another sales tax are approved at the same referendum, and the approval of both subjects any portion of the county to more than two percent total local sales tax, then only the tax whose approving resolution was adopted first may be imposed, and the other tax is deemed to not have been approved.

(6) For purposes of this subsection, a sales tax is a tax levied pursuant to this chapter, pursuant to Chapter 37, Title 4, or pursuant to any local law enacted by the General Assembly.

(C) Notwithstanding any other provision of this section, the Education Capital Improvements Sales and Use Tax authorized by this article also may be imposed in a county so long as the county or school district imposed a local sales and use tax to fund education capital improvements on January 1, 2014. The Education Capital Improvements Sales and Use Tax may be imposed pursuant to this subsection at any time after the local sales and use tax terminates.

(D) The Education Capital Improvements Sales and Use Tax authorized by this article also may be imposed in a county which does not meet the collection requirements of subsection (A) so long as:

(1) the county only has one school district which encompasses the entire county area in which the tax is to be imposed; and

(2) the county collected at least one million dollars in state accommodations taxes as imposed pursuant to Section 12‑36‑920(A) in the most recent fiscal year for which full collection figures are available. Once a county meets this threshold, it thereafter remains eligible to impose this tax pursuant to this subsection.

(E)(1) The Education Capital Improvements Sales and Use Tax authorized by this article also may be imposed in a county which does not meet the collection requirements of subsection (A) so long as the county in which the tax is to be imposed:

(a) is comprised of more than one school district and the county has a county board of education; and

(b) has no other local sales tax imposition at the time of the referendum.

(2) Notwithstanding any other provision of this article, if the Education Capital Improvements Sales and Use Tax is imposed pursuant to this subsection, then:

(a) at least ten percent of the proceeds must be used to provide property tax relief by using the proceeds to offset the existing debt service millage levy on general obligation bonds pursuant to Section 4‑10‑445; and

(b) the tax revenue distributed to each district must be in the proportion that the district’s average daily membership (ADM) attributes to the total ADM of all the school districts in the county, limited to ADM attributable to the county.

(3) The resolution required pursuant to Section 4‑10‑425 must be agreed to by a majority vote of the board of trustees of each school district located in whole or in part in the county.

(4) For purposes of this subsection, a sales tax is a tax levied pursuant to this chapter, pursuant to Chapter 37, Title 4, or pursuant to any local law enacted by the General Assembly.

(5) Once a county meets the provisions of item (1) and imposes the Education Capital Improvements Sales and Use Tax, it thereafter remains eligible to impose this tax pursuant to this subsection.

(F) The Education Capital Improvements Sales and Use Tax authorized by this article also may be imposed in a county which does not meet the collection requirements of subsection (A) so long as:

(1) immediately prior to the imposition date, if approved, the county is imposing the local option sales tax imposed pursuant to Article 1, and the county has not imposed that tax for twenty years or more, in which any portion of a calendar year counts as a year, and no other local sales and use tax that is administered by the Department of Revenue is imposed in the county; and

(2) the county collected at least one hundred thousand dollars in state accommodations taxes as imposed pursuant to Section 12‑36‑920(A) in the most recent fiscal year for which full collection figures are available.

Once a county meets the provisions of item (1) and the threshold in item (2), it thereafter remains eligible to impose this tax pursuant to this subsection.”

**Reimposition of education capital improvements sales and use tax**

SECTION 2. Section 4‑10‑460 of the 1976 Code, as added by Act 316 of 2008, is amended to read:

“Section 4‑10‑460. The tax authorized in this article may be renewed and imposed within a county in the same manner as proceedings for the initial imposition of the tax. A referendum on the question of reimposition of a tax must not be held earlier than within the calendar year which is two years before the calendar year in which the tax then in effect is scheduled to terminate, but any reimposition is effective immediately upon the termination of the tax previously imposed.”

**Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 20th day of June, 2014.

Approved the 24th day of June, 2014.

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