**A** **BILL**

TO AMEND SECTIONS 11‑43‑120, 11‑43‑130, 11‑43‑150, 11‑43‑160, 11‑43‑170, 11‑43‑180, 11‑43‑220, 11‑43‑510, 11‑43‑520, 11‑43‑540, 11‑43‑550, AND 11‑43‑560, CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL RELATING TO THE CREATION, DUTIES, AND FUNCTIONS OF THE TRANSPORTATION INFRASTRUCTURE BANK, SO AS TO PROVIDE THAT THE BANK IS ADMINISTERED BY THE COMMISSION OF THE DEPARTMENT OF TRANSPORTATION, TO ELIMINATE ITS BOARD OF DIRECTORS, AND TO PROVIDE THAT A PROJECT MAY NOT BE DESIGNATED AS AN ELIGIBLE PROJECT FOR PURPOSES OF BANK FUNDING IN ADVANCE OF THE CURRENT AVAILABILITY OF FUNDING FOR THE COMPLETION OF THAT SPECIFIC PROJECT; TO AMEND SECTION 12‑28‑310, AS AMENDED, RELATING TO THE USER FEE ON GASOLINE AND DIESEL, SO AS TO IMPOSE THE USER FEE ON FUEL GRADE ETHANOL; TO AMEND SECTION 12‑28‑1125, RELATING TO AN OCCASIONAL IMPORTER’S LICENSE, SO AS TO CLARIFY THAT A PERSON MUST APPLY FOR THE LICENSE IF THE PERSON CAUSES MOTOR FUEL SUBJECT TO THE USER FEE TO BE DELIVERED INTO THIS STATE INTO STORAGE FACILITIES, OTHER THAN A QUALIFIED TERMINAL, BY ANY MEANS OF CONVEYANCE OTHER THAN IN THE FUEL SUPPLY OF A VEHICLE; BY ADDING SECTION 12‑36‑2625 SO AS TO PROVIDE THAT THE SALES TAX REVENUE GENERATED FROM THE SALE OF A MOTOR VEHICLE OR THE EXECUTION OF A LEASE FOR A MOTOR VEHICLE, MUST BE CREDITED TO THE STATE HIGHWAY FUND FOR ELIGIBLE HIGHWAY IMPROVEMENT PROJECTS; TO AMEND ARTICLE 23, CHAPTER 37, TITLE 12, RELATING TO THE PROPERTY TAXES ON MOTOR CARRIERS, SO AS TO EXEMPT SUCH VEHICLES AND SEMITRAILERS FROM THE PROPERTY TAX AND INSTEAD IMPOSE A ROAD USER FEE ON COMMERCIAL MOTOR VEHICLES, TO DEFINE COMMERCIAL MOTOR VEHICLES, TO ASSIGN ADMINISTRATION OF THE FEE TO THE SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES, TO PROVIDE FOR THE CALCULATION OF THE FEE SIMILAR TO THE MANNER IN WHICH THE PROPERTY TAX ON MOTOR CARRIERS WAS CALCULATED, TO MAINTAIN THE EXCLUSIVITY OF THIS STATE IMPOSED FEE IN LIEU OF ANY LOCAL FEES OR TAXES IN THE SAME MANNER SUCH EXCLUSIVITY APPLIED WITH THE FORMER PROPERTY TAX ON MOTOR CARRIERS; TO PROVIDE THAT THE FIRST SEVENTEEN MILLION DOLLARS ANNUALLY OF THE REVENUE OF THE ROAD USE FEE ON COMMERCIAL VEHICLES AND THE ONE TIME REGISTRATION FEE ON SEMITRAILERS MUST BE DISTRIBUTED AS PROVIDED UNDER FORMER LAW AND THE BALANCE DISTRIBUTED TO THE STATE HIGHWAY FUND AND USED EXCLUSIVELY FOR INTERSTATE HIGHWAYS, AND TO DELETE CERTAIN ADMINISTRATIVE PENALTIES AND CRIMINAL OFFENSES APPLICABLE TO ENFORCEMENT OF THE FORMER PROPERTY TAX; TO AMEND SECTIONS 56‑3‑120, 56‑3‑610, AND 56‑3‑660, ALL RELATING TO THE REQUIREMENTS FOR REGISTERING AND LICENSING MOTOR VEHICLES, SO AS TO CONFORM THE TIMING OF THE PAYMENTS OF THE APPLICABLE FEES FOR COMMERCIAL MOTOR VEHICLES TO THE SCHEDULE FOR PAYMENTS OF THE ROAD USE FEE ON SUCH VEHICLES; TO AMEND SECTION 58‑23‑620, AS AMENDED, RELATING TO THE LIMITATION ON THE IMPOSITION OF FEES ON MOTOR CARRIERS BY LOCAL GOVERNMENTS, SO AS TO REQUIRE THE APPORTIONMENT OF ANY LOCAL LICENSE TAX OR FEE IMPOSED ON SUCH VEHICLES THAT ARE OPERATED INTERSTATE; BY ADDING SECTION 11‑11‑260 SO AS TO REQUIRE THAT EACH YEAR THE GENERAL ASSEMBLY APPROPRIATE AN AMOUNT FOR BRIDGE MAINTENANCE EQUAL TO TWENTY PERCENT OF PROJECTED GROWTH IN GENERAL FUND REVENUES; TO AMEND SECTION 57‑1‑310, AS AMENDED, RELATING TO THE COMMISSION OF THE DEPARTMENT OF TRANSPORTATION, SO AS TO INCREASE THE COMMISSION BY ONE AT‑LARGE MEMBER; TO AMEND SECTION 57‑1‑730, RELATING TO THE POWERS AND DUTIES OF THE JOINT TRANSPORTATION REVIEW COMMITTEE, SO AS TO REQUIRE THE COMMITTEE TO CONDUCT AN ANNUAL OVERSIGHT REVIEW OF THE DEPARTMENT OF TRANSPORTATION COMMISSION AND THE DEPARTMENT OF TRANSPORTATION; BY ADDING SECTION 57‑1‑735 SO AS TO REQUIRE STATE AGENCIES TO COOPERATE WITH THE REVIEW COMMITTEE; BY ADDING SECTION 57‑1‑737 SO AS TO SPECIFY MATTERS THAT MUST BE INCLUDED IN THE OVERSIGHT REPORT; AND TO REPEAL SECTION 6 OF ACT 114 OF 2007 RELATING TO THE GOVERNOR’S AUTHORITY TO APPOINT THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION.

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

SECTION 1. Section 11‑43‑120(B) of the 1976 Code is amended to read:

“(B) The bank is ~~governed~~ administered by ~~a board of directors~~ the Commission of the Department of Transportation as provided in this chapter.”

SECTION 2. Section 11‑43‑130 of the 1976 Code is amended to read:

“Section 11‑43‑130. As used in this chapter unless the context clearly indicates otherwise:

(1) ‘Bank’ means the South Carolina Transportation Infrastructure Bank.

(2) ~~‘Board’ means the board of directors of the bank.~~ ‘Commission’ means the Commission of the Department of Transportation.

(3) ‘Bonds’ means bonds, notes, or other evidence of indebtedness except as otherwise provided in Article 3 of this chapter.

(4) ‘Department of Transportation’ means the South Carolina Department of Transportation and its successors.

(5) ‘Eligible cost’ means as applied to a qualified project to be financed from the federal accounts, the costs that are permitted under applicable federal laws, requirements, procedures, and guidelines in regard to establishing, operating, and providing assistance from the bank. As applied to a qualified project to be financed from the state highway account, these costs include the costs of preliminary engineering, traffic and revenue studies, environmental studies, right‑of‑way acquisition, legal and financial services associated with the development of the qualified project, construction, construction management, facilities, and other costs necessary for the qualified project. As applied to any qualified project to be financed from the state transit account, eligible project costs are limited to capital expenditures for transit equipment and facilities.

(6) ‘Eligible project’ means a highway, including bridges, or transit project as provided in Section 57‑1‑370(A), (B), and (C) which provides public benefits by either enhancing mobility and safety, promoting economic development, or increasing the quality of life and general welfare of the public. ‘Eligible project’ also includes mass transit including, but not limited to, monorail and monobeam mass transit systems provided that the project is in compliance with Section 57‑1‑370(A), (B), and (C).

(7) ‘Federal accounts’ means collectively, the separate account for federal highway funds and federal transit funds.

(8) ‘Financing agreement’ means any agreement entered into between the bank and a qualified borrower pertaining to a loan or other financial assistance. This agreement may contain, in addition to financial terms, provisions relating to the regulation and supervision of a qualified project, or other provisions as the ~~board~~ commission may determine. The term ‘financing agreement’ includes, without limitation, a loan agreement, trust indenture, security agreement, reimbursement agreement, guarantee agreement, bond or note, ordinance or resolution, or similar instrument.

(9) ‘Government unit’ means a municipal corporation, county, special purpose district, special service district, commissioners of public works, or another public body, instrumentality or agency of the State including combinations of two or more of these entities acting jointly to construct, own, or operate a qualified project, and any other state or local authority, board, commission, agency, department, or other political subdivision created by the General Assembly or pursuant to the Constitution and laws of this State which may construct, own, or operate a qualified project.

(10) ‘Loan’ means an obligation subject to repayment which is provided by the bank to a qualified borrower for all or a part of the eligible cost of a qualified project. A loan may be disbursed in anticipation of reimbursement for or direct payment of eligible costs of a qualified project.

(11) ‘Loan obligation’ means a bond, note, or other evidence of an obligation issued by a qualified borrower.

(12) ‘Other financial assistance’ means, but is not limited to, grants, contributions, credit enhancement, capital or debt reserves for bonds or debt instrument financing, interest rate subsidies, provision of letters of credit and credit instruments, provision of bond or other debt financing instrument security, and other lawful forms of financing and methods of leveraging funds that are approved by the ~~board~~ commission, and in the case of federal funds, as allowed by federal law.

(13) ‘Private entity’ means a private person or entity that has entered into a contract with a government unit to design, finance, construct, and operate a highway, bridge, tunnel, or approach that is within the jurisdiction of the government unit that is responsible for complying with applicable federal requirements.

(14) ‘Project revenues’ means all rates, rents, fees, assessments, charges, and other receipts derived or to be derived by a qualified borrower from a qualified project or made available from a special source, and, as provided in the applicable financing agreement, derived from any system of which the qualified project is a part of, from any other revenue producing facility under the ownership or control of the qualified borrower including, without limitation, proceeds of grants, gifts, appropriations and loans, including the proceeds of loans made by the bank, investment earnings, reserves for capital and current expenses, proceeds of insurance or condemnation and proceeds from the sale or other disposition of property and from any other special source as may be provided by the qualified borrower.

(15) ‘Qualified borrower’ means any government unit or private entity which is authorized to construct, operate, or own a qualified project.

(16) ‘Qualified project’ means an eligible project which has been selected by the bank to receive a loan or other financial assistance from the bank to defray an eligible cost.

(17) ‘Revenues’ means, when used with respect to the bank, any receipts, fees, income, or other payments received or to be received by the bank including, without limitation, receipts and other payments deposited in the bank and investment earnings on its funds and accounts.

(18) ‘State accounts’ means, collectively, the separate ~~account~~ accounts for state highway funds and state transit funds.”

SECTION 3. Section 11‑43‑150 of the 1976 Code is amended to read:

“Section 11‑43‑150. (A) In addition to the powers contained elsewhere in this chapter, the bank has all power necessary, useful, or appropriate to fund, operate, and administer the bank, and to perform its other functions including, but not limited to, the power to:

(1) have perpetual succession;

(2) adopt, promulgate, amend, and repeal bylaws, not inconsistent with provisions in this chapter for the administration of the bank’s affairs and the implementation of its functions including the right of the ~~board~~ commission to select qualifying projects and to provide loans and other financial assistance;

(3) sue and be sued in its own name;

(4) have a seal and alter it at its pleasure, although the failure to affix the seal does not affect the validity of an instrument executed on behalf of the bank;

(5) make loans to qualified borrowers to finance the eligible costs of qualified projects and to acquire, hold, and sell loan obligations at prices and in a manner as the ~~board~~ commission determines advisable;

(6) provide qualified borrowers with other financial assistance necessary to defray eligible costs of a qualified project;

(7) enter into contracts, arrangements, and agreements with qualified borrowers and other persons and execute and deliver all financing agreements and other instruments necessary or convenient to the exercise of the powers granted in this chapter;

(8) enter into agreements with a department, agency, or instrumentality of the United States or of this State or another state for the purpose of planning and providing for the financing of qualified projects;

(9) establish:

(a) policies and procedures for the making and administering of loans and other financial assistance; and

(b) fiscal controls and accounting procedures to ensure proper accounting and reporting by the bank, government units, and private entities;

(10) acquire by purchase, lease, donation, or other lawful means and sell, convey, pledge, lease, exchange, transfer, and dispose of all or any part of its properties and assets of every kind and character or any interest in it to further the public purpose of the bank;

(11) procure insurance, guarantees, letters of credit, and other forms of collateral or security or credit support from any public or private entity, including any department, agency, or instrumentality of the United States or this State, for the payment of any bonds issued by it, including the power to pay premiums or fees on any insurance, guarantees, letters of credit, and other forms of collateral or security or credit support;

(12) collect or authorize the trustee under any trust indenture securing any bonds to collect amounts due under any loan obligations owned by it, including taking the action required to obtain payment of any sums in default;

(13) unless restricted under any agreement with holders of bonds, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any loan obligations owned by it;

(14) borrow money through the issuance of bonds and other forms of indebtedness as provided in this chapter;

(15) expend funds to obtain accounting, management, legal, financial consulting, and other professional services necessary to the operations of the bank;

(16) expend funds credited to the bank as the ~~board~~ commission determines necessary for the costs of administering the operations of the bank;

(17) establish advisory committees as the ~~board~~ commission determines appropriate, which may include individuals from the private sector with banking and financial expertise;

(18) procure insurance against losses in connection with its property, assets, or activities including insurance against liability for its acts or the acts of its employees or agents or to establish cash reserves to enable it to act as a self‑insurer against any and all such losses;

(19) collect fees and charges in connection with its loans or other financial assistance;

(20) apply for, receive and accept from any source, aid, grants, and contributions of money, property, labor, or other things of value to be used to carry out the purposes of this chapter subject to the conditions upon which the aid, grants, or contributions are made;

(21) enter into contracts or agreements for the servicing and processing of financial agreements; and

(22) do all other things necessary or convenient to exercise powers granted or reasonably implied by this chapter.

(B) The bank is not authorized or empowered to be or to constitute a bank or trust company within the jurisdiction or under the control of the State or an agency of it or the Comptroller of the Currency or the Treasury Department of the United States, or a bank, banker, or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange, or securities dealers’ law of the United States or this State.

(C) The bank is subject to the provisions of Article 1, Chapter 23 ~~of~~, Title 1, the Administrative Procedures Act.”

SECTION 4. Section 11‑43‑160 of the 1976 Code is amended to read:

“Section 11‑43‑160. (A) The following sources may be used to capitalize the bank and for the bank to carry out its purposes:

(1) an annual contribution set by the ~~board~~ commission of an amount not to exceed revenues produced by one cent a gallon of the tax on gasoline imposed pursuant to Section 12‑28‑310;

(2) federal funds made available to the State;

(3) federal funds made available to the State for the bank;

(4) contributions and donations from government units, private entities, and any other source as may become available to the bank including, but not limited to, appropriations from the General Assembly;

(5) all monies paid or credit to the bank, by contract or otherwise, payments of principal and interest on loans or other financial assistance made from the bank, and interest earnings which may accrue from the investment or reinvestment of the bank’s monies;

(6) proceeds from the issuance of bonds as provided in this chapter;

(7) other lawful sources as determined appropriate by the ~~board~~ commission; and

(8) loans from the Department of Transportation to the bank to be repaid from revenues committed to the bank for the following year.

(B) Beginning in fiscal year ~~1998‑99~~ 1998‑1999, the revenues collected pursuant to Sections 56‑3‑660 and 56‑3‑670 and placed in the state highway account, as created by this chapter, must be used to provide capital for the bank.”

SECTION 5. Section 11‑43‑170(B) of the 1976 Code is amended to read:

“(B) For necessary and convenient administration of the bank, the ~~board~~ commission shall direct the State Treasurer to establish federal and state accounts and subaccounts within the bank necessary to meet any applicable federal law requirements or as the bank shall determine necessary or desirable in order to implement the provisions of this chapter.”

SECTION 6. Section 11‑43‑180 of the 1976 Code is amended to read:

“Section 11‑43‑180. (A) The bank may provide loans and other financial assistance to a government unit or private entity to pay for all or part of the eligible cost of a qualified project. Prior to providing a loan or other financial assistance to a qualified borrower, the ~~board~~ commission must obtain the review and approval of the Joint Bond Review Committee. The term of the loan or other financial assistance must not exceed the useful life of the project. The bank may require the government unit or private entity to enter into a financing agreement in connection with its loan obligation or other financial assistance. The ~~board~~ commission shall determine the form and content of loan applications, financing agreements, and loan obligations including the term and rate or rates of interest on a financing agreement. The terms and conditions of a loan or other financial assistance from federal accounts shall comply with applicable federal requirements.

(B) The ~~board~~ commission shall determine which projects are eligible projects ~~and then select from among the eligible project~~s those qualified to receive from the bank a loan or other financial assistance. In addition to the requirements provided pursuant to Section 11‑43‑130(6), a project may not be designated as an eligible project by the commission unless funding for the specific project is currently available. Preference must be given to eligible projects which have local financial support. In selecting qualified projects, the ~~board~~ commission shall consider the projected feasibility of the project and the amount and degree of risk to be assumed by the bank. The ~~board~~ commission also may consider, but must not be limited to, the following criteria in making its determination that an eligible project is a qualified project:

(1) the local support of the project, expressed by resolutions by the governing bodies in the areas in which the project will be located, and the financial or in‑kind contributions to the project;

(2) maximum economic benefit, enhancement of mobility, enhancement of public safety, acceleration of project completion, and enhancement of transportation services;

(3) the ability of the applicant to repay a loan according to the terms and conditions established pursuant to this chapter, consideration of which may include, at the option of the ~~bank board~~ commission, the existence of current investment grade rating on existing debt of the applicant secured by the same revenues to be pledged to secure repayment under the loan repayment agreement;

(4) the financial or in‑kind contributions to the project;

(5) greater weighting in recommending priorities for eligible projects to areas of the State experiencing high unemployment; and

(6) whether the governing bodies of the county or the incorporated municipality in which the project is to be located provides to the bank a resolution which makes a finding that the project is essential to economic development in the political subdivisions, or the bank receives a resolution or certificate from the Advisory Coordinating Council for Economic Development of the Department of Commerce that the project is essential to economic development in the State, or both, at the option of the ~~board~~ commission.”

SECTION 7. Section 11‑43‑220 of the 1976 Code is amended to read:

“Section 11‑43‑220. Neither the ~~board~~ commission nor any officer, employee, or committee of the bank acting on behalf of it, while acting within the scope of this authority, is subject to any liability resulting from carrying out any of the powers given in this chapter.”

SECTION 8. Section 11‑43‑510 of the 1976 Code is amended to read:

“Section 11‑43‑510. As used in this article:

(1) ~~‘Board’ means the Board of Directors of the South Carolina Transportation Infrastructure Bank.~~ ‘Commission’ means the Commission of the Department of Transportation.

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

(3) ‘Transportation infrastructure bonds’ means all general obligation bonds of this State designated as transportation infrastructure bonds, which are now outstanding and which may hereafter be issued pursuant to the authorizations of this article.”

SECTION 9. Section 11‑43‑520 of the 1976 Code is amended to read:

“Section 11‑43‑520. Whenever it shall become necessary that monies be raised for qualified projects, including monies to be used to refund any transportation infrastructure bonds then outstanding, the ~~board~~ commission may make a request to the state board for the issuance of transportation infrastructure bonds pursuant to this article. ~~This request may be in the form of a resolution adopted at any regular or special meeting of the board.~~ The request shall set forth on the face thereof or by schedules attached thereto:

(1) the amount then required for qualified projects;

(2) a tentative time schedule setting forth the period of time during which the sum requested will be expended; and

(3) a debt service table showing the annual principal and interest requirements for all the transportation infrastructure bonds then outstanding.”

SECTION 10. Section 11‑43‑540 of the 1976 Code is amended to read:

“Section 11‑43‑540. The issuance of transportation infrastructure bonds is subject to the limitations contained in ~~Article X,~~ Section 13(6)(c), Article X of the Constitution of this State. Within such limitations, transportation infrastructure bonds may be issued for qualified projects or to refund transportation infrastructure bonds from time to time under the conditions prescribed by this article. The review and approval of the Joint Bond Review Committee must be obtained prior to the issuance of any transportation infrastructure bonds. No transportation infrastructure bonds may be issued unless the ~~board~~ commission has a source of revenues to pay the principal and interest on the bonds.”

SECTION 11. Section 11‑43‑550 of the 1976 Code is amended to read:

“Section 11‑43‑550. For the payment of the principal of and interest on all transportation infrastructure bonds, whether or not outstanding or hereafter issued, as they come due, there is pledged the full faith, credit, and taxing power of this State, and in accordance with the provisions of ~~Article X,~~ Section 13(4), Article X of the Constitution of this State, the General Assembly authorizes the allocation on an annual basis of sufficient tax revenues to provide for the punctual payment of the principal and interest on transportation infrastructure bonds. In addition to the full faith, credit, and taxing power, there also is pledged such revenue as may be available to the ~~board~~ commission, and the State Treasurer is authorized to use such revenue when pledged, without further action of the ~~board~~ commission, for the payment of the principal and interest on transportation infrastructure bonds as the bonds respectively mature. If the revenues so pledged prove insufficient to meet the payments of the interest on and principal of the transportation infrastructure bonds in the fiscal year, then the State Treasurer shall set aside from the general tax revenues received in the fiscal year so much of the general tax revenues as are needed for the purpose and shall apply these revenues to the punctual payment of the interest on and principal of transportation infrastructure bonds due or to become due in the fiscal year.”

SECTION 12. Section 11‑43‑560 of the 1976 Code is amended to read:

“Section 11‑43‑560. The ~~board~~ commission is authorized to request the state board to issue transportation infrastructure bonds. In order to effect the issuance of bonds pursuant to this article, the state board may adopt a resolution providing for the issuance of transportation infrastructure bonds, upon written request by the ~~board~~ commission, and may transmit a certified copy thereof to the Governor and to the State Treasurer, with the request that they issue and deliver transportation infrastructure bonds in accordance with the terms and conditions of such resolution. This resolution must set forth:

(1) the amount, denomination, and numbering of transportation infrastructure bonds to be issued;

(2) the date as of which the same shall be issued;

(3) the maturity schedule for the retirement of the transportation infrastructure bonds;

(4) the redemption provisions, if any, applicable to the bonds;

(5) the maximum rate or rates of interest the bonds shall bear;

(6) the purposes for which the bonds are to be issued;

(7) the occasion on which bids shall be received for the sale of the bonds;

(8) the form of advertisement of sale;

(9) the form of the bonds of the particular issue; and

(10) such other matters as may be considered necessary in order to effect the sale, issuance, and delivery thereof.”

SECTION 13. A. Section 12‑28‑310(A) of the 1976 Code, as last amended by Act 386 of 2006, is further amended to read:

“(A) Subject to the exemptions provided in this chapter, a user fee of sixteen cents a gallon is imposed on:

(1) all gasoline, gasohol, or blended fuels containing gasoline that are used or consumed for any purpose in this State; ~~and~~

(2) all diesel fuel, substitute fuels, or alternative fuels, or blended fuels containing diesel fuel that are used or consumed in this State in producing or generating power for propelling motor vehicles;

(3) all fuel grade ethanol.”

B. This SECTION takes effect July 1, 2013.

SECTION 14. A. Section 12‑28‑1125(A) of the 1976 Code is amended to read:

“(A) Each person who wishes to cause motor fuel subject to the user fee to be delivered into this State on his behalf, for his own account, or for resale to a purchaser in this State, from another state in a fuel transport truck or in a pipeline or barge shipment, or by any means of conveyance other than in the fuel supply of a vehicle, into storage facilities other than a qualified terminal, shall apply and obtain an occasional importer’s license or a bonded importer’s license, at the discretion of the applicant.”

B. This SECTION takes effect July 1, 2013.

SECTION 15. A. Article 25, Chapter 36, Title 12 of the 1976 Code is amended by adding:

“Section 12‑36‑2625. Notwithstanding any other provision of law, revenue generated from the sale of a motor vehicle or the execution of a lease for a motor vehicle, pursuant to Section 12‑36‑910, and capped pursuant to Section 12‑36‑2110, must be credited evenly to the State Highway Fund and the South Carolina Transportation Infrastructure Bank. The revenues only may be used on federally eligible highway improvement projects as provided in Section 57‑1‑370(A), (B), and (C). The revenues are included within the ‘sources of revenue’ that may be pledged to secure highway bonds pursuant to Section 13(6)(a), Article X of the Constitution of this State.”

B. This SECTION takes effect July 1, 2013.

SECTION 16. Chapter 37, Title 12 of the 1976 Code is amended to read:

“Article 23

~~Motor Carriers~~ Commercial Motor Vehicles

Section 12‑37‑2810. As used in this article, unless the context requires otherwise:

(A) ~~‘Motor carrier’ means a person who owns, controls, operates, manages, or leases a motor vehicle or bus for the transportation of property or persons in intrastate or interstate commerce except for scheduled intercity bus service and farm vehicles using FM tags as allowed by the Department of Motor Vehicles. A motor carrier is defined further as being a South Carolina‑based International Registration Plan registrant or owning or leasing real property within this State used directly in the transportation of freight or persons.~~ Reserved

(B) ‘Commercial motor vehicle’ means a motor propelled vehicle used on a public highway for the transportation of property on a public highway with a gross vehicle weight of greater than twenty‑six thousand pounds.

(C) ‘Highway’ means all public roads, highways, streets, and ways in this State, whether within a municipality or outside of a municipality.

(D) ‘Person’ means any individual, corporation, firm, partnership, company or association, and includes a guardian, trustee, executor, administrator, receiver, conservator, or a person acting in a fiduciary capacity.

(E) ‘Semitrailers’ means every vehicle with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that a part of its weight and of its load rests upon or is carried by another vehicle.

(F) ‘Trailers’ means every vehicle with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(G) ‘Bus’ means every motor vehicle designed for carrying more than sixteen passengers and used for the transportation of persons, for compensation, other than a taxicab or intercity bus.

(H) ‘South Carolina apportionment factor’ means the ratio of miles operated by a fleet of vehicles in South Carolina to the miles operated by the fleet of vehicles everywhere which is used to apportion the registration fees of the fleet under the International Registration Plan.

Section 12‑37‑2820. (A) The Department of ~~Revenue~~ Motor Vehicles annually shall assess, equalize, and apportion the valuation of all commercial motor vehicles ~~of motor carriers~~ registered for use in this State under the International Registration Plan or otherwise pursuant to Section 56‑3‑190. The valuation must be based on fair market value for the motor vehicles and an assessment ratio of nine and one‑half percent as provided by Section 12‑43‑220(g). Fair market value is determined by depreciating the gross capitalized cost of each commercial motor vehicle by an annual percentage depreciation allowance down to ten percent of the cost as follows:

(1) Year One ‑‑ .90

(2) Year Two ‑‑ .80

(3) Year Three ‑‑ .65

(4) Year Four ‑‑ .50

(5) Year Five ‑‑ .35

(6) Year Six ‑‑ .25

(7) Year Seven ‑‑ .20

(8) Year Eight ‑‑ .15

(9) Year Nine ‑‑ .10

(B) ‘Gross capitalized cost’, as used in this section, means the original cost upon acquisition for income tax purposes, not to include taxes, interest, or cab customizing.

Section 12‑37‑2830. The value of a commercial motor ~~carrier’s vehicles~~ vehicle registered under the International Registration Plan and subject to ~~property taxes~~ road use fees in this State must be determined ~~based on the ratio of total mileage operated within this State during the preceding calendar year to the total mileage of its fleet operated within and without this State during the same preceding calendar year~~ according to the South Carolina apportionment formula for the fleet of which, for purposes of registration under the International Registration Plan, the commercial vehicle is a part.

Section 12‑37‑2840. ~~(A)~~ ~~Motor carriers must file an annual property tax return with the Department of Revenue no later than June 30 for the preceding calendar year and remit one‑half of the tax due or the entire tax due as stated on the return. If the motor carrier fails to pay either one‑half of the tax due or the entire tax due as of June 30, the department must issue a proposed assessment for the entire tax to the motor carrier. The tax as shown in the proposed assessment must be paid in full by cashier’s check, money order, or cash within thirty days of the issuance of the proposed assessment, or the taxpayer may appeal the proposed assessment within thirty days using the procedures provided in subarticle 1, Article 5, Chapter 60 of this title.~~

~~(B)(1)~~ ~~If one‑half of the tax is remitted on or before June 30, the remaining one‑half of the tax due must be paid to the Department of Revenue on or before December 31 of that year. If the motor carrier fails to remit the remaining tax due pursuant to this section, the department shall issue a proposed assessment to the motor carrier.~~

~~(2)~~ ~~The tax shown in the proposed assessment must be paid in full by cashier’s check, money order, or cash or appealed within thirty days of the issuance of the proposed assessment. The taxpayer may appeal the proposed assessment using the procedures provided in subarticle 1, Article 5, Chapter 60 of this title.~~

~~(C)~~ ~~If a motor carrier fails to timely file the return as required by this section, the department shall issue a proposed assessment which assumes all mileage of the motor carrier’s fleet was driven within this State. A taxpayer may appeal this proposed assessment using the procedures provided in subarticle 1, Article 5, Chapter 60 of this title.~~

~~(D)~~ ~~A twenty‑five percent penalty must be added to the property tax due if the motor carrier fails to file a return or pay any tax due, including the one‑half of the tax due on June 30, as required by this section. The penalty must be applied the day after the date that the return was due to be filed or the tax was due to be paid. This penalty is instead of all other penalties and interest required by law, except those provided in Section 12‑54‑44.~~

~~(E)~~ ~~If the motor carrier fails to remit the tax due within thirty days of receipt of the proposed assessment and the taxpayer fails to appeal the proposed assessment as provided in subsection (B), the department shall assess the tax. Tax due pursuant to this section is subject to the collection procedures provided in Chapter 54, of this title, except that the penalty provisions of Section 12‑54‑43 do not apply~~ A person registering a commercial motor vehicle shall pay the road use fee due on the vehicle at the time and in the manner the person pays the registration fees on the vehicle pursuant to Section 56‑3‑660. A person choosing to pay registration fees on a commercial motor vehicle in two installments pursuant to Section 56‑3‑660 also must pay the road use fee on the vehicle in the same installments.

Section 12‑37‑2842. ~~(A)~~ ~~The Department of Motor Vehicles, at the time of first registration by a motor carrier as defined in this article, shall notify the registrant of the Department of Revenue’s registration and filing requirements and supply the required registration forms.~~

~~(B) The motor carrier must register with the Department of Revenue within thirty days following the year in which the vehicle or bus was first registered for operation in South Carolina.~~

~~(C) A motor carrier must notify the Department of Revenue, on forms supplied by the department, of a motor vehicle or bus that is disposed of before December 31~~. Reserved

Section 12‑37‑2850. The Department of ~~Revenue~~ Motor Vehicles shall assess annually the ~~taxes~~ road use fee due on commercial motor vehicles based on the value determined in Section 12‑37‑2820 and an average millage for all purposes statewide for the preceding calendar year and shall publish the average millage for the preceding year by June ~~1~~ first of each year. The ~~taxes~~ road use fee assessed must be paid to the Department of ~~Revenue no later than December 31 of each year and may be made in two equal installments~~ Motor Vehicles at the time and in the manner that the registration fees on the vehicle are paid pursuant to Section 56‑3‑660. Distribution of the ~~taxes~~ fees paid must be made by the ~~State Treasurer’s Office~~ Office of the State Treasurer based on the distribution formula ~~contained~~ provided in ~~Section 12‑37‑2870~~ Sections 12‑37‑2865 and 12‑37‑2870.

Section 12‑37‑2860. (A) In addition to the property tax exemptions allowed pursuant to Section 12‑37‑220, one hundred percent of the fair market value of semitrailers and trailers as defined in Section 12‑37‑2810, and commonly used in combination with a commercial motor vehicle as defined pursuant to Section 12‑37‑2810(B), is exempt from property tax.

(B) Instead of ~~the~~ any property ~~taxes~~ tax and the registration requirements ~~contained~~ provided in Sections 56‑3‑110 and 56‑3‑700 on semitrailers and trailers of motor carriers as defined in Section 12‑37‑2810, and commonly used in combination with a commercial motor vehicle, a one‑time fee payable to the Department of Motor Vehicles in the amount of eighty‑seven dollars is ~~due~~ imposed on all semitrailers and trailers currently registered and subsequently on each semitrailer and trailer before being placed in service.

(C) The fee imposed pursuant to subsection (B) and the registration requirements of this article are in lieu of any local road use fee, registration fees, or any other vehicle related fee imposed by a political subdivision of this State on a trailer or semitrailer.

~~(B)~~(D) Twelve dollars of the one‑time fee must be distributed to the Department of ~~Revenue~~ Motor Vehicles and may be retained by the Department of ~~Revenue~~ Motor Vehicles and expended in budgeted operations to record and administer the fee. The remaining seventy‑five dollars of the fee must be distributed based on the distribution formula ~~contained~~ provided in ~~Section~~ Sections 12‑37‑2865 and 12‑37‑2870, and must occur by the fifteenth day of the month following the month in which the fees are collected.

~~(C)~~ ~~The fee required by this section is due on or before March 31, 1998, for the initial registration.~~

~~(D)~~(E) The Department of Motor Vehicles shall design a permanent tag for display on the exterior of the rear of the trailer or semitrailer in a conspicuous place.

Section 12‑37‑2865. (A) The fee revenues not retained by the Department of Motor Vehicles pursuant to Section 12‑37‑2860 and the revenues of the road use fee assessed pursuant to Section 12‑37‑2850 must be distributed as provided in subsections (B) and (C). Distributions must be made by the last day of the next month succeeding the month in which the fee is paid.

(B) The first seventeen million dollars of fee revenues in a fiscal year must be distributed as provided pursuant to Section 12‑37‑2870.

(C) Fiscal year revenues in excess of seventeen million dollars of the fees described in subsection (A) must be credited to the State Highway Fund and used exclusively for the interstate highway system.

Section 12‑37‑2870. The distribution of the fee revenues required to be distributed pursuant to Section 12‑37‑2865(B) for each county must be determined on the ratio of total federal and state highway miles within each county during the preceding calendar year to the total federal and state highway miles within all counties of this State during the same preceding calendar year. The county must distribute the revenue from the payment‑in‑lieu of taxes received pursuant to this section within thirty days of its receipt to every governmental entity levying a property tax in the manner set forth below. For each governmental entity levying a property tax, the entire assessed value of the taxable property within its boundaries and the county area must be multiplied by the millage rate imposed by the governmental entity. That figure constitutes the numerator for that governmental entity. The total of the numerators for all property tax levying entities within the county area constitutes the denominator. The numerator for each governmental entity must be divided by the denominator. The resulting percentage must be multiplied by the ~~payment‑in‑lieu of tax~~ fee revenue received pursuant to this section and that amount distributed to the general fund of the appropriate governmental entity. The distribution of taxes and fees paid must be made by the last day of the next month succeeding the month in which the taxes and fees were paid.

Section 12‑37‑2880. (A) In addition to the property tax exemptions allowed pursuant to Section 12‑37‑220, one hundred percent of the fair market value of all commercial motor vehicles registered for use in this State under the International Registration Plan or otherwise pursuant to Section 56‑3‑190, is exempt from property tax and is instead subject to the road use fee imposed pursuant to this article.

(B) The ~~ad valorem taxes authorized~~ road use fee imposed by this article ~~are~~ is in lieu of all ~~other~~ ad valorem taxes upon ~~the~~ commercial motor vehicles ~~of motor carriers~~, and any road use or other vehicle related fees imposed by a political subdivision of this State if the vehicle is registered under the International Registration Plan. ~~The fee‑in‑lieu of property taxes and registration requirements authorized by this article are in lieu of all other ad valorem taxes upon trailers and semitrailers of motor carriers.~~

Section 12‑37‑2890. ~~(A) Upon request by the Department of Revenue, and after the time period for all appeals of tax due is exhausted, the Department of Motor Vehicles shall suspend the driver’s license and vehicle registration of a person that fails to file or pay a motor carrier property tax on a vehicle, pursuant to this article. The request to suspend must be an electronic notification from the Department of Revenue to the Department of Motor Vehicles. Before notification is sent to the Department of Motor Vehicles, the Department of Revenue shall notify the delinquent taxpayer by certified letter of the pending suspension and of the steps necessary to prevent the suspension from being entered on the taxpayer’s driving and registration records. The department shall allow thirty days for payment of taxes before notifying the Department of Motor Vehicles to suspend the driver’s license and vehicle registration.~~

~~(B) Notwithstanding the provisions of Sections 56‑1‑460 and 56‑9‑500, a charge of driving under suspension when the suspension is solely for failure to file or pay a motor carrier property tax or the reinstatement fee required for the property tax does not require proof of financial responsibility. A person is not subject to a custodial arrest solely for being under suspension pursuant to this section. Upon conviction of a violation of this section, the taxpayer is subject to:~~

~~(1) for a first offense a fine not to exceed fifty dollars;~~

~~(2) for a second offense a fine not to exceed two hundred fifty dollars; and~~

~~(3) for a third or subsequent offense under this section, the penalty is a fine not to exceed five hundred dollars or imprisonment not to exceed thirty days, or both.~~

~~(C) Notwithstanding the provisions of subsections (A) and (B) of this section or the provisions of Section 56‑1‑460, a charge of driving under suspension issued solely as a result of this section must be dismissed if the taxpayer provides proof on the taxpayer’s court date that the personal property taxes on the vehicle which resulted in the charge being issued have been paid.~~

~~(D) Before the reinstatement of a driver’s license or vehicle registration suspended due to a violation of this section, a fee of fifty dollars must be paid to the Department of Motor Vehicles. The Department of Motor Vehicles may retain revenues generated by payment of the reinstatement fees pursuant to this section for use in defraying costs associated with suspension and reinstatement actions pursuant to this section. Fees collected in excess of actual departmental direct costs related to suspension and reinstatement actions pursuant to this section must be deposited to the credit of the general fund of the State at the end of each fiscal year.~~ Reserved”

SECTION 17. A. Section 56‑3‑120(5) of the 1976 Code is amended to read:

“(5) a trailer or semitrailer ~~of a motor carrier~~ commonly used in combination with a commercial motor vehicle as defined in Section 12‑37‑2810 for which trailer or semitrailer the ~~fee‑in‑lieu of taxes and registration requirements has been paid~~ fee imposed pursuant to Section 12‑37‑2860 is paid and applicable registration requirements provided pursuant to Article 23, Chapter 37, Title 12, are met, and a distinctive permanent plate has been issued pursuant to Section 12‑37‑2860.”

B. Section 56‑3‑610 of the 1976 Code is amended to read:

“Section 56‑3‑610. (A) Except as provided in subsection (B), the owner of every motor vehicle, trailer, semitrailer, pole trailer, and special mobile equipment vehicle required to be registered and licensed under this chapter shall pay to the Department of Motor Vehicles at the time of registering and licensing the vehicle and biennially after that time registration and license fees as set forth in this article.

(B) A commercial motor vehicle on which is imposed the road use fee provided pursuant to Article 23, Chapter 37, Title 12 is required to be registered and licensed annually pursuant to this chapter and the scheduled fees adjusted as provided pursuant to Section 56‑3‑660(E).”

C. Section 56‑3‑660(E) of the 1976 Code is amended to read:

“(E) ~~The department may register an apportionable vehicle for the payment of one‑half of this State’s portion of the license fee for a vehicle whose portion owed to this State exceeds eight hundred dollars. The department may require any information necessary to complete the transaction~~ The registration period for a commercial motor vehicle, as defined in Section 12‑37‑2810, is annual rather than biennial. The annual registration fee for such a commercial motor vehicle is one‑half the fee set out in subsection (A) for a vehicle of like weight. The provisions in subsection (A) concerning semiannual payment of fees and proportionate registration apply to the registration of such a commercial motor vehicle as to any other vehicle. Notwithstanding the registration periods provided in this section, upon appropriate notice, the department may revise the established renewal dates to allow renewals to be assigned an expiration date pursuant to a staggered monthly basis.”

SECTION 18. Section 58‑23‑620 of the 1976 Code, as last amended by Act 145 of 1995, is further amended to read:

“Section 58‑23‑620. (A) ~~No city, town,~~ A municipality or county in this State ~~shall~~ may not impose a license fee or license tax upon a holder of a certificate A or a certificate B, and ~~no city, town,~~ a municipality or county ~~shall~~ may not impose a license fee or license tax on the holder of a certificate E or a certificate F, Certificate of Compliance, or a common or contract motor carrier of property, except the ~~city or town~~ municipality of ~~such~~ the carrier’s residence or the location of ~~his~~ the carrier’s principal place of business. However, the fee required of a holder of a certificate C is in addition to any license tax or license fee charged by a municipality.

(B) If a municipality imposes a license fee or license tax pursuant to subsection (A), the fee or tax in the case of any certificate holder or common or contract motor carrier of property which operates its vehicles both within and without this State, must be apportioned in the ratio that the miles traveled by the vehicles operated by the certificate holder in this State bears to miles traveled by those vehicles in all states.”

SECTION 19. Article 1, Chapter 11, Title 11 of the 1976 Code is amended by adding:

“Section 11‑11‑260. Each year the General Assembly shall appropriate an amount for bridge maintenance equal to twenty percent of projected growth in general fund revenues, as projected by the Board of Economic Advisors’ final forecast made pursuant to Section 11‑9‑880. Growth must be calculated by comparing projected general fund revenues in the next fiscal year to the most current adjusted forecast for the current fiscal year in effect at the time the final forecast is made. This appropriation shall supplement, and not supplant, existing funding for bridge maintenance.”

SECTION 20. Section 57‑1‑310(A) and (B) of the 1976 Code, as last amended by Act 114 of 2007, is further amended to read:

“(A) The congressional districts of this State are constituted and created Department of Transportation Districts of the State, designated by numbers corresponding to the numbers of the respective congressional districts. The Commission of the Department of Transportation shall be composed of one member from each transportation district elected by the delegations of the congressional district and ~~one member~~ two members appointed by the Governor from the State at large. Such elections or appointment, as the case may be, shall take into account race and gender so as to represent, to the greatest extent possible, all segments of the population of the State; however, consideration of these factors in making an appointment or in an election in no way creates a cause of action or basis for an employee grievance for a person appointed or elected or for a person who fails to be appointed or elected.

(B)(1) Candidates for election to the commission must be screened by the Joint Transportation Review Committee, as provided in Article 7 of this chapter, and determined to meet the qualifications contained in subsection (C) in order to be eligible for election.

(2) The at‑large ~~appointment~~ appointments made by the Governor must be transmitted to the Joint Transportation Review Committee. The Joint Transportation Review Committee must determine whether ~~the~~ an at‑large appointee meets the qualifications in subsection (C) and report its findings to the General Assembly and the Governor. Until the Joint Transportation Review Committee finds a gubernatorial appointee qualified, the appointee must not take the oath of office and the full rights and privileges and powers of the office shall not vest.”

SECTION 21. A. Section 57‑1‑730 of the 1976 Code, as added by Act 114 of 2007, is amended to read:

“Section 57‑1‑730. The review committee has the following powers and duties:

(A)~~(1)~~ to screen each candidate applying for election to the commission~~;~~:

~~(2)~~(1) in screening candidates and making its findings, the review committee must give due consideration to:

(a) ability, area of expertise, dedication, compassion, common sense, and integrity of each candidate; and

(b) the impact that each candidate would have on the racial and gender composition of the commission, and each candidate’s impact on other demographic factors represented on the commission, such as residence in rural or urban areas, to assure nondiscrimination to the greatest extent possible of all segments of the population of the State;

~~(3)~~(2) to determine if each candidate is qualified and meets the requirements provided by law to serve as a member of the Department of Transportation Commission, make findings concerning whether each candidate is qualified, and deliver its findings to the Clerk of the Senate and the Clerk of the House of Representatives; and

~~(4)~~(3) to submit the names of all qualified candidates to the congressional district delegation for election.

(B) to conduct an oversight review of the commission and the department and its operations at least once every year:

(1) the oversight review must consider whether the department is meeting its plans and objectives set forth in Section 57‑1‑370(A), (B), and (C). The oversight reviews also must include an analysis of the performance of the commission, both as a whole and as individuals, and the performance of the Secretary of Transportation;

(a) a draft of the performance review and the evaluations of a commission member or the secretary, must be submitted to the appropriate party, and the appropriate party must be allowed an opportunity to be heard before the committee conducting the oversight review before the review is final;

(b) the final performance review of each commission member and the secretary must be made a part of the member’s and secretary’s record;

(2) a written report of the findings from each oversight review must be published in the journals of both houses and made available on the General Assembly’s Internet website and transmitted to the Governor and the commission.

(C) Undertake any additional reviews, studies, or evaluations as it considers necessary.”

B. Article 7, Chapter 1, Title 57 of the 1976 Code is amended by adding:

“Section 57‑1‑735. State agencies must fully cooperate with requests from the committee for assistance in carrying out its responsibilities and duties as established in this article.

Section 57‑1‑737. (A) The oversight report required by this article must at least contain:

(1) a performance review of each member of the commission during the previous year;

(2) a performance review of the Secretary of Transportation; and

(3) an evaluation of the actions of the commission and the secretary, sufficient to allow the members of the General Assembly to better judge whether these actions serve the best interests of the citizens of South Carolina, both individual and corporate.

(B) To assist the committee in performing the performance reviews and evaluations required by this article, the committee may develop and distribute, as appropriate, an anonymous and confidential survey evaluating the commission members and the secretary. At a minimum, the survey must include the following:

(1) knowledge and application of substantive transportation issues;

(2) the ability to perceive relevant issues;

(3) absence of influence by political considerations;

(4) courtesy to all persons appearing before the commission;

(5) temperament and demeanor in general, preparation for hearings, and attentiveness during hearings; and

(6) any other issue the committee deems appropriate.”

SECTION 22. Section 6 of Act 114 of 2007 is repealed.

SECTION 23. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 24. Except as otherwise provided, this act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑