COMMITTEE REPORT

March 19, 2009

**S. 517**

Introduced by Senators Davis, Bright, Shoopman, Ryberg, Bryant, Mulvaney, Fair, Peeler and Rose

S. Printed 3/19/09--S.

Read the first time March 4, 2009.

**THE COMMITTEE ON FINANCE**

To whom was referred a Joint Resolution (S. 517) to provide that no state agency, department, or entity, by regulation or otherwise, may administratively increase or implement a fee for performing a service or function, or a civil penalty, 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, striking the joint resolution in its entirety and inserting:

/ A JOINT RESOLUTION

TO PROVIDE THAT NO STATE AGENCY, DEPARTMENT, OR ENTITY BY REGULATION MAY INCREASE OR IMPLEMENT A FEE, FINE, OR PENALTY WITHOUT SPECIFIC APPROVAL BY THE GENERAL ASSEMBLY BY A JOINT RESOLUTION APPROVING THE REGULATION AND TO PROVIDE THAT NO POLITICAL SUBDIVISION, INCLUDING A SCHOOL DISTRICT, MAY INCREASE OR IMPLEMENT ANY TYPE OF FEE FOR THE PURPOSE OF CONSTRUCTING EDUCATION FACILITIES FOR GRADES K-12, UNLESS THE INCREASE OR IMPOSITION WAS ENACTED OR APPROVED BY JANUARY 1, 2009.

Whereas, too often taxpayers of this State are subjected to increased fees, fines, and penalties without specific approval of the entire General Assembly; and

Whereas, the taxpayers of this State expect every member of the General Assembly to cast a vote for or against any increase or imposition of a fee, fine, or penalty; and

Whereas, the taxpayers of this State expect a transparent process whereby the taxpayer can determine how each of his representatives voted with regard to an increase or imposition of any fee, fine, or penalty. Now, therefore,

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

SECTION 1. (A) Notwithstanding any other provision of law, beginning on the effective date of this section, no state agency, department, or entity by regulation may increase or implement a fee for performing a service or function, or a civil penalty or fine for failure to comply with a requirement or provision of law under its jurisdiction without the specific approval of the increase or new fee, fine, or penalty by the General Assembly by a joint resolution approving the regulation. The joint resolution approving the regulation increasing or implementing a fee, fine, or penalty must contain the amount of the increase or imposition in the title and in the body of the joint resolution.

(B) The provisions of this section do not apply to internal charges between state agencies, departments, or entities, or any fees or charges, including tuition, made by schools or colleges to students of the institution for instruction, activities, or materials provided or furnished to those students.

(C) The provisions of this section expire on July 1, 2010, unless reauthorized by the General Assembly by law.

SECTION 2. Notwithstanding any other provision of law, no political subdivision, including a school district, may increase or implement an impact fee for the purpose of constructing education facilities for grades K-12, unless the increase or imposition was enacted or approved by March 18, 2009, or the fee was imposed pursuant to Article 9, Chapter 1, Title 6. Any enactment or approval of an impact fee by a political subdivision, including a school district, for the purpose of constructing education facilities for grades K-12 to the contrary, is null and void, and of no effect.

SECTION 3. This joint resolution takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

See Below

**EXPLANATION OF IMPACT:**

Enactment of the bill would have no direct impact on the General Fund of the State. The bill would limit agencies’ ability to increase fees and fines without explicit approval of the General Assembly which could have an indirect impact on other funds revenue and expenditures.

**SPECIAL NOTES:**

Section (B) of the bill states the provisions of this section do not apply to any fees or charges made by schools or colleges to students of the institution for activities or materials provided or furnished to those students. This provision may prohibit the colleges and universities from raising tuition without approval from the General Assembly.

*Approved By:*

Harry Bell

Office of State Budget

**A** **JOINT RESOLUTION**

TO PROVIDE THAT NO STATE AGENCY, DEPARTMENT, OR ENTITY, BY REGULATION OR OTHERWISE, MAY ADMINISTRATIVELY INCREASE OR IMPLEMENT A FEE FOR PERFORMING A SERVICE OR FUNCTION, OR A CIVIL PENALTY OR FINE FOR FAILURE TO COMPLY WITH A REQUIREMENT OR PROVISION OF LAW UNDER ITS JURISDICTION WITHOUT THE SPECIFIC APPROVAL OF THE INCREASE OR NEW FEE, FINE, OR PENALTY BY THE GENERAL ASSEMBLY BY CONCURRENT RESOLUTION; TO PROVIDE THAT APPROVAL BY THE GENERAL ASSEMBLY BY JOINT RESOLUTION OF A REGULATION OF A STATE AGENCY OR DEPARTMENT UNDER THE ADMINISTRATIVE PROCEDURES ACT WHEREIN A FEE, FINE, OR PENALTY INCREASE OR IMPOSITION IS CONTAINED DOES NOT CONSTITUTE APPROVAL UNDER THE REQUIREMENTS OF THIS SECTION, AND IF AN INCREASE OR IMPLEMENTATION IS CONTAINED IN THAT JOINT RESOLUTION, THE INCREASE OR IMPLEMENTATION IS NULL AND VOID; TO PROVIDE CERTAIN EXCEPTIONS; AND TO PROVIDE FOR THE DURATION OF THIS PROVISION.

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

SECTION 1. (A) Notwithstanding any other provision of law, beginning on the effective date of this section, no state agency, department, or entity by regulation or otherwise may administratively increase or implement a fee for performing a service or function, or a civil penalty or fine for failure to comply with a requirement or provision of law under its jurisdiction without the specific approval of the increase or new fee, fine, or penalty by the General Assembly by concurrent resolution. General approval by the General Assembly by joint resolution of a regulation of a state agency or department under the administrative procedures act wherein a fee, fine, or penalty increase or imposition is contained does not constitute approval under the requirements of this section, and if an increase or implementation is contained in that joint resolution, the increase or implementation is null and void.

(B) The provisions of this section do not apply to any fees or charges made by schools or colleges to students of the institution for activities or materials provided or furnished to those students.

(C) The provisions of this section expire on July 1, 2010, unless reauthorized by the General Assembly by law.

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

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