COMMITTEE REPORT

March 31, 2009

**S. 12**

Introduced by Senators Leatherman, Alexander, O’Dell, Cleary, Leventis, Elliott, Lourie, Malloy and Setzler

S. Printed 3/31/09--H.

Read the first time February 26, 2009.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (S. 12) to establish the South Carolina Taxation Realignment Commission, to provide for the commission’s membership, powers, duties, and responsibilities, to provide that the commission, etc., respectfully

**REPORT:**

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

Amend the joint resolution, as and if amended, by striking all after the enacting words and inserting:

/ (A) There is created the South Carolina Taxation Realignment Commission to be comprised of seventeen members appointed as follows:

(1) two members appointed by the Governor;

(2) two members appointed by the President Pro Tempore of the Senate;

(3) two members appointed by the Speaker of the House of Representatives;

(4) two members appointed by the Chairman of the Senate Finance Committee;

(5) two members appointed by the Chairman of the House Ways and Means Committee;

(6) three members of the Senate to serve ex officio, to be appointed by the President Pro Tempore of the Senate;

(7) three members of the House to serve ex officio, to be appointed by the Speaker of the House of Representatives;

(8) the Director of the Department of Revenue to serve ex officio.

The members appointed pursuant to items (1) through (5) above must not be members of the General Assembly and must have substantial academic or professional experience or specialization in one or more areas of public finance, government budgeting and administration, tax administration, economics, accounting, or tax law.

The members appointed pursuant to items (1) through (7) above shall serve at the pleasure of their appointing authority.

All vacancies must be filled in the manner of original appointment.

(B) The members of the commission:

(1) shall meet as soon as practicable after appointment and organize by electing one of their number as chairman and such other officers as the commission considers necessary. Thereafter, the commission shall meet as necessary to fulfill the duties required by this joint resolution at the call of the chairman or by a majority of the members. A quorum consists of a majority of its members. The commission may engage or employ staff or consultants as may be necessary and prudent to assist the commission in the performance of its duties and responsibilities, the cost of which must receive the prior approval of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Any staff or consultants must possess an academic background or substantial career experience in one or more fields including, but not limited to, economics, government budgeting and administration, urban and regional economic development, economic forecasting, or state and local public finance;

(2) shall serve without compensation and are ineligible for the usual mileage, subsistence, and per diem allowed by law for members of boards, committees, and commissions. Other expenses incurred by the commission must be paid equally from approved accounts of each house subject to the approval of the respective Operations and Management Committees; and

(3) unless authorized by a further or subsequent enactment, conclude the commission’s business by January 1, 2011, at which time the commission is dissolved. The General Assembly may extend the dates by which the commission shall submit reports required by this joint resolution.

(C) The duties of the commission are to:

(1) develop criteria for assessing the effectiveness of the current tax system structure, as well as the likely systemic impact of any proposed changes effecting tax revenues and report the criteria to the General Assembly within six months of the effective date of this joint resolution, provided that all such criteria must be designed with an emphasis on the systemic balance of the state’s revenue structure from the standpoint of adequacy, equity, and efficiency and with the goal of maintaining and enhancing the State as an optimum competitor in efforts to attract businesses and individuals to locate, live, work, and invest in the State;

(2) no later than December 1, 2009, prepare and deliver a report and recommendation to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee setting forth the sales tax exemptions or limitations to be retained, modified or repealed, including the text of an amendment to the provisions of Article 21, Chapter 36, Title 12 of the 1976 Code, that effectuates the recommendations contained in the commission’s report; and

(3) study and recommend to the General Assembly changes regarding the assessment of state taxes levied and other provisions affecting state revenue to fund the operation and responsibilities of state government. The commission’s study must be a detailed, comprehensive, and careful evaluation of the state’s tax system structure, to include all revenue laws of the State together with all other laws of the State which have a bearing on the study of the revenue laws and the results of the study and any legislative recommendations must be delivered no later than December 1, 2010. Any recommendations by the commission must consider and include in the discretion of the commission changes to: (1) taxes levied by any local taxing entity except for sales taxes on items exempt from state sales tax pursuant to Section 12‑36‑2120, and (2) the property tax system of this State regulated by the general law and the constitution and property tax relief provided by the General Assembly.

(D) The chairman of the Ways and Means Committee and the chairman of the Senate Finance Committee must receive the report required by subsection (C)(2) and subsequently shall introduce legislation solely concerning the contents of the report.

An amendment that seeks to add, delete, or substantively change a recommendation or other provision affecting state revenue included in any legislation recommended by the commission only may be adopted or concurred in by a majority roll-call vote of those present and voting in each respective house.

(E) Further legislative recommendations made by the commission must be introduced in both houses by Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee respectively.

SECTION 2. This joint resolution takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

DANIEL T. COOPER for Committee.

**A** **BILL**

TO ESTABLISH THE SOUTH CAROLINA TAXATION REALIGNMENT COMMISSION, TO PROVIDE FOR THE COMMISSION’S MEMBERSHIP, POWERS, DUTIES, AND RESPONSIBILITIES, TO PROVIDE THAT THE COMMISSION MUST CONDUCT A COMPREHENSIVE STUDY OF THE STATE’S TAX SYSTEM AND SUBMIT A REPORT OF ITS RECOMMENDED CHANGES TO FURTHER THE GOAL OF MAINTAINING AND ENHANCING THE STATE AS AN OPTIMUM COMPETITOR IN THE EFFORT TO ATTRACT BUSINESSES AND INDIVIDUALS TO LOCATE, LIVE, WORK, AND INVEST IN THE STATE, AND TO PROVIDE FOR PROCEDURES GOVERNING THE CONSIDERATION OF LEGISLATION RESULTING FROM THE COMMISSION’S RECOMMENDATIONS.

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

SECTION 1. (A) There is created the South Carolina Taxation Realignment Commission to be comprised of eleven members appointed as follows:

(1) one member each appointed by the President Pro Tempore of the Senate, the Senate Finance Committee Chairman, the Senate Majority Leader, and the Senate Minority Leader;

(2) one member each appointed by the Speaker of the House, the House Ways and Means Committee Chairman, the House Majority Leader, and the House Minority Leader;

(3) two members appointed by the Governor; and

(4) the Director of the Department of Revenue, to serve ex officio.

Members of the General Assembly may not be appointed to the commission. Members of the commission must have substantial academic or professional experience or specialization in one or more areas of public finance, government budgeting and administration, tax administration, economics, accounting, tax law, or business. Members of the commission must have been a resident of South Carolina since January 1, 1997.

No member of the commission may enter upon his official responsibilities with the commission unless he has filed a statement of economic interests in accordance with the provisions of Article 11, Chapter 13, Title 8, with the State Ethics Commission.

(B) The members of the commission:

(1) must meet as soon as practicable after appointment and organize itself by electing one of its members as chairman and such other officers as the commission may consider necessary. Thereafter, the commission must meet as necessary to fulfill the duties required by this joint resolution at the call of the chairman or by a majority of the members. A quorum consists of six members. The commission may engage or employ staff or consultants as may be necessary and prudent to assist the commission in the performance of its duties and responsibilities. Any staff or consultants must possess an academic background or substantial career experience in one or more fields including, but not limited to, economics, government budgeting and administration, urban and regional economic development, economic forecasting, state and local public finance, or business;

(2) shall serve without compensation, but are allowed the usual per diem and mileage as provided by law for members of boards, commissions, and committees while on official business to be paid by the member’s appointing entity. Staffs of the Senate Finance Committee and the House Ways and Means Committee shall be available to assist the commission in its work. Any other expenses incurred by the commission shall be paid equally from each respective house’s approved account subject to the approval of the respective Operations and Management Committees;

(3) select and employ a staff director and is authorized to select and employ such other staff as may be prudent to assist the commission in the performance of its duties and responsibilities. The staff director shall be chosen solely on the grounds of fitness to perform the duties of the position and must possess:

(a) a Masters Degree from an accredited college or university, or a Baccalaureate Degree from an accredited college or university and have obtained professional experience equivalent to a Masters Degree;

(b) at least five years of experience in a public, private, or governmental position at the managerial level; and

(c) an academic background or substantial career experience in one or more of the following fields:

(i) economics;

(ii) government budgeting and administration;

(iii) urban and regional economic development;

(iv) economic forecasting; or

(v) state and local public finance.

No member of the General Assembly, nor anyone who has been a member of the General Assembly, nor anyone employed by the General Assembly since January 1, 1997, nor anyone who has been a lobbyist, as defined in Section 2-17-10(13), since January 1, 1997, nor anyone who has not been a resident of South Carolina since January 1, 1997, is eligible to be selected as director. The director shall act as secretary for the commission and shall, with the approval of the commission, have authority to contract for experts, consultants, and such other assistance as may be necessary to carry out the duties of the commission. Subject to funding by the General Assembly, the director shall be paid equally from the approved account of each house of the General Assembly, subject to the approval of the respective Operations and Management Committees; and

(4) unless authorized by a further or subsequent enactment, conclude the commission’s business and dissolve the commission effective January 1, 2015. The General Assembly may extend the dates by which the commission must submit reports required by this joint resolution.

(C) The duties of the commission shall be to:

(1) develop criteria for assessing the effectiveness of the current tax system structure, as well as the likely systemic impact of any proposed changes affecting tax revenues and report the criteria to the General Assembly within three months of the effective date of this joint resolution, provided that all such criteria must be designed with an emphasis on the systemic balance of the state’s revenue structure from the standpoint of adequacy, equity, and efficiency and with the goal of maintaining and enhancing the State as an optimum competitor in efforts to attract businesses and individuals to locate, live, work, and invest in the State; and

(2) no later than March 15, 2010, prepare and deliver a report and recommendation to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee, including the text of an amendment that effectuates the recommendations. The commission’s report must be a detailed, comprehensive, and careful evaluation of the state’s tax system structure. The commission’s report shall consider:

(a) sales and use tax exemptions or limitations to be retained, modified, or repealed;

(b) the assessment of state and local taxes levied and other provisions affecting state and local revenue to fund the operation and responsibilities of state and local government, respectively; and

(c) any fee, fine, license, forfeiture, or Other Funds.

After reviewing the adequacy, equity, and efficiency of the state’s revenue structure, the commission’s report may recommend that no changes are necessary if it determines that such findings are warranted. Following the report and recommendation required by subsection (C)(2), the commission shall continue studying the subjects identified in subsection (C)(2). The commission may make further legislative recommendations at any time. Also, the commission must submit a report to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee on August first and February first of each year detailing the commission’s progress and points of focus.

For purposes of the scope of the commission’s study, local taxes are defined as local levies related to ad valorem taxation, including, but not limited to, assessment ratios, classification and valuation of property, assessable transfers of interest, valuation limitation, local millages, and fee in lieu of taxes agreements; however, local taxes do not include the exemption of owner-occupied residential property as provided in Section 12-37-220(B)(47).

The commission’s report may not recommend any action that would nullify any existing agreement entered into by a local government.

The commission must forward its recommendation to the Board of Economic Advisors that must prepare a revenue impact detailing the sources of revenue at the state and local level the commission recommends should be increased or decreased, the projected amount of increase or decrease to each source of revenue, and the net gain or loss of total revenue at both the state and local levels that would result from the recommendation. The report must be attached to any legislative recommendation made by the commission prior to it being submitted to any member of the General Assembly.

(D) The text of any amending language pursuant to subsection (C)(2) must be delivered to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and upon request, to any member of the General Assembly.

(E) Further legislative recommendations made by the commission must be delivered to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and upon request, to any member of the General Assembly.

(F) Commission members shall not receive information regarding the business of the commission from a lobbyist except through formal presentation to the commission at a meeting called in compliance with Section 30-4-10, et seq.

SECTION 2. Act 388 of 2006 is amended by repealing SECTION 1 of Part V, which reads:

“SECTION 1. (A) The sales tax exemptions in Section 12‑36‑2120 of the 1976 Code shall be reviewed by the General Assembly not later than its 2010 Session and thereafter as the General Assembly deems appropriate but not later than its session every ten years after the first review.

(B)(1) There is established the Joint Sales Tax Exemptions Review Committee composed of seven members; three of whom must be members of the Senate appointed by the Chairman of the Senate Finance Committee, one of whom must be a member of the minority party; three of whom must be members of the House of Representatives appointed by the Chairman of the House Ways and Means Committee, one of whom must be a member of the minority party; and one of whom must be the Governor or the Governor’s appointee who shall serve at the Governor’s pleasure. The committee shall elect a chairman and vice chairman from among its members. All legislative members shall serve ex officio. The committee shall assist the General Assembly in performing its duties under the provisions of subsection (A) in addition to its duties required by this subsection.

(2) In carrying out its responsibilities under this act, the committee shall:

(a) make a detailed and careful study of the state’s sales tax exemptions, comparing South Carolina laws to other states;

(b) publish a comparison of the state’s sales tax exemptions to other states’ laws;

(c) recommend changes, and recommend introduction of legislation when appropriate;

(d) submit reports and recommendations annually to the Governor and the General Assembly regarding sales tax exemptions.

(3) In carrying out its responsibilities under this act, the committee may:

(a) hold public hearings;

(b) receive testimony of any employee of the State or any other witness who may assist the committee in its duties;

(c) call for assistance in the performance of its duties from any employee or agency of the State.

(4) The committee may adopt by majority vote rules not inconsistent with this act that it considers proper with respect to matters relating to the discharge of its duties under this section. Professional and clerical services for the committee must be made available from the staffs of the General Assembly, the State Budget and Control Board, and the Department of Revenue. The members of the committee may not receive mileage, per diem, subsistence, or any form of compensation for their service on the committee.”

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

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