~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 16, 2014

**S. 988**

Introduced by Senator Cromer

S. Printed 4/16/14--S. [SEC 4/17/14 3:46 PM]

Read the first time February 4, 2014.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 988) to amend Section 27‑2‑105, Code of Laws of South Carolina, 1976, relating to the duties of the South Carolina Geodetic Survey (SCGS) with respect, etc., respectfully

**REPORT:**

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

Amend the bill, as and if amended, page 3, by striking lines 15 through 24, in Section 27‑2‑105(B)(1), as contained in SECTION 2, and inserting therein the following:

/ (B)(1) An affected party disagreeing with a boundary certified by the SCGS may file a request for a contested case hearing with the South Carolina Administrative Law Court according to the court’s rules of procedure. An affected party has sixty calendar days from the date of a written notice sent to the affected party to file an appeal with the Administrative Law Court./

Amend the bill further, as and if amended, by striking lines 41 and 42 on page 3 and striking lines 1 and 2 on page 4, in Section 27‑2‑105(B)(4), as contained in SECTION 2, and inserting therein the following:

/ (4) The decision of the Administrative Law Court may be appealed as provided in Section 1-23-610. /

Renumber sections to conform.

Amend title to conform.

C. BRADLEY HUTTO for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

A Cost to the General Fund (See Below)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

A Cost of Federal and/or Other Funds (See Below)

**EXPLANATION OF IMPACT:**

State Budget and Control Board

The board indicates that the office of SCGS fiscal impact will continue to use existing resources to implement the provisions of this bill, which will take a number of years to complete.

The Administrative Law Court

The court reports that this bill will have a minimal impact on the General Fund of the State, which the agency can absorb at their current level of funding.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND SECTION 27‑2‑105, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DUTIES OF THE SOUTH CAROLINA GEODETIC SURVEY (SCGS) WITH RESPECT TO DETERMINING COUNTY BOUNDARIES, SO AS TO AUTHORIZE AND DIRECT THE SCGS TO CLARIFY COUNTY BOUNDARIES AND MEDIATE BOUNDARY DISPUTES BETWEEN COUNTIES BY PROVIDING A PROCEDURE ALLOWING THE SCGS ADMINISTRATIVELY TO ADJUST COUNTY BOUNDARIES, TO PROVIDE THE PROCEDURES INCLUDING NOTICE THAT SCGS MUST FOLLOW IN MAKING SUCH ADJUSTMENTS, TO PROVIDE THAT AFFECTED PARTIES MAY APPEAL THESE ADJUSTMENTS TO THE ADMINISTRATIVE LAW COURT IN A DE NOVO HEARING, TO PROVIDE THE METHOD OF DETERMINING THE EFFECTIVE DATE OF THESE ADMINISTRATIVE COUNTY BOUNDARY ADJUSTMENTS AND THE NOTICE REQUIREMENTS FOR THESE ADJUSTMENTS TO BE EFFECTIVE AND TO PROVIDE THAT NOTHING CONTAINED IN THIS ADMINISTRATIVE PROCESS RESTRICTS THE AUTHORITY OF THE GENERAL ASSEMBLY BY LEGISLATIVE ENACTMENT TO ADJUST OR OTHERWISE CLARIFY COUNTY BOUNDARIES BY LEGISLATIVE ENACTMENT.

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

SECTION 1. (A) The General Assembly finds:

(1) that exact and precise locations of boundaries of this State’s political subdivisions are critical for the efficient provision of services, enforcement of property rights, and election of public officials;

(2) that the passage of time and growth in society has led to confusion over statutory county descriptions and the locations of county boundary lines;

(3) that technology now exists to cost-effectively provide definite and permanent markers of boundary lines;

(4) it is necessary for the effective and efficient operation of state government and its political subdivisions that county boundaries are clearly and accurately determined as expeditiously as possible; and

(5) that the South Carolina Geodetic Survey is the appropriate instrument to vest with the necessary authority to resolve county boundary issues.

(B) The General Assembly further finds that it is appropriate statutorily to allow the South Carolina Geodetic Survey, with appropriate procedural safeguards, administratively to adjust or otherwise clarify disputed or unclear boundaries. However, in providing the statutory administrative process and procedural safeguards in the amendments to Section 27‑2‑105 of the 1976 Code as contained in this act, the General Assembly in no way restricts the plenary authority of the General Assembly by legislative enactment to adjust or otherwise clarify existing county boundaries.

SECTION 2. Section 27‑2‑105 of the 1976 Code is amended to read:

“Section 27‑2‑105. ~~Where county boundaries are ill‑defined, unmarked, or poorly marked, the South Carolina Geodetic Survey on a cooperative basis shall assist counties in defining and monumenting the locations of county boundaries and positioning the monuments using geodetic surveys. The South Carolina Geodetic Survey shall act as a mediator between counties to resolve county boundary disputes.~~ (A)(1) The South Carolina Geodetic Survey (SCGS) shall seek to clarify the county boundaries as defined in Chapter 3, Title 4. The SCGS shall analyze archival and other evidence, and perform field surveys geographically to position all county boundaries in accordance with statutory descriptions. Physical and descriptive points defining boundaries must be referenced using South Carolina State Plane Coordinates.

(2) If there is a boundary dispute between two or more counties, the SCGS shall act as the mediator to resolve the dispute.

(3) Upon reestablishing all, or some portion, of a county boundary, the SCGS shall certify its work and within thirty days of that certification:

(a) provide copies to the administrator of each affected county;

(b) provide written notification to affected parties;

(c) provide notice and copies to the public through its official website and or other means it considers appropriate; and

(d) notify as it determines appropriate, other affected state and federal agencies.

(4) For purposes of item (1), a certification for all or some portion of a county boundary means a plat signed and sealed by a licensed South Carolina Professional Land Surveyor and approved by the Chief of the SCGS.

(B)(1) An affected party disagreeing with a boundary certified by the SCGS may appeal the certification to the South Carolina Administrative Law Court, which is vested with jurisdiction to hear and decide the case subject to the provisions of Section 1‑23‑380, except that the case must be heard ‘de novo.’ Additionally, for purposes of determining the timelines of an appeal, notice is deemed to have been provided on the date of the written notice to affected parties. An affected party has sixty calendar days from the date of a written notice sent to the affected party to file an appeal with the Administrative Law Court.

(2) As used in this subsection an ‘affected party’ means:

(a) the governing body of an affected county;

(b) the governing body of a political subdivision of this state, including a school district, located in whole or in part in the certification zone;

(c) an elected official, other than a statewide elected official, whose electoral district is located in whole or in part in the certification zone;

(d) a property owner or an individual residing in the certification zone;

(e) a business entity located in the certification zone; or

(f) a nonresident individual who owns or leases real property situated in the certification zone.

(3) A ‘certification zone’ means the actual territory in which the boundary certification changes from one affected county to another.

(4) If the final ruling of the administrative law court is adverse to the SCGS‑certified boundary, the matter must be remanded to the SCGS which may reconsider the boundary as provided in this section, including the appeals process.

(5) The certified county boundary plat described in subsection (A)(4) of this section takes effect for all purposes on the date provided in item (6).

(6) When the certified boundary plat is no longer subject to appeal, the SCGS under cover of a letter signed by the Chief of the SCGS shall provide an appropriate revised boundary map to the Secretary of State, the South Carolina Department of Archives, and the register of deeds in each affected county. The date of the SCGS Director’s cover letter is the date the revised boundaries take effect.

(7) When all portions of a county boundary are resolved, the SCGS shall prepare a unique boundary description for counties with boundaries affected by the operation of this section and forward that description in a form suitable for the General Assembly to amend county boundaries as described in Chapter 3, Title 4.

(C) Nothing in this section may be construed as limiting or in any way restricting the plenary authority of the General Assembly by legislative enactment to adjust or otherwise clarify existing county boundaries, however these boundaries may have been established.”

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

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