**South Carolina General Assembly**

119th Session, 2011-2012

**H. 3589**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. J.E. Smith

Document Path: l:\council\bills\dka\3174sd11.docx

Introduced in the House on February 3, 2011

Currently residing in the House Committee on **Medical, Military, Public and Municipal Affairs**

Summary: Military Preparedness and Enforcement Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/3/2011 House Introduced and read first time ([House Journal‑page 6](file:///h:\hj%20archive\2011\02-03-11.docx))

2/3/2011 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 6](file:///h:\hj%20archive\2011\02-03-11.docx))

**VERSIONS OF THIS BILL**

[2/3/2011](file:///p:\pprever\2011-12\3589_20110203.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 79 TO TITLE 2, ENACTING THE “SOUTH CAROLINA MILITARY PREPAREDNESS AND ENHANCEMENT ACT” SO AS TO ESTABLISH AND PROVIDE FOR THE MEMBERSHIP, POWERS, AND DUTIES OF THE SOUTH CAROLINA MILITARY PREPAREDNESS AND ENHANCEMENT COMMISSION, TO PROVIDE THAT THIS COMMISSION SHALL ACT TO ENHANCE THE VALUE OF MILITARY FACILITIES LOCATED IN THIS STATE AND ASSIST DEFENSE COMMUNITIES WITH THIS VALUE ENHANCEMENT, TO ESTABLISH THE SOUTH CAROLINA MILITARY VALUE REVOLVING LOAN ACCOUNT TO PROVIDE LOANS TO ASSIST DEFENSE COMMUNITIES TO ENHANCE THE VALUE OF MILITARY FACILITIES, AND TO PROVIDE FOR OTHER METHODS AND INCENTIVES TO ACCOMPLISH THESE PURPOSES.

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

SECTION 1. Title 2 of the 1976 Code is amended by adding:

“CHAPTER 79

South Carolina Military Preparedness and Enhancement Act

Section 2‑79‑10. This chapter may be cited as the ‘South Carolina Military Preparedness and Enhancement Act’.

Section 2‑79‑15. The General Assembly finds that the South Carolina Military Preparedness and Enhancement Act enacted pursuant to this chapter represents a proactive response to the presently evolving transformation of national defense strategies. It clearly conveys this state’s intent to create a business climate that is favorable to defense installations and activities through legislation that assists in reducing base operating cost while enhancing military value. To realign existing infrastructure and generate cost savings necessary for these new defense strategies, the United States Department of Defense will undergo another round of base realignment and closure (BRAC) in 2005. Our military installations and defense related businesses are vital to the state’s economy. The United States Department of Defense currently directly employs over fifty thousand people in South Carolina with an annual economic impact of approximately five billion dollars. It is evident that the General Assembly shall develop programs to assist communities in adding military value to their local defense installations if South Carolina is to maintain its strong military heritage and presence and the South Carolina Military Preparedness and Enhancement Act constitutes one means to attain these multiple objectives.

Section 2‑79‑20. As used in this chapter:

(1) ‘Commission’ means the South Carolina Military Preparedness and Enhancement Commission.

(2) ‘Account’ means the South Carolina Military Value Revolving Account established pursuant to Section 2‑79‑120.

(3) ‘Board’ means the State Budget and Control Board.

(4) ‘Defense base’ means a federally owned or operated military installation or facility that is presently functioning.

(5) ‘Defense community’ means a political subdivision, including a municipality, county, or special district, that is adjacent to, is near, or encompasses any part of a defense base.

Section 2‑79‑30. (A) There is established within the office of the Governor the South Carolina Military Preparedness and Enhancement Commission consisting of eleven members as follows:

(1) one member of the House of Representatives to serve ex officio appointed by the Speaker of the House of Representatives;

(2) one member of the Senate to serve ex officio appointed by the President Pro Tempore of the Senate;

(3) the Secretary of Commerce or the secretary’s designee, ex officio;

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

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

(6) four members appointed by the Governor.

(B) To be eligible for appointment by the Governor, a person shall have demonstrated experience in economic development, the defense industry, military installation operation, environmental issues, finance, local government, or the use of air space for future military missions.

(C) The terms of the legislative members are coterminous with the terms of their appointing authority. Members appointed pursuant to subsection(A)(4), (5), and (6) shall serve for a term of four years ending after June thirtieth of the year the term expires and until their successors are appointed and qualify, except that of those first appointed, one appointed by the Speaker of the House of Representatives, one appointed by the President Pro Tempore of the Senate, and two appointed by the Governor shall serve for terms of two years, the term to be noted in the appointments. Members shall serve without compensation but may receive the mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions, to be paid from approved accounts of the Office of the Governor, House of Representatives, and Senate, as applicable. Vacancies must be filled in the manner of original appointment for the unexpired portion of the term.

Section 2‑79‑40. (A) The commission shall:

(1) advise the governor and the General Assembly on military issues and economic and industrial development related to military issues;

(2) make recommendations regarding:

(a) the development of policies and plans to support the long‑term viability and prosperity of the military, active and civilian, in this State, including promoting strategic regional alliances that may extend over state lines;

(b) the development of methods to improve private and public employment opportunities for former members of the military residing in this State; and

(c) the development of methods to assist defense‑dependent communities in the design and execution of programs that enhance a community’s relationship with military installations and defense‑related businesses;

(3) develop and maintain a database of the names and public business information of all prime contractors and subcontractors operating in this State who perform defense‑related work;

(4) provide information to communities, the General Assembly, the state’s congressional delegation, and state agencies regarding federal actions affecting military installations and missions;

(5) serve as a clearinghouse for:

(a) defense economic adjustment and transition information and activities; and

(b) information about:

(i) issues related to the operating costs, missions, and strategic value of federal military installations located in the State;

(ii) employment issues for communities that depend on defense bases and in defense‑related businesses;

(iii) defense strategies and incentive programs that other states are using to maintain, expand, and attract new defense contractors;

(6) provide assistance to communities that have experienced a defense‑related closure or realignment;

(7) assist communities in the design and execution of programs that enhance a community’s relationship with military installations and defense‑related businesses, including regional alliances that may extend over state lines;

(8) assist communities in the retention and recruiting of defense‑related businesses, including fostering strategic regional alliances that may extend over state lines;

(9) prepare a biennial strategic plan that:

(a) fosters the enhancement of military value of the contributions of South Carolina military installations to national defense strategies;

(b) considers all current and anticipated base realignment and closure criteria; and

(c) develops strategies to protect the state’s existing military missions and positions the State to be competitive for new and expanded military missions;

(10) encourage economic development in this State by fostering the development of industries related to defense affairs.

Section 2‑79‑50. With prior approval of the Governor, the commission may enter into an agreement with a consulting firm to provide information and assistance on a pending decision of the United States Department of Defense or other federal agency regarding the status of military installations and defense‑related businesses located in this State.

Section 2‑79‑60. (A) Not later than July first of each year, the commission shall prepare and submit a report to the Governor and the General Assembly about the active military installations, communities that depend on military installations, and defense‑related businesses in this State. The report must include:

(1) an economic impact statement describing in detail the effect of the military on the economy of this State;

(2) a statewide assessment of active military installations and current missions;

(3) a statewide strategy to attract new military missions and defense‑related business and include specific actions that add military value to existing military installations;

(4) a list of state and federal activities that have significant impact on active military installations and current missions;

(5) a statement identifying:

(a) the state and federal programs and services that assist communities impacted by military base closures or realignments and the efforts to coordinate those programs; and

(b) the efforts to coordinate state agency programs and services that assist communities in retaining active military installations and current missions;

(6) an evaluation of initiatives to retain existing defense‑related businesses; and

(7) a list of agencies with regulations, policies, programs, or services that impact the operating costs or strategic value of federal military installations and activities in the State.

(B) State agencies shall cooperate with and assist the commission in the preparation of the report required pursuant to subsection (A), including providing information about regulations, policies, programs, and services that may impact communities dependent on military installations, defense‑related businesses, and the viability of existing South Carolina military missions.

(C) The commission shall coordinate annual meetings with the head of each state agency or member of the General Assembly whose district contains an active, closed, or realigned military installation to discuss the implementation of the recommendations outlined in the report required pursuant to subsection (A).

Section 2‑79‑70. When a commander of a military installation receives a copy of the evaluation criteria for the base under the United States Department of Defense base realignment or closure process, the base commander may request that the commission coordinate assistance from other state agencies to assist the commander in preparing the evaluation. If the commission asks a state agency for assistance pursuant to this section, the state agency shall make the provision of that assistance a top priority.

Section 2‑79‑80. (A) A defense community may submit to the commission the community military value enhancement statement prepared pursuant to Section 2‑79‑150.

(B) On receiving a defense community’s military value enhancement statement, the commission shall analyze the projects included in the statement using the criteria it has developed. The commission shall develop project analysis criteria based on the criteria the United States Department of Defense uses for evaluating military facilities in the department’s base realignment and closure process.

(C) The commission shall determine whether each project identified in the defense community’s military value enhancement statement will enhance the military value of the military facility. The commission shall assist the community in prioritizing the projects that enhance the military value of a military facility, giving the highest priority to projects that add the most military value under the commission’s project analysis criteria.

(D) The commission shall refer the defense community to the appropriate state agency that has an existing program to provide financing for each project identified in the community’s military value enhancement statement that adds military value to a military facility. If there is no existing program to finance a project, the commission may provide a loan of financial assistance to the defense community for the project.

Section 2‑79‑90. (A) The commission may provide a loan of financial assistance to a defense community for a project that will enhance the military value of a military facility located in, near, or adjacent to the defense community. The loan must be made from the South Carolina Military Value Revolving Loan Account established pursuant to Section 2‑79‑120.

(B) On receiving an application for a loan pursuant to this section, the commission shall confirm that the project adds military value to the military facility.

(C) If the commission determines that a project will enhance the military value of the military facility, the Department of Commerce, in accordance with the criteria adopted by the commission pursuant to Section 2‑79‑100, shall:

(1) assess the creditworthiness of the defense community and its ability to repay the loan or match the grant; and

(2) assess the proposed method for repayment or obtaining matching funds for any particular project or grant as recommended by the Department of Commerce with input as considered necessary from the State Budget and Control Board.

(D) If the commission determines that the funds will be used to enhance the military value of the military facility based on the base realignment and closure criteria and that the project is financially feasible, the commission may award a loan to the defense community for the project. The commission shall enter into a written agreement with a defense community that is awarded a loan. The agreement must contain the terms and conditions of the loan, including the loan repayment requirements.

(E) The commission may provide a loan only for a project that is included in the political subdivision’s statement pursuant to Section 2‑79‑140, or to prepare a comprehensive defense installation and community strategic impact plan pursuant to Section 2‑79‑150.

(F) A project financed with a loan pursuant to this section must be completed on or before the fifth anniversary of the date the loan is awarded.

(G) The amount of a loan pursuant to this section may not exceed the total cost of the project.

Section 2‑79‑100. (A) The commission shall adopt policies, in consultation with the Department of Commerce with input as considered necessary from the State Budget and Control Board, which contain the criteria for evaluating the credit of a loan applicant and the financial feasibility of a project. The commission also shall adopt a loan application form. The application form may include:

(1) the total cost of the project;

(2) the amount of state financial assistance requested;

(3) the plan for repaying the loan; and

(4) any other information the commission requires to perform its duties and to protect the public interest.

(B) The commission may not accept an application for a loan from the loan account unless the application is submitted in affidavit form by the officials of the defense community. The board shall prescribe the affidavit form.

Section 2‑79‑110. (A) A defense community in this State may borrow money from the State, including by direct loan, based on the credit of the defense community to finance a project included in the community’s military value enhancement statement.

(B) A defense community may enter into a loan agreement with the State to provide financing for a project. The defense community may pledge the taxes of the community or provide any other guarantee for the loan.

(C) Money borrowed must be segregated from other funds under the control of the defense community and may only be used for purposes related to a specific project.

(D) The authority granted by this section does not affect the ability of a defense community to incur debt using other statutorily authorized methods.

Section 2‑79‑120. (A) The South Carolina Military Value Revolving Loan Account is established as the State Treasury separate and distinct from the general fund of the State and all other funds. The account may be funded by such appropriations as the General Assembly may provide, gifts, and grants. Earnings on the account must remain in the account and be used for the purpose for which the account was established. Balances in the account carry forward in the account to succeeding fiscal years.

(B) The account may be used only for loans made pursuant to this chapter. The commission shall deposit to the credit of the account all loan payments made by a political subdivision for a loan pursuant to Section 2‑79‑90. The loan payments must be used to reimburse the account to fund subsequent loans.

Section 2‑79‑130. The commission may solicit and accept gifts and grants from any source for the purposes of this chapter.

Section 2‑79‑140. (A) A defense community that applies for financial assistance from the account shall prepare, in consultation with the authorities from each defense base associated with the community, a defense base military value enhancement statement that illustrates specific ways the funds will enhance the military value of the installations and must include the following information for each project:

(1) the purpose for which financial assistance is requested, including a description of the project;

(2) the source of other funds for the project;

(3) a statement on how the project will enhance the military value of the installation;

(4) whether the defense community has coordinated the project with authorities of the military installation and whether any approval has been obtained from those authorities;

(5) whether any portion of the project is to occur on the military installation;

(6) whether the project will have any negative impact on the natural or cultural environment;

(7) a description of any known negative factors arising from the project that will affect the community or the military installation; and

(8) a description of how the project will address future base realignment or closure.

(B) The commission may require a defense community to provide any additional information the commission requires to evaluate the community’s request for financial assistance pursuant to this section.

(C) Two or more defense communities near the same defense base that apply for financial assistance from the account may prepare a joint statement.

(D) A copy of the defense base military value enhancement statement must be distributed to the authorities of each defense base included in the statement and the commission.

(E) This section does not prohibit a defense community that is not applying for financial assistance from preparing a defense base military value enhancement statement pursuant to this section.

Section 2‑79‑150. (A) A defense community may request financial assistance from the account to prepare a comprehensive defense installation and community strategic impact plan that states the defense community’s long‑range goals and development proposals relating to the following purposes:

(1) controlling negative effects of future growth of the defense community on the defense base and minimizing encroachment on military exercises or training activities connected to the base;

(2) enhancing the military value of the defense base while reducing operating costs; and

(3) identifying which, if any, property and services in a region can be shared by the defense base and the defense community.

(B) The comprehensive defense installation and community strategic impact plan must include, if appropriate, maps, diagrams, and text to support its proposals and must include the following elements as they relate to each defense base included in the plan:

(1) a land use element that identifies:

(a) proposed distribution, location, and extent of land uses such as housing, business, industry, agriculture, recreation, public buildings and grounds, and other categories of public and private land uses as those uses may impact the defense base; and (b) existing and proposed regulations of land uses, including zoning, annexation, or planning regulations as those regulations may impact the defense base;

(2) a transportation element that identifies the location and extent of existing and proposed freeways, streets, and roads and other modes of transportation;

(3) a population growth element that identifies past and anticipated population trends;

(4) a water resources element that:

(a) addresses currently available surface water and groundwater supplies; and

(b) addresses future growth projections and ways in which the water supply needs of the defense community and the defense base can be adequately served by the existing resources, or if such a need is anticipated, plans for securing additional water supplies;

(5) a conservation element that describes methods for conservation, development, and use of natural resources, including land, forests, soils, rivers and other waters, wildlife, and other natural resources;

(6) an open‑space area element that includes:

(a) a list of existing open‑space land areas;

(b) an analysis of the defense base’s forecasted needs for open‑space areas to conduct its military training activities; and

(c) suggested strategies under which land on which some level of development has occurred can make a transition to an open‑space area, if needed;

(7) a restricted airspace element that creates buffer zones, if needed, between the defense base and the defense community; and

(8) a military training route element that identifies existing routes and proposes plans for additional routes, if needed.

(C) Two or more defense communities near the same defense base may prepare a joint plan.

Section 2‑79‑160. If a defense community determines that an ordinance, rule, or plan proposed by the community may impact a defense base or the military exercise or training activities connected to the base, the defense community shall seek comments and analysis from the defense base authorities concerning the compatibility of the proposed ordinance, rule, or plan with base operations. The defense community shall consider and analyze the comments and analysis before making a final recommendation relating to the proposed ordinance, rule, or plan.

Section 2‑79‑170. Any unused or underused state property may be sold or leased, or an easement over the property may be granted, to the United States for the use and benefit of the United States armed forces if the State Budget and Control Board and the commission, after consultation with appropriate military authorities, determine that the sale, lease, or easement would materially assist the military in accomplishing its mission. A sale, lease, or easement pursuant to this section must be at market value.”

SECTION 2. This act takes effect July 1, 2011.

‑‑‑‑XX‑‑‑‑