**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3128**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Merrill, G.M. Smith, Wylie, Umphlett, E.H. Pitts, Hardwick, Hearn, Frye, Spires, Clemmons, Haley, Ballentine and Toole

Document Path: l:\council\bills\gjk\20012sd09.docx

Companion/Similar bill(s): 392

Introduced in the House on January 13, 2009

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

Summary: State Ports Authority

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/16/2008 House Prefiled

12/16/2008 House Referred to Committee on **Judiciary**

12/17/2008 Scrivener's error corrected

1/13/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑58

1/13/2009 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑58

1/28/2009 House Member(s) request name added as sponsor: E.H.Pitts

2/11/2009 House Member(s) request name added as sponsor: Hardwick, Hearn, Frye, Spires, Clemmons, Haley, Ballentine, Duncan, Toole

2/24/2009 House Member(s) request name removed as sponsor: Duncan

**VERSIONS OF THIS BILL**

[12/16/2008](file:///p:\pprever\2009-10\3128_20081216.docx)

[12/17/2008](file:///p:\pprever\2009-10\3128_20081217.docx)

**A** **BILL**

TO AMEND SECTIONS 54‑3‑10 AND 54‑3‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA STATE PORTS AUTHORITY AND ITS GOVERNING BOARD, SO AS TO PROVIDE THAT THE STATE PORTS AUTHORITY ON JULY 1, 2009, SHALL BE GOVERNED BY A DIRECTOR APPOINTED BY THE GOVERNOR, UPON THE ADVICE AND CONSENT OF THE SENATE, AND ON JULY 1, 2009, THE GOVERNING BOARD OF THE AUTHORITY AND THE POSITION OF PRESIDENT AND CHIEF EXECUTIVE OFFICER ARE DISSOLVED AND THEIR POWERS AND DUTIES ASSUMED BY THE DIRECTOR APPOINTED BY THE GOVERNOR; TO AMEND SECTIONS 54‑3‑140, 54‑3‑190, AND 54‑3‑270, AS AMENDED, RELATING TO POWERS AND OTHER FUNCTIONS OF THE AUTHORITY, SO AS TO CONFORM THESE SECTIONS TO THE ABOVE PROVISIONS; AND TO REPEAL SECTIONS 54‑3‑30 AND 54‑3‑40 RELATING TO THE ORGANIZATION AND OFFICERS OF THE GOVERNING BOARD OF THE AUTHORITY.

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

SECTION 1. Section 54‑3‑10 of the 1976 Code is amended to read:

“Section 54‑3‑10. The South Carolina State Ports Authority is hereby created ~~consisting of a governing body of nine members, hereafter referred to as the Authority~~ which shall be an agency and instrumentality of this State governed by a director appointed by the Governor, upon the advice and consent of the Senate, in the manner provided by Section 1‑30‑10(B).”

SECTION 2. Section 54‑3‑20 of the 1976 Code is amended to read:

“Section 54‑3‑20. ~~The members of the board shall be appointed by the Governor, with the advice and consent of the Senate, for terms of seven years each and until their successors shall have been appointed and have qualified. In the event of a vacancy, however caused, a successor shall be appointed in the manner of original appointment for the unexpired term.~~ On July 1, 2009, the governing board of the State Ports Authority and the position of president and chief executive officer of the State Ports Authority are dissolved, and their powers and duties assumed by the director of the State Ports Authority appointed as provided in Section 54‑3‑10.”

SECTION 3. Section 54‑3‑140 of the 1976 Code is amended to read:

“Section 54‑3‑140. In order to enable it to carry out the purposes of this chapter, the authority:

(1) shall have the powers of a body corporate, including the power to sue and be sued, to make contracts, and to adopt and use a common seal and alter it as may be ~~deemed~~ considered expedient;

(2) may rent, lease, buy, own, acquire, mortgage, and dispose of such property, real or personal, as the authority may ~~deem~~ consider proper to carry out the purposes and provisions of this chapter, all or any of them;

(3) may acquire, construct, maintain, equip, and operate wharves, docks, ships, piers, quays, elevators, compresses, refrigeration storage plants, warehouses and other structures, and any and all facilities ~~needful~~ needed for the convenient use of the same in the aid of commerce, including the dredging of approaches ~~thereto~~ to it and the construction of belt line roads and highways and bridges and causeways ~~thereon~~ on it and other bridges and causeways necessary or useful in connection ~~therewith~~ with it and shipyards, shipping facilities, and transportation facilities incident ~~thereto~~ to it and useful or convenient for the use ~~thereof~~ of it, including terminal railroads;

(4) may acquire, construct, maintain, operate, and contract to operate in any of ~~said~~ the counties airports, seaplane bases, naval bases, and any other facilities necessary or useful in carrying out the purposes of this chapter and of the authority;

(5) shall appoint and employ and dismiss at pleasure ~~such~~ the employees as may be selected by the ~~board~~ director of the authority and fix and pay the compensation ~~thereof~~ of them;

(6) shall establish an office for the transaction of its business in the ~~city~~ City of Charleston and such other offices within and without the State as may be ~~deemed~~ considered by the ~~board~~ director to be necessary or useful in carrying out the purposes of this chapter;

(7) may create and operate ~~such~~ the agencies and departments as the ~~board~~ director may ~~deem~~ consider necessary or useful for the furtherance of any of the purposes of this chapter;

(8) may pay all necessary costs and expenses involved in and incident to the formation and organization of the authority and incident to the administration and operation thereof and all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this chapter;

(9) may apply for and accept loans and grants of money from any federal agency for any and all of the purposes authorized in this chapter and expend ~~such moneys~~ the monies in accordance with the directions and requirements attached ~~thereto~~ to it or imposed thereon by any such federal agency and give such evidences of indebtedness as shall be required by ~~any such~~ the federal agency, except that no indebtedness of any kind incurred or created by the authority shall constitute an indebtedness of the State, or any political subdivision ~~thereof~~ of it, and no such indebtedness shall involve or be secured by the faith, credit, or taxing power of the State, or any political subdivision ~~thereof~~ of it;

(10) may act as agent for the United States of America or any agency, department, corporation, or instrumentality ~~thereof~~ of it, in any matter coming within the purposes or powers of the authority;

(11) may adopt, alter, or repeal its own bylaws~~, rules~~ and regulations governing the manner in which its business may be transacted and in which the powers granted to it may be enjoyed and may provide for the appointment of ~~such~~ the committees, and the functions ~~thereof~~ of it, as the authority may ~~deem~~ consider necessary or expedient in facilitating its business;

(12) may do any and all other acts and things in this chapter authorized or required to be done, whether or not included in the general powers in this section mentioned;

(13) may do any and all things necessary to accomplish the purposes of this chapter; and

(14) may promulgate ~~rules and~~ regulations governing the use of or doing business on the authority’s property or facilities, including the adoption of safety standards and insurance coverage or proof of financial responsibility, and may provide for the licensing of persons, firms, or corporations using or doing business on ~~such~~ the property or facilities, and for license fees to cover the expense ~~thereof~~ of it. Licenses may be revoked after notice and hearing by the authority for wilful breach of or failure to comply with ~~such rules and~~ the regulations.

~~But~~ However, the authority shall not engage in shipbuilding except upon ~~the unanimous vote of its members~~ approval of the General Assembly.”

SECTION 4. Section 54‑3‑190 of the 1976 Code is amended to read:

“Section 54‑3‑190. The ~~board of the~~ authority may assign, transfer, lease, convey, grant, or donate to the United States of America, or to the appropriate agency or department ~~thereof~~ of it, any or all of the property of the authority for any use by ~~such~~ the grantee for any purpose included within the general purposes of this chapter, as stated in Section 54‑3‑130, ~~such~~ the assignment, transfer, lease, conveyance, grant, or donation to be upon ~~such~~ terms as the ~~board of the~~ authority ~~may deem~~ considers advisable. ~~In the event~~ If the United States of America should decide to undertake the acquisition, construction, equipment, maintenance, or operation of the airports, seaplane bases, naval bases, wharves, piers, ships, refrigerator storage plants, warehouses, elevators, compresses, docks, shipyards, shipping and transportation facilities before referred to, including terminal railroads, roads, highways, causeways or bridges, and should itself decide to acquire the lands and properties necessarily needed in connection ~~therewith~~ with it by condemnation or otherwise, the ~~board of the~~ authority may transfer and pay over to the United States of America, or to the appropriate agency or department ~~thereof~~ of it, ~~such of the moneys~~ the monies belonging to the authority as may be ~~found~~ needed or reasonably required by the United States of America to meet and pay the amount of judgments or condemnation, including costs, ~~if any be taxed thereon,~~ as may from time to time be rendered against the United States of America, or its appropriate agency, or as may be reasonably necessary to permit and allow the United States of America, or its appropriate agency, to acquire and become possessed of ~~such~~ the lands and properties as are reasonably required for the construction and use of ~~the~~ these facilities ~~before referred to~~.”

SECTION 5. Section 54‑3‑270 of the 1976 Code, as last amended by Act 356 of 2002, is further amended to read:

Section 54‑3‑270. (A) The State Ports Authority is required to begin environmental impact studies and other required actions in regard to the permitting process to locate new terminal facilities on the west bank of the Cooper River at locations it determines appropriate and with a capacity in conformance with available land at the proposed location or locations. If the locations identified are on real property not owned by the State Ports Authority, the authority is also authorized to begin the process of acquiring such property. Upon completion of the permitting process, the State Ports Authority shall render a report to the General Assembly concerning the new terminal facilities which shall include a request for any state funding necessary to complete the projects and the form ~~such~~ the funding is requested to take. The State Ports Authority must provide the General Assembly with a summary of criteria developed for use in delineating the needs, requirements, and specifications of port expansion. The permit application must be drawn in a manner that is comprehensive, fair, and open to all sites available on the west bank of the Cooper River, based on their particular attributes, and may not exclude or prejudice artificially or unreasonably the acceptance of any site. This subsection does not authorize or allow State Ports Authority activity on the east bank of the Cooper River or the Wando side of Daniel Island except for use as dredge spoil disposal sites. This joint resolution does not constitute approval for the State Ports Authority required by Section 54‑3‑260 of the 1976 Code.

(B) The South Carolina Department of Transportation, the Public Railways Division of the Department of Commerce, and the State Infrastructure Bank are directed to explore all potential opportunities for federal funding of the infrastructure enhancements for port expansion on the western side of the Cooper River.

(C) The State shall take appropriate steps to provide indemnification to the State Ports Authority board members as the board formerly existed from any personal liability related to their service on the board in regard to funding provided to the South Carolina Transportation Infrastructure Bank for the Cooper River Bridge.”

SECTION 6. Sections 54‑3‑30 and 54‑3‑40 of the 1976 Code are repealed.

SECTION 7. This act takes effect July 1, 2009.

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