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Indicates New Matter

COMMITTEE REPORT

April 24, 2018

**H. 4009**

Introduced by Reps. Lucas, Williams, Crawford, Alexander, McCoy, Hiott, Clemmons, Bales, Bedingfield, Ott, G.R. Smith, Herbkersman, Sandifer and S. Rivers

S. Printed 4/24/18--S. [SEC 4/25/18 11:47 AM]

Read the first time April 9, 2018.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (H. 4009) to amend the Code of Laws of South Carolina, 1976, by adding Chapter 69 to Title 12 so as to enact the “Motorsports Entertainment Complex Investment Act”, 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, beginning on page 3, by striking line 38 through line 10 on page 4, and inserting:

/ SECTION 2. A. Section 12‑6‑3585(A), (E), and (F) of the 1976 Code are amended to read:

“(A) For each tax year beginning after 2017, a taxpayer may claim as a credit against state income tax imposed by Chapter 6, Title 12, bank tax imposed by Chapter 11, Title 12, license fees imposed by Chapter 20 of Title 12, or insurance premiums imposed by Chapter 7, Title 38, or any combination of them, one hundred percent of an amount contributed to the Industry Partnership Fund at the South Carolina Research Authority (SCRA), or an SCRA‑designated affiliate, or both, pursuant to Section 13‑17‑88(E), up to a maximum credit of ~~six hundred fifty thousand dollars for a single taxpayer, not to exceed an aggregate credit of two million dollars for all taxpayers in tax year 2006; up to a maximum credit of one million three hundred thousand dollars for a single taxpayer, not to exceed an aggregate credit of four million dollars for all taxpayers in tax year 2007; and up to a maximum credit of two million dollars for a single taxpayer, not to exceed an aggregate credit of six million dollars for all taxpayers for each tax year beginning after December 31, 2007~~ two hundred fifty thousand dollars for a single taxpayer, not to exceed an aggregate credit of twelve million dollars for all taxpayers. For purposes of determining a taxpayer’s entitlement to the credit for qualified contributions for a given tax year in which more than the applicable aggregate annual limit on the credit is contributed by taxpayers for that year, taxpayers who have made contributions that are intended to be qualified contributions earlier in the applicable tax year than other taxpayers must be given priority entitlement to the credit. The SCRA shall certify to taxpayers who express a bona fide intention of making one or more qualified contributions as to whether the taxpayer is entitled to that priority.

(E) ‘Taxpayer’ means an individual, corporation, partnership, trust, bank, insurance company, or other entity having a state income or insurance premium tax or license fee liability who has made a qualified contribution. However, for purposes of this section, any member of the SCRA board of trustees or the SC Launch!, Inc. board of directors is not considered a taxpayer, and may not claim the credit allowed by this section.

(F) To qualify for the credit, the taxpayer shall retain a form provided by SCRA identifying the taxpayer and the year and amount of credit for which the taxpayer qualifies. The Department of Revenue may require a copy of the form be attached to the taxpayer’s income tax return or be provided otherwise to the department. Also, to qualify for the credit, a taxpayer who is certified by SCRA under subsection (A) as having priority entitlement to the credit for an applicable year must make a commitment satisfactory to SCRA, at such time as SCRA deems appropriate but not later than April first of such year, to make the contribution during such year.”

B. Notwithstanding the increase in the annual maximum credit amount for all taxpayers from six million dollars to twelve million dollars in Section 12‑6‑3585, as amended by this SECTION, the increased maximum credit amount must be phased in in two equal and cumulative installment amounts beginning in tax years beginning after 2017.

C. This SECTION takes effect upon approval by the Governor and applies to tax years beginning after 2017, except that the amendment to Section 12‑6‑3585(F) shall not take effect until January 1, 2019.

SECTION 3. A. Section 12‑6‑3585 of the 1976 Code is amended by adding a subsection to read:

“(J) By March fifteenth of each year, the South Carolina Research Authority shall issue a report to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Governor detailing the amount contributed to the Industry Partnership Fund in the previous tax year that entitled the taxpayer to the credit allowed by this section, the taxpayers that received the credit, and the manner in which such contributions were expended or are expected to be expended. The report also must be posted in a conspicuous place on the website maintained by the South Carolina Research Authority.”

B. This SECTION takes effect January 1, 2019.

SECTION 4. Except where specified otherwise, this act takes effect upon approval by the Governor and applies to tax years beginning after 2017. /

Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Amended on March 22, 2018 by House Ways and Means**

**State Expenditure**

The Department of Revenue indicates that there will be no expenditure impact to the general fund, federal funds, or other funds from this bill. The Department can administer the legislative changes with existing resources.

**State Revenue**

The House Ways and Means Committee amended the bill by striking all after the enacting words and inserting the following:

**Section 1.** This bill would add Chapter 69 to Title 12 and may be cited as the “Motorsports Entertainment Complex Investment Act”. A motorsports entertainment complex means a motorsports facility, and its ancillary grounds and facilities, that is

 A NASCAR-sanctioned motor speedway or racetrack that hosted at least one NASCAR Sprint Cup Series race in 2012, or any successor race

 Has at least three days of scheduled days of motorsports events each calendar year that are sanctioned by a nationally or internationally recognized governing body of motorsports

 Engages in tourism promotion

The following analysis is based upon a capital investment of $10,000,000 in a motorsports entertainment complex at the Darlington Speedway in Darlington, SC.

This section would enact the Motorsports Entertainment Complex Investment Act to add Section 12-69-30 to exempt from state and local sales tax on building materials, supplies, fixtures, and equipment for the construction, repair, or improvement of or that become a part of a motorsports entertainment complex. A qualified company must submit an application to the Department of Revenue (DOR) for a plan to invest at least $10,000,000 in any motorsport entertainment complex in the State within a five-year period immediately following the approval of the application. Upon written certification by the Department of Revenue, the company may utilize the sales tax exemption. If a company fails to meet the capital investment requirement within the five-year period, the company is liable for the sales tax it would have been responsible for and the Department of Revenue may “claw back” the sales and use tax owed.

The Darlington Raceway has announced a $7,000,000 capital improvement campaign to improve three grandstands giving fans a more comfortable seating environment when attending races. The concession stands and restrooms will also be refurbished. There will also be multiple cross-over gates installed and a one-of-a-kind *Wall of Honor* will pay tribute to the former race champions. This will be one of several phases of construction over a period of years. Over the next five years the $10,000,000 investment threshold should easily be met. This bill would allow a sales tax exemption for the purchase of equipment and construction materials used in the renovation of the facility. A typical construction project consists of forty percent of the value of the project is paid to labor and sixty percent is paid for materials and equipment. Multiplying an estimated $10,000,000 capital investment project by sixty percent for the purchase of materials and equipment and applying a six percent sales and use tax yields a reduction of sales and use tax revenue of an estimated $360,000 in FY2018-19. Of this amount, general fund sales and use tax revenue would be reduced by $240,000, the EIA Fund would be reduced by $60,000, and the Homestead Exemption Fund would be reduced by $60,000 in FY2018-19.

**Section 2.** This act takes effect upon approval by the Governor and applies to tax years beginning after 2016.

**Introduced on March 21, 2017**

**State Expenditure**

The Department of Revenue indicates that there will be no expenditure impact to the general fund, federal funds, or other funds from this bill. The Department can administer the legislative changes with existing resources.

**State Revenue**

This bill would add Chapter 69 to Title 12 and may be cited as the “Motorsports Entertainment Complex Investment Act”. A motorsports entertainment complex means a motorsports facility, and its ancillary grounds and facilities, that is

 A NASCAR-sanctioned motor speedway or racetrack that hosted at least one NASCAR Sprint Cup Series race in 2012, or any successor race

 Has at least three days of scheduled days of motorsports events each calendar year that are sanctioned by a nationally or internationally recognized governing body of motorsports

 Engages in tourism promotion

This bill makes several changes to statutory tax law. They include,

 A sales and use tax exemption on building materials, supplies, fixtures, and equipment for the construction, repair, or improvement of or that become a part of a motorsports entertainment complex

 There is created in the State Treasury the Motorsports Tourism Incentive Fund to be used by the Department of Parks, Recreation, and Tourism (PRT) for awarding grants or loans to attract and expand tourism and hospitality projects at events at motorsports entertainment complexes

 Allows a taxpayer a nonrefundable investment tax credit of twenty-five percent of the costs to install equipment or technology that allows information to be transmitted through a wireless local area network (LAN) at a motorsports entertainment complex. The tax credit amount may be increased based upon the county designation as determined by the South Carolina Department of Revenue

 Any company subject to a corporate license tax may claim a credit against its license tax liability for amounts paid in cash to provide infrastructure for an eligible project at a motorsports entertainment complex

 A taxpayer may retain the total amount of admissions license tax paid at a motorsports entertainment complex to be used on marketing for events at the complex

The following analysis is based upon a capital investment of $10,000,000 in a motorsports entertainment complex at the Darlington Speedway in Darlington, SC.

**Section 1.** This section would enact the Motorsports Entertainment Complex Investment Act to include the following provisions.

This section adds Section 12-69-30 to exempt from state and local sales tax on building materials, supplies, fixtures, and equipment for the construction, repair, or improvement of or that become a part of a motorsports entertainment complex. A qualified company must submit an application to the Department of Parks, Recreation, and Tourism (PRT) for a plan to invest at least $10,000,000 in any motorsport entertainment complex in the State within a five-year period immediately following the approval of the application. Upon written certification by the Department of Revenue, the company may utilize the sales tax exemption. If a company fails to meet the capital investment requirement within the five year period, the company is liable for the sales tax it would have been responsible for and the Department of Revenue may “claw back” the sales and use tax owed.

The Darlington Raceway has announced a $7,000,000 capital improvement campaign to improve three grandstands giving fans a more comfortable seating environment when attending races. The concession stands and restrooms will also be refurbished. There will also be multiple cross-over gates installed and a one-of-a-kind *Wall of Honor* will pay tribute to the former race champions. This will be one of several phases of construction over a period of years. Over the next five years the $10,000,000 investment threshold should easily be met. This bill would allow a sales tax exemption for the purchase of equipment and construction materials used in the renovation of the facility. A typical construction project consists of forty percent of the value of the project is paid to labor and sixty percent is paid for materials and equipment. Multiplying an estimated $10,000,000 capital investment project by sixty percent for the purchase of materials and equipment and applying a six percent sales and use tax yields a reduction of sales and use tax revenue of an estimated $360,000 in FY2017-18. Of this amount, general fund sales and use tax revenue would be reduced by $240,000, the EIA Fund would be reduced by $60,000, and the Homestead Exemption Fund would be reduced by $60,000 in FY2017-18.

This bill adds Section 12-69-50 to create in the State Treasury a fund separate and distinct from the general fund and all other funds styled the Motorsports Tourism Incentive Fund. All earnings and interest on this fund must stay with the fund and any balance in the fund at the end of the fiscal year carries over to the succeeding fiscal year. The fund must be used by PRT solely for awarding grants or loans to attract and expand tourism and hospitality projects related to events at motorsports entertainment complexes. To qualify for an award, a company must make a minimum capital investment of at least $10,000,000; however, the capital investment requirement may be reduced by one-half if the capital investment is made in a Tier III or Tier IV county, pursuant to Section 12-6-3360. Darlington County is designated as a Tier III county based on the latest rankings of the job tax credit county designations in calendar year 2018 by the Department of Revenue. The funds may be used for public and private utility extension on or off site, road access, site acquisition, grading, drainage, paving, construction of publicly or privately owned buildings, training, or grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision. The funds may not be used for the payment of any rental, lease, license, or other contractual right to the use of any property. Since this section does not identify a funding source for the grants or loans we are not able to determine the level of loan activity from the fund and is undeterminable in FY2017-18.

This section adds Section 12-69-70 to direct the Department of Commerce and Coordinating Council for Economic Development to consider motorsport entertainment complexes when awarding benefits for economic development projects. These awards may be funded from revenue in the Governor’s Closing Fund. Because this section provides a subjective criterion in making economic development awards and uses a revenue source other than the general fund, this section is not expected to affect general fund revenue in FY2017-18.

This section adds Section 12-69-80 to allow a nonrefundable tax credit equal to twenty-five percent of the cost incurred by a taxpayer to install equipment or technology that allows information to be transmitted through a wireless local area network (LAN) at a motorsports entertainment complex. The tax credit may be increased by five percent if the motorsports complex is located in a Tier II county, ten percent if located in a Tier III county, and fifteen percent if located in a Tier IV county. Darlington County is designated a Tier III county and would be allowed an additional ten percent tax credit. Any unused tax credits may be carried forward for ten years. Multiplying an estimated $10,000,000 capital investment project by a thirty-five percent tax credit rate yields a reduction of income tax, bank tax, savings and loan tax, and/or corporate license tax revenue of an estimated $3,500,000 in FY2017-18. Any unused tax credits may be carried forward for ten years after the tax year in which the costs were incurred.

**Section 2.** This section would amend Section 12-20-110 to allow a taxpayer to claim a tax credit against its corporate license tax liability for amounts paid in cash to provide infrastructure for an eligible project at a motorsports entertainment complex. Infrastructure is defined as improvements for water, wastewater, hydrogen fuel, sewer, gas, steam, electric energy, and communication services made to a building or land that are considered necessary, suitable, or useful to an eligible project. The maximum aggregate credit that may be claimed in any tax year by a single company is $400,000. The tax credit may not reduce the license tax liability of the company below zero. If the tax credit earned in a taxable year exceeds the liability, the amount of the excess may be carried forward to the next taxable year. Based on the heavy use of this tax credit in data provided by the Department of Revenue, the $400,000 cash contribution threshold should easily be met. This section, therefore, would reduce general fund corporation license tax revenue by an estimated $400,000 in FY2017-18.

**Section 3.** Currently, for the ten-year period beginning July 1, 2008, and ending June 30, 2018, one-half of the paid admissions to a motorsports entertainment complex may be withheld by the taxpayer to be used for marketing efforts of the complex. The Board of Economic Advisors has accounted for this revenue in its annual general fund revenue estimates since that date. This section would amend Section 12-21-2425(A) to strike the phrase “for ten years beginning July 1, 2008, one-half of” the paid admissions to a motorsports entertainment complex. This bill would allow the admission tax revenue collected annually from all events held at a NASCAR sanctioned motor speedway or racetrack that hosts at least one race each year featuring the preeminent NASCAR cup series to be retained by the motorsports entertainment complex facility. The funds would be used to help keep a NASCAR race at the motorsports entertainment complex facility. This amounted to admissions tax revenue retained by the motorsports complex of $87,028 in FY2016-17. The BEA was anticipating the return of this revenue to the general fund after the expiration of the ten year period in FY2018-19. This bill, therefore, would allow the additional one-half of paid admissions to a motorsports entertainment complex to be retained by the complex. Based on actual admissions tax collections from a motorsports entertainment complex and the change in statutory language, this bill would reduce general fund admissions tax revenue by an estimated $87,028 in FY2017-18 and by $174,056 in FY2018-19, and each fiscal year thereafter.

**Section 4.** This act takes effect upon approval by the Governor and applies to tax years beginning after 2016.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 69 TO TITLE 12 SO AS TO ENACT THE “MOTORSPORTS ENTERTAINMENT COMPLEX INVESTMENT ACT” BY EXEMPTING CERTAIN BUILDING MATERIALS FOR A COMPLEX FROM THE SALES TAX AND TO PROVIDE THE PROCESS BY WHICH A QUALIFIED COMPANY MAY CLAIM THE EXEMPTION, TO CREATE THE MOTORSPORTS TOURISM INCENTIVE FUND TO AWARD GRANTS OR LOANS TO ATTRACT AND EXPAND TOURISM AND HOSPITALITY PROJECTS RELATED TO EVENTS AT SUCH COMPLEXES, TO PROVIDE THAT A COMPLEX IS ELIGIBLE FOR BENEFITS FROM THE CLOSING FUND, TO ALLOW A TAX CREDIT OF TWENTY‑FIVE PERCENT OF THE COSTS INCURRED BY A TAXPAYER TO INSTALL EQUIPMENT OR TECHNOLOGY THAT ALLOWS INFORMATION TO BE TRANSMITTED THROUGH A WIRELESS LOCAL AREA NETWORK AT A COMPLEX; TO AMEND SECTION 12‑20‑110, RELATING TO THE APPLICABILITY OF CORPORATION LICENSE FEE PROVISIONS, SO AS TO MAKE SUCH PROVISIONS INAPPLICABLE TO A COMPLEX; AND TO AMEND SECTION 12‑21‑2425, RELATING TO THE ADMISSION LICENSE TAX, SO AS TO INCREASE THE EXEMPTION ON A COMPLEX, TO REMOVE THE TIME PERIOD FOR THE EXEMPTION, AND TO PROVIDE THAT THE EXEMPTED REVENUE MUST BE USED ON MARKETING FOR EVENTS AT THE COMPLEX.

Whereas, since 1950, with the inaugural running of the Southern 500, the first stock car race on a paved track, South Carolina has served as a cornerstone in the development of stock car racing, one of the fastest growing and most popular spectator sports in the country; and

Whereas, South Carolina lays claim to many of the legends of NASCAR racing, including Rex White, David Pearson, Bud Moore, James Hylton, Tiny Lund, and Cale Yarborough; and

Whereas, the State of South Carolina is rich in historical references to the sport of stock car racing, as evidenced by the Darlington Raceway Stock Car Museum and the National Motorsports Press Association Hall of Fame, in addition to dirt raceways across the State of South Carolina that served as home to the fledgling sport of NASCAR racing in the 1950s; and

Whereas, the NASCAR events in South Carolina focus our nation’s attention and the attention of the world upon our great State as a sport and tourism destination each year; and

Whereas, the annual economic impact that NASCAR racing has on South Carolina is in excess of fifty million dollars, as NASCAR fans from across the country and around the world visit the State each year to attend racing events and then vacation in communities throughout the Palmetto State. Now, therefore

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

SECTION 1. Title 12 of the 1976 Code is amended by adding:

“CHAPTER 69

Motorsports Entertainment Complex Investment

Section 12‑69‑10. This chapter may be cited as the ‘Motorsports Entertainment Complex Investment Act’.

Section 12‑69‑20. For purposes of this chapter:

(1) ‘Company’ means any corporation, partnership, limited liability company, or other business entity.

(2) ‘Department’ means the Department of Revenue.

(3) ‘Motorsports entertainment complex’ has the same meaning as provided in Section 12‑21‑2425.

Section 12‑69‑30. (A) A company, upon making application for, meeting the requirements of, and receiving written certification of that designation from the department, as provided in subsection (B), is exempt from state and local sales tax on building materials, supplies, fixtures, and equipment for the construction, repair, or improvement of or that become a part of a motorsports entertainment complex.

(B) A company shall become a qualified company by applying with the department. The director of the department shall approve the application so long as the application is accompanied by a practical plan to make a capital investment of at least ten million dollars on any motorsport entertainment complex in this State within the five‑year period immediately following the approval of the application. Upon receiving written certification from the department, a company may utilize the exemption specified in subsection (A).

(C) Once a company has met the requirements of subsection (B), the department shall issue a sales and use tax exemption certificate to the company as evidence of the exemption. The exemption is effective upon receipt and shall remain effective until December thirty‑first of the fifth full calendar year after its issuance. Once the exemption certificate is ineffective, the company must return the exemption certificate to the department and submit a report to the department of the actual expenditures made in South Carolina in connection with the investment. The company must designate a member or representative of the company to work with the department on reporting of the investment.

(D) A company that is approved and receives a sales and use tax exemption certificate but fails to meet the capital investment requirements within the five‑year period, is liable for the sales and use taxes that would have been paid had the approval not been granted in the same proportion as the actual capital investment failed to meet the required capital investment. The company must be given a sixty‑day period in which to pay the sales and use taxes without incurring penalties. The sales and use taxes are considered due as of the date the tangible personal property was purchased in or brought into South Carolina for use, storage, or consumption.

(E) At the time the company is certified by the department it may make an irrevocable assignment of future payments attributable to the rebates made pursuant to this section. For purposes of this section, ‘designated trustee’ means the single financier or financial institution designated by the council to receive all assignments of payments made pursuant to this chapter and to the terms of an agreement entered into by the company. If a company elects to assign payments to the designated trustee, the election must be made on a form provided by the department including a waiver of the provisions of Section 12‑54‑240, and the payments may be paid only to the designated trustee. The company must file an application for the assignment with the director of the department no later than sixty days after certification.”

SECTION 2. This act takes effect upon approval by the Governor and applies to tax years beginning after 2016.

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