**South Carolina General Assembly**

122nd Session, 2017-2018

**H. 4889**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Delleney and D.C. Moss

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Companion/Similar bill(s): 981

Introduced in the House on February 8, 2018

Introduced in the Senate on March 13, 2018

Last Amended on March 8, 2018

Currently residing in the Senate Committee on **Judiciary**

Summary: Conservation easement

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/8/2018 House Introduced and read first time

2/8/2018 House Referred to Committee on **Agriculture, Natural Resources and Environmental Affairs** ([House Journal‑page 8](file:///h:\hj\20180208.docx))

2/8/2018 House Recalled from Committee on **Agriculture, Natural Resources and Environmental Affairs** ([House Journal‑page 8](file:///h:\hj\20180208.docx))

2/8/2018 House Committed to Committee on **Judiciary** ([House Journal‑page 21](file:///h:\hj\20180208.docx))

3/1/2018 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 4](file:///h:\hj\20180301.docx))

3/8/2018 House Amended ([House Journal‑page 40](file:///h:\hj\20180308.docx))

3/8/2018 House Read second time ([House Journal‑page 40](file:///h:\hj\20180308.docx))

3/8/2018 House Roll call Yeas‑70 Nays‑0 ([House Journal‑page 42](file:///h:\hj\20180308.docx))

3/8/2018 House Unanimous consent for third reading on next legislative day ([House Journal‑page 44](file:///h:\hj\20180308.docx))

3/9/2018 House Read third time and sent to Senate ([House Journal‑page 2](file:///h:\hj\20180309.docx))

3/13/2018 Senate Introduced and read first time ([Senate Journal‑page 11](file:///h:\sj\20180313.docx))

3/13/2018 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 11](file:///h:\sj\20180313.docx))

3/16/2018 Senate Referred to Subcommittee: Massey (ch), McElveen, Senn

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=4889&session=122&summary=B) at the website

**VERSIONS OF THIS BILL**

[2/8/2018](file:///p:\pprever\2017-18\4889_20180208.docx)

[3/1/2018](file:///p:\pprever\2017-18\4889_20180301.docx)

[3/8/2018](file:///p:\pprever\2017-18\4889_20180308.docx)

AMENDED

March 8, 2018

**H. 4889**

Introduced by Reps. Delleney and D.C. Moss

S. Printed 3/8/18--H.

Read the first time February 8, 2018.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 27‑8‑85 SO AS TO ALLOW FOR THE HOLDER OF A CONSERVATION EASEMENT TO CONTEST AN ACTION TO CONDEMN PROPERTY ENCUMBERED BY A CONSERVATION EASEMENT UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE THE PROCEDURE FOR A CONTESTED ACTION, AND TO PROVIDE EXCEPTIONS UNDER CERTAIN CIRCUMSTANCES.

Amend Title To Conform

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

SECTION 1. Chapter 8, Title 27 of the 1976 Code is amended by adding:

“Section 27‑8‑85. (A) Notwithstanding the provisions of Title 28, if the condemnation notice applies to land subject to a conservation easement and the condemnee rejects the amount tendered within the thirty day period, the condemnation action is stayed and the condemnor may not take possession of the property until a hearing is held in a circuit court of appropriate jurisdiction. The court shall hear and determine whether or not a prudent and feasible alternative exists to condemnation of the property. The burden is on the condemnor if the holder of the conservation easement or condemnee, after discovery, has identified at least one alternative. If the alternative is not adjudged prudent and feasible, the condemnation action may proceed. If the court determines that a prudent and feasible alternative does exist to condemnation of the property, the court shall dismiss the condemnation action and award the condemnee costs and litigation expenses as applicable. Attorney’s fees may not be awarded.

(B) A determination as to whether a prudent or feasible alternative exists is not required for actions where:

(1) the South Carolina Department of Transportation is the condemnor; and

(2) a review of the project for which the property is being condemned was conducted prior to the filing of the condemnation action and considered the alternatives to the condemnation of the property encumbered by the conservation easement and mitigation measures to minimize the impact. The condemnor shall, in the condemnation notice filed with the court, identify the alternatives and mitigation measures considered with regard to condemnation; or

(3) the review was conducted pursuant to the National Environmental Policy Act, 42 U.S.C. Sections 4321, et seq.

(C) If a condemnee notifies the condemnor in writing, after receiving the condemnation notice to enter upon the landowner’s property, that the property is subject to a conservation easement, then the condemnor shall consider prudent and feasible alternatives during his survey or appraisal of the property.”

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

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