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COMMITTEE REPORT

April 22, 2010

**S. 749**

Introduced by Senator Cleary

S. Printed 4/22/10--S.

Read the first time April 23, 2009.

**THE COMMITTEE ON TRANSPORTATION**

To whom was referred a Bill (S. 749) to amend the Code of Laws of South Carolina, 1976, by adding Sections 57‑3‑45 and 57‑3‑55 so as to establish the Division of Railroad Transportation, etc., respectfully

**REPORT:**

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

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

/ SECTION 1. Section 57‑1‑20 of the 1976 Code is amended to read:

“Section 57‑1‑20. The Department of Transportation is established as an administrative agency of state government which is comprised of a Division of ~~Mass Transit~~ Intermodal and Freight Programs~~;~~, a Division of Construction Engineering and Planning~~;~~, and a Division of Finance and Administration. Each division of the Department of Transportation shall have such functions and powers as provided for by law.”

SECTION 2. Section 57‑1‑30 of the 1976 Code is amended to read:

“Section 57‑1‑30. (A) The department shall have as its functions and purposes the systematic planning, construction, maintenance, and operation of the state highway system and the development of a statewide ~~mass transit~~ intermodal and freight system that is consistent with the needs and desires of the public.

(B) The department shall coordinate all state and federal programs relating to highways among all departments, agencies, and other bodies politic and legally constituted agencies of this State and the performance of such other duties and matters as may be delegated to it pursuant to law. The goal of the department is to provide adequate, safe, and efficient transportation services for the movement of people and goods.”

SECTION 3. Section 57‑3‑10 of the 1976 Code is amended to read:

“Section 57‑3‑10. (A) The Department of Transportation ~~must be divided into such divisions as the commission may prescribe but must consist~~ is compromised of the following principal divisions:

(1) finance and administration;

(2) construction, engineering, and planning; and

(3) ~~mass transit~~ intermodal and freight programs.

(B) The ~~commission~~ Secretary of Transportation may establish other divisions, or ancillary or service divisions or offices as may be necessary for the efficient and economic operation of the ~~division~~ department and to carry out the functions and purposes of the ~~division~~ department.”

SECTION 4. Section 57‑3‑20 of the 1976 Code is amended to read:

“Section 57‑3‑20. The responsibilities and duties of the following division deputy directors must include, but not be limited to, the following:

(1) division deputy director for finance and administration:

~~a.~~(a) financial planning and management;

~~b.~~(b) accounting systems necessary to comply with all federal and/or state laws and/or regulations as well as all policies established by the Comptroller General; and

~~c.~~(c) administrative functions, including recording proceedings of the commission and developing policy and procedures to ensure compliance with these policies and procedures~~.~~;

(2) division deputy director for construction, engineering, and planning:

~~a.~~(a) ~~development~~ develop ~~of~~ statewide strategic highway plans; and

~~b.~~(b) ~~directs~~ direct highway engineering activities, including construction, design, construction oversight, and maintenance of state highways~~.~~;

(3) division deputy director for ~~mass transit~~ intermodal and freight programs:

~~a.~~(a) ~~development of~~ develop a statewide ~~mass~~ public transit system; ~~and~~

~~b.~~(b) coordinate the preservation and revitalization of existing rail corridors~~.~~;

(c) develop and coordinate a statewide passenger and freight rail system, including the development of a comprehensive state rail plan for passenger and freight railroads and rail infrastructure services;

(d) plan, develop, and coordinate a comprehensive intermodal transportation program for the movement of passengers and freight through integrated highway, railroad, port, airport, and other transit systems;

(e) financial management of funding from federal, state, and local transit, rail, and other intermodal sources; and

(f) manage the Office of Railroads and the Office of Public Transit.”

SECTION 5. Chapter 3, Title 57 of the 1976 Code is amended by adding:

“Section 57‑3‑30. (A) The Office of Railroads is established within the Division of Intermodal and Freight Programs. The office is principally responsible for:

(1) preserving railroad rights‑of‑way for future use and coordinating the preparation of a state railroad corridor preservation and revitalization plan;

(2) coordinating high‑speed and intercity passenger rail planning and development;

(3) planning, developing, maintaining, and coordinating a comprehensive state rail plan for passenger and freight railroads and infrastructure services with other modes of transportation to help facilitate effective and efficient interstate and intrastate movement of people and freight;

(4) applying for and receiving state, federal, or other funds for passenger and freight rail service and infrastructure needs, high‑speed and intercity passenger rail planning and development, and rail corridor preservation and revitalization programs; and

(5) preparing and submitting by February first of each year a full, printed, detailed report to the House Education and Public Works Committee and the Senate Transportation Committee containing an analysis of the:

(a) state railroad corridor preservation and revitalization plan; and

(b) comprehensive state rail plan for passenger and freight railroads and infrastructure services.

(B) Every five years the office must develop and prepare a comprehensive state rail plan for passenger and freight railroads and infrastructure services. The plan must be approved by the United States Department of Transportation. The plan, and any updates, must be submitted to the General Assembly.

(C) All departments, boards, public authorities, or other agencies of the State or its political subdivisions, local government, transportation authorities, and other local public entities must cooperate with the ~~department~~ office, provide assistance, data, and advice upon request, and must reimburse any such entity necessary costs in the event of any expense. This authority does not preclude another governmental entity, public or private organization, or individual from entering into a contract or agreement concerning the purposes set forth in this section.”

SECTION 6. Section 57‑3‑40 of the 1976 Code is amended to read:

“Section 57‑3‑40. (A) The Office of Public Transit is established within the Division of Intermodal and Freight Programs. The ~~Division of Mass Transit~~ office must develop and coordinate a general ~~mass~~ public transit program and policy for the State in order to encourage the efficient development, implementation, operation, evaluation, and monitoring of ~~mass~~ public transit systems, both public and private. The office is authorized to apply for and receive federal, state, and other funds for passenger public transit system on the department’s behalf.

~~(B)~~ ~~The division is further designated as the agency of the State principally responsible for preserving railroad rights‑of‑way for future use, and coordinating rail passenger service and high‑speed rail planning and development. This authority includes, but is not limited to, the power to apply for and to receive state, federal, or other funds for rail passenger service, high‑speed rail planning and development, bus passenger service, and rail corridor preservation and revitalization programs.~~

~~(C)~~(B) All departments, boards, public authorities, or other agencies of the State or its political subdivisions, local government, transportation authorities, and other local public entities must cooperate with the ~~department~~ office, provide assistance, data, and advice upon request and must reimburse any such entity necessary ~~cost~~ costs in the event of any expense. This authority does not preclude another governmental entity, public or private organization, or individual from entering into a contract or agreement concerning the purposes set forth in this section.

~~(D)~~(C) The ~~division~~ office must develop and annually submit by February first of each year a full, printed, detailed report to the House Education and Public Works Committee and the Senate Transportation Committee ~~showing~~ containing an analysis of:

(1) the ~~division’s~~ office’s accomplishments ~~in~~ during the past year;

(2) a five year plan detailing future needs and goals of the State as it relates to all forms of ~~mass~~ public transit; and

(3) a plan for funding and receiving federal matching funds or other funds as may be available~~; and~~.

~~(4)~~ ~~a state railroad corridor preservation and revitalization plan.~~

~~(E)~~ ~~A railroad right‑of‑way or corridor held for railroad right‑of‑way preservation may be used for interim public purposes compatible with preservation of the corridor for future transportation use. A railroad corridor held for railroad right‑of‑way preservation may not be considered abandoned for the purpose of any law.~~

~~(F)~~(D) All powers, duties, and responsibilities of the Interagency Council on Public Transportation are devolved upon the ~~Division of Mass Transit~~ office.”

SECTION 7. Article 2, Chapter 3, Title 57 of 1976 Code is amended by adding:

“Section 57‑3‑210. (A) The department is authorized to utilize public transit funds to contract directly with private operators of public transit systems to provide service to the general public, provided that the private operators have established a plan of service that has been approved by the local governmental entity that has jurisdiction over the area to be served, the department, the commission, and the federal government.

(B)(1) The department shall plan and develop mechanisms for increasing coordination of funding streams and resources for public transportation at both the state and local levels to improve access and delivery of transportation services, especially in rural areas. The department shall work with each agency that provides funding for transportation and assure input in the process from major local providers of transportation services to the public, including current providers of coordinated public service.

(2) The department shall prepare and submit a progress report to the General Assembly on or before January fifteenth each year. The progress report required by this section may be combined with the Department of Transportation Annual Report required pursuant to Section 57‑3‑760 and the Office of Public Transit Report required by Section 57‑3‑40.

(C)(1) Any agency, local government, or other entity, including nonprofit organizations, using state funds or state‑administered federal funds to transport members of the general public on a regular basis must:

(a) provide input and information concerning its operations upon request by the Office of Public Transit for planning purposes. The input and information must be provided in a timely manner and in a format specified by the office; and

(b) demonstrate progress toward the development of or participation in a public transportation coordination plan.

(2) No transportation funds may be provided to any entity not in compliance with the requirements of this subsection.

(3) The Department of Corrections, the Department of Education, school districts, and institutions of higher education are exempt from the requirements of this subsection.

Section 57‑3‑220. (A) A railroad right‑of‑way corridor held for railroad right‑of‑way preservation may be used for a public purpose compatible with preservation of the corridor for future transportation use on an interim basis until the corridor is used for rail transport. A railroad corridor held for railroad right‑of‑way preservation are not abandoned for the purpose of any law.

(B) Each railroad and railway, as defined in Section 58‑17‑10, shall file a report with the Office of Railroads concerning active, inactive, to be abandoned, and abandoned rail lines. The report must be amended to reflect additions, changes, and revisions to the status of reporting entity’s rail lines within three months of the addition, change, or revision.

(C) To assist the facilitation of a comprehensive intermodal transportation program for the effective and efficient interstate and intrastate movement of people and freight, the Office of Railroads must be:

(1) notified by the State Ports Authority of any existing or future plans for expanding the authority’s transportation infrastructure; and

(2) provided with master plans or construction plans for airport transportation improvements by the Division of Aeronautics.

Section 57‑3‑230. The Secretary of Transportation may convene a special advisory committee to assist the department in evaluating and addressing issues related to the facilitation of safe and efficient freight, transportation, and logistics infrastructure in the State. The advisory committee must include members of the general public to represent the freight transportation and supply chain industries. The secretary may also invite other state agencies to participate in the committee.”

SECTION 8. Section 13‑1‑1710 of the 1976 Code is amended to read:

“Section 13‑1‑1710. There is created the Coordinating Council for Economic Development. The membership consists of the Secretary of Commerce, the Commissioner of Agriculture, the Chairman of the South Carolina Employment Security Commission, the Director of the South Carolina Department of Parks, Recreation and Tourism, the Chairman of the State Board for Technical and Comprehensive Education, the Chairman of the South Carolina Ports Authority, the Chairman of the South Carolina Public Service Authority, the Chairman of the South Carolina Jobs Economic Development Authority, the Director of the South Carolina Department of Revenue, the Secretary of the Department of Transportation, and the Chairman of the South Carolina Research Authority. The Secretary of Commerce serves as the chairman of the coordinating council.”

SECTION 9. The reports required by Section 57‑3‑220 in SECTION 7 of this act must be filed within three months of the effective date of this act.

SECTION 10. This act takes effect July 1, 2010. /

Renumber sections to conform.

Amend title to conform.

LAWRENCE K. GROOMS for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 57‑3‑45 AND 57‑3‑55 SO AS TO ESTABLISH THE DIVISION OF RAILROAD TRANSPORTATION AS A COMPONENT OF THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION AND PROVIDE FOR ITS FUNCTIONS AND TO REQUIRE RAILROADS AND RAILWAYS ANNUALLY TO REPORT TO THIS DIVISION THEIR ACTIVE, INACTIVE, TO BE ABANDONED, AND ABANDONED RAIL LINES; AND TO AMEND SECTIONS 57‑3‑10, 57‑3‑20, AND 57‑3‑40, RELATING RESPECTIVELY TO THE DIVISIONS COMPRISING THE DEPARTMENT OF TRANSPORTATION, THE RESPONSIBILITIES AND DUTIES OF DIVISION DEPUTY DIRECTORS ADMINISTERING THESE DIVISIONS, AND THE FUNCTIONS OF THE MASS TRANSIT DIVISION, SO AS TO CONFORM THESE PROVISIONS TO REFLECT THE ESTABLISHMENT OF THE DIVISION OF RAILROAD TRANSPORTATION WITHIN THE DEPARTMENT OF TRANSPORTATION.

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

SECTION 1. Article 1, Chapter 3, Title 57 of the 1976 Code is amended by adding:

“Section 57‑3‑45. (A) The Division of Railroad Transportation shall:

(1) provide for the planning and development of a statewide intermodal transportation connectivity plan for passenger and freight railroads;

(2) prepare and submit a statewide passenger and freight rail plan by February first of every fifth year for approval of the Governor, the House Education and Public Works Committee, and Senate Transportation Committee pursuant to Title 49 of the United States Code;

(3) prepare and submit a state grade crossing action plan by February first of every fifth year for approval of the Governor, the House Education and Public Works Committee, and Senate Transportation Committee pursuant to Title 49 of the United States Code;

(4) apply for, receive, use, or distribute state, federal, or other funds, for passenger and freight rail service and infrastructure needs, high‑speed rail planning and development, and rail corridor preservation and revitalization programs;

(5) initiate and coordinate engineering and safety studies for the development of a statewide intermodal transportation connectivity plan for passenger and freight railroads;

(6) coordinate statewide intermodal transportation connectivity plan for passenger and freight railroads with other modes of transportation within this State to help facilitate effective and efficient interstate and intrastate movement of people and goods;

(7) coordinate the preparation of a state railroad corridor preservation and revitalization plan. A railroad right‑of‑way or corridor held for railroad right‑of‑way preservation may be used for interim public purposes compatible with preservation of the corridor for future transportation use. A railroad corridor held for railroad right‑of‑way preservation may not be considered abandoned for any purpose of law. The Office of Regulatory Staff, as established pursuant to Section 58‑4‑10, shall send copies of all written notices of track retirement, as set forth in Section 58‑17‑150(B), to the division to facilitate railroad preservation planning purposes.

(B) The Division of Aeronautics shall send all master plan or construction plans for airport transportation improvements as required under Section 55‑5‑86 to the division in order to facilitate statewide intermodal transportation connectivity planning purposes.

(C) The State Ports Authority shall notify the division of any existing or future plans for expansion of transportation needs for port facilities pursuant to Sections 54‑3‑110 and 54‑3‑240 in order to facilitate statewide intermodal transportation connectivity planning purposes.

(D) Funding for the cost of preparation and development of the comprehensive statewide intermodal transportation connectivity plan by the division is the responsibility of the Department of Commerce.

Section 57‑3‑55. All railroads and railways as defined pursuant to Section 58‑17‑10 shall submit to the division an annual report of their active, inactive, to be abandoned, and abandoned rail lines. The annual report must be made on the schedule provided pursuant to Section 58‑15‑960, mutatis mutandis.”

SECTION 2. Section 57‑3‑10 of the 1976 Code is amended to read:

“Section 57‑3‑10. The Department of Transportation ~~must be~~ is divided into ~~such divisions as the commission may prescribe but must consist of~~ the following principal divisions: finance and administration; construction, engineering~~,~~ and planning; railroad transportation and mass transit. The commission may establish other divisions, or ancillary or service divisions as ~~may be~~ necessary for the efficient and economic operation of the ~~division~~ department and to carry out the functions and purposes of the ~~division~~ department.”

SECTION 3. Section 57‑3‑20 of the 1976 Code is amended to read:

“Section 57‑3‑20. The responsibilities and duties of the following division deputy directors ~~must~~ include, but are not ~~be~~ limited to, the following:

(1) division deputy director for finance and administration:

~~a.~~ (a) financial planning and management;

~~b.~~ (b) accounting systems necessary to comply with all applicable federal and~~/or~~ state laws and~~/or~~ regulations ~~as well as~~ and all policies established by the Comptroller General; and

~~c.~~ (c) administrative functions, including recording proceedings of the commission and developing policy and procedures to ensure compliance with these policies and procedures.

(2) division deputy director for construction, engineering~~,~~ and planning:

~~a.~~ (a) development of statewide strategic highway plans; and

~~b.~~ (b) ~~directs~~ direction of highway engineering activities, including construction, design, construction oversight, and maintenance of state highways.

(3) division deputy director for mass transit~~:~~ ‑ ~~a.~~ development of a statewide mass transit system~~; and~~

~~b. coordinate the preservation and revitalization of existing rail corridors~~.

(4) division deputy director for railroad transportation:

(a) planning, development and coordination of the freight rail system and passenger rail system;

(b) financial management of funding from federal, state, and local sources;

(c) maintaining and coordinating a comprehensive state rail plan for passenger and freight railroads and service; and

(d) coordinating the preservation and revitalization of existing rail corridors.”

SECTION 4. Subsections (B), (D), and (E) of Section 57‑3‑40 of the 1976 Code are amended to read:

“(B) ~~The division is further designated as the agency of the State principally responsible for preserving railroad rights‑of‑way for future use, and coordinating rail passenger service and high‑speed rail planning and development. This authority includes, but is not limited to, the power to apply for and to receive state, federal, or other funds for rail passenger service, high‑speed rail planning and development, bus passenger service, and rail corridor preservation and revitalization programs.~~ RESERVED

(D) The division ~~must~~ shall develop and ~~annually~~ submit by February first of each year a full, printed, detailed report to the House Education and Public Works Committee and the Senate Transportation Committee showing an analysis of:

(1) the division’s accomplishments in the past year;

(2) a five year plan detailing future needs and goals of the State as it relates to all forms of mass transit; and

(3) a plan for funding and receiving federal matching funds or other funds as may be available~~; and~~

~~(4)~~ ~~a state railroad corridor preservation and revitalization plan~~.

(E) ~~A railroad right‑of‑way or corridor held for railroad right‑of‑way preservation may be used for interim public purposes compatible with preservation of the corridor for future transportation use. A railroad corridor held for railroad right‑of‑way preservation may not be considered abandoned for the purpose of any law.~~ RESERVED”

SECTION 5. This act takes effect January 1, 2010.

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