

South Carolina General Assembly
115th Session, 2003-2004

H. 4537

STATUS INFORMATION

General Bill

Sponsors: Reps. Walker, Wilkins, W.D. Smith, Harrison, Witherspoon, Cato, Townsend, Littlejohn, Davenport, J.E. Smith, Huggins, Lourie, Scott, Bales, McGee, Sinclair, Anthony, Harvin, Cotty, Leach, Allen, Altman, Bailey, Barfield, Battle, Bingham, Bowers, Branham, Breeland, G. Brown, J. Brown, R. Brown, Ceips, Chellis, Clark, Clemmons, Clyburn, Coates, Cobb-Hunter, Coleman, Cooper, Dantzler, Delleney, Duncan, Edge, Emory, Freeman, Frye, Gilham, Gourdine, Govan, Hagood, Hamilton, Harrell, Haskins, Hayes, Herbkersman, J. Hines, Hinson, Hosey, Howard, Jennings, Keegan, Kennedy, Kirsh, Koon, Lee, Lloyd, Loftis, Lucas, Mack, Mahaffey, Martin, McCraw, McLeod, Merrill, Miller, Moody-Lawrence, J.H. Neal, J.M. Neal, Neilson, Ott, Owens, Parks, Perry, Phillips, Pinson, E.H. Pitts, M.A. Pitts, Quinn, Rhoad, Rice, Richardson, Rivers, Rutherford, Sandifer, Scarborough, Sheheen, Simrill, Skelton, D.C. Smith, F.N. Smith, G.M. Smith, G.R. Smith, J.R. Smith, Snow, Stewart, Stille, Talley, Taylor, Thompson, Toole, Tripp, Trotter, Umphlett, Vaughn, Viers, Weeks, Whipper, White, Whitmire, Young and M. Hines

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Companion/Similar bill(s): 822

Introduced in the House on January 14, 2004

Introduced in the Senate on February 4, 2004

Last Amended on May 27, 2004

Passed by the General Assembly on June 2, 2004

Summary: Aeronautics Division moved from Commerce Dept. to Transportation; provisions

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>BodyAction Description with journal page number</u>
1/14/2004	HouseIntroduced and read first time HJ-21
1/14/2004	HouseReferred to Committee on Education and Public Works HJ-25
1/20/2004	HouseMember(s) request name added as sponsor: M.Hines
1/29/2004	HouseCommittee report: Favorable with amendment Education and Public Works HJ-1
1/30/2004	Scrivener's error corrected
2/3/2004	HouseAmended HJ-28
2/3/2004	HouseRead second time HJ-29
2/4/2004	HouseRead third time and sent to Senate HJ-16
2/4/2004	SenateIntroduced and read first time SJ-29
2/4/2004	SenateReferred to Committee on Transportation SJ-29
2/4/2004	Scrivener's error corrected
5/13/2004	SenateRecalled from Committee on Transportation SJ-38
5/14/2004	Scrivener's error corrected
5/27/2004	SenateAmended SJ-223
5/27/2004	SenateRead second time SJ-223

5/27/2004SenateOrdered to third reading with notice of amendments SJ-223
6/1/2004 Scrivener's error corrected
6/1/2004SenateRead third time and returned to House with amendments SJ-23
6/2/2004HouseConcurred in Senate amendment and enrolled

AMENDED
May 27, 2004

H. 4537

Introduced by Reps. Walker, Wilkins, W.D. Smith, Harrison, Witherspoon, Cato, Townsend, Littlejohn, Davenport, J.E. Smith, Huggins, Lourie, Scott, Bales, McGee, Sinclair, Anthony, Harvin, Cotty, Leach, Allen, Altman, Bailey, Barfield, Battle, Bingham, Bowers, Branham, Breeland, G. Brown, J. Brown, R. Brown, Ceips, Chellis, Clark, Clemmons, Clyburn, Coates, Cobb-Hunter, Coleman, Cooper, Dantzler, Delleney, Duncan, Edge, Emory, Freeman, Frye, Gilham, Gourdine, Govan, Hagood, Hamilton, Harrell, Haskins, Hayes, Herbkersman, J. Hines, Hinson, Hosey, Howard, Jennings, Keegan, Kennedy, Kirsh, Koon, Lee, Lloyd, Loftis, Lucas, Mack, Mahaffey, Martin, McCraw, McLeod, Merrill, Miller, Moody-Lawrence, J.H. Neal, J.M. Neal, Neilson, Ott, Owens, Parks, Perry, Phillips, Pinson, E.H. Pitts, M.A. Pitts, Quinn, Rhoad, Rice, Richardson, Rivers, Rutherford, Sandifer, Scarborough, Sheheen, Simrill, Skelton, D.C. Smith, F.N. Smith, G.M. Smith, G.R. Smith, J.R. Smith, Snow, Stewart, Stille, Talley, Taylor, Thompson, Toole, Tripp, Trotter, Umphlett, Vaughn, Viers, Weeks, Whipper, White, Whitmire, Young and M. Hines

S. Printed 5/27/04--S. [SEC 6/1/04 8:58 AM]
Read the first time February 4, 2004.

A BILL

TO AMEND TITLE 57, CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 4, RELATING TO THE ESTABLISHMENT, FUNCTIONS, AND PURPOSES OF THE DEPARTMENT OF TRANSPORTATION, SO AS TO CREATE THE STATE AERONAUTICS COMMISSION WITHIN THE DEPARTMENT TO OVERSEE THE OPERATION OF THE DEPARTMENT'S DIVISION OF AERONAUTICS AND TO APPOINT THE DIVISION'S DIRECTOR; TO AMEND SECTION 55-5-20, AS AMENDED, RELATING TO DEFINITION OF TERMS CONTAINED IN THE UNIFORM STATE AERONAUTICAL REGULATORY ACT, SO AS TO REVISE THE DEFINITION OF "AVIATION GASOLINE" TO INCLUDE GENERAL AVIATION JET FUEL; TO AMEND SECTION 57-11-20, AS AMENDED, RELATING TO THE STATE HIGHWAY FUND AND THE FEDERAL AID HIGHWAY FUND, SO AS TO DELETE THE PROVISION THAT RELATES TO THE FEDERAL AID HIGHWAY FUND, AND TO PROVIDE THAT THE STATE HIGHWAY FUND MAY NOT BE USED FOR THE PURPOSES OF THE DEPARTMENT OF TRANSPORTATION'S AERONAUTICS DIVISION; BY ADDING SECTION 58-8-220 SO AS TO PROVIDE FOR THE FUNDING OF THE ACTIVITIES OF THE DIVISION OF AERONAUTICS; BY ADDING SECTION 57-3-35 SO AS TO PROVIDE FOR THE ORGANIZATION AND OBJECTIVE OF THE DIVISION OF AERONAUTICS; TO AMEND

SECTION 1-30-25, AS AMENDED, RELATING TO THE DEPARTMENT OF COMMERCE, SO AS TO DELETE ITS DIVISION FOR AERONAUTICS; TO AMEND SECTION 1-30-105, RELATING TO THE DEPARTMENT OF TRANSPORTATION, SO AS TO ESTABLISH A DIVISION OF AERONAUTICS WITHIN THE DEPARTMENT AND TO DELETE AN OBSOLETE REFERENCE; TO AMEND SECTION 2-13-240, AS AMENDED, RELATING TO THE DISTRIBUTION OF THE CODE OF LAWS OF SOUTH CAROLINA, SO AS TO SUBSTITUTE DEPARTMENT OF TRANSPORTATION FOR DEPARTMENT OF COMMERCE; TO AMEND SECTION 11-35-1520, AS AMENDED, RELATING TO COMPETITIVE SEALED BIDDING, SO AS TO SUBSTITUTE DEPARTMENT OF TRANSPORTATION FOR DEPARTMENT OF COMMERCE; TO AMEND SECTION 12-28-2720, RELATING TO THE DISTRIBUTION OF THE GASOLINE USER FEE TO THE DEPARTMENT OF TRANSPORTATION, SO AS TO PROVIDE THAT THIS FEE MAY NOT BE USED FOR THE PURPOSE OF THE DIVISION OF AERONAUTICS; TO AMEND SECTION 12-36-1710, RELATING TO THE EXCISE TAX LEVIED ON THE CASUAL SALES OF CERTAIN ITEMS, SO AS TO SUBSTITUTE DEPARTMENT OF TRANSPORTATION FOR DEPARTMENT OF COMMERCE; TO AMEND SECTION 13-1-10, AS AMENDED, RELATING TO THE ESTABLISHMENT OF THE DEPARTMENT OF COMMERCE, SO AS TO DELETE THE DEPARTMENT'S DIVISION OF AERONAUTICS AND ITS FUNCTIONS; TO AMEND SECTION 13-1-20, RELATING TO THE PURPOSES OF THE DEPARTMENT OF COMMERCE, SO AS TO DELETE THE DEPARTMENT'S MANDATE TO DEVELOP STATE PUBLIC AIRPORTS AND AN AIR TRANSPORTATION SYSTEM; TO AMEND SECTION 15-9-390, AS AMENDED, RELATING TO SERVICE OF PROCESS ON NONRESIDENT OPERATORS OF AIRCRAFT, SO AS TO SUBSTITUTE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION FOR SECRETARY OF COMMERCE; TO AMEND SECTION 15-9-410, AS AMENDED, RELATING TO CERTAIN PROVISIONS THAT DO NOT APPLY TO ANY INCORPORATED CARRIER HOLDING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, SO AS TO SUBSTITUTE DEPARTMENT OF TRANSPORTATION FOR DEPARTMENT OF COMMERCE; TO AMEND SECTION 23-33-20, AS AMENDED, RELATING TO THE OBTAINING OF A PERMIT BEFORE FIRING OR ATTEMPTING TO FIRE OR DISCHARGE A MISSILE, SO AS TO SUBSTITUTE DEPARTMENT OF TRANSPORTATION FOR DEPARTMENT OF COMMERCE; TO AMEND SECTION 46-13-60, AS AMENDED, RELATING TO PRESCRIBING STANDARDS FOR THE CERTIFICATION OF APPLICATORS OF PESTICIDES, SO AS TO SUBSTITUTE DEPARTMENT OF TRANSPORTATION FOR DEPARTMENT OF COMMERCE; TO AMEND SECTION 55-1-1, AS AMENDED, RELATING TO THE ESTABLISHMENT OF THE DIVISION OF AERONAUTICS WITHIN THE DEPARTMENT OF COMMERCE, SO AS TO SUBSTITUTE DEPARTMENT OF TRANSPORTATION FOR DEPARTMENT OF COMMERCE AND DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION FOR SECRETARY OF COMMERCE; TO AMEND SECTION 55-1-5, AS AMENDED, RELATING TO DEFINITIONS CONTAINED IN THE PROVISIONS THAT GOVERN THE DIVISION OF AERONAUTICS OF THE DEPARTMENT OF COMMERCE, SO AS TO SUBSTITUTE DEPARTMENT OF TRANSPORTATION FOR DEPARTMENT OF COMMERCE; TO AMEND SECTION 55-5-190, AS AMENDED, RELATING TO THE ENFORCEMENT OF THE PROVISIONS CONTAINED IN THE UNIFORM STATE AERONAUTICAL REGULATORY ACT, SO AS TO SUBSTITUTE DEPARTMENT OF TRANSPORTATION FOR DEPARTMENT OF COMMERCE; TO AMEND SECTION 55-5-230, RELATING TO APPEALS FROM ORDERS ISSUED BY THE DIVISION OF AERONAUTICS, SO AS TO INCREASE THE PERIOD OF TIME WITHIN WHICH A PERSON AGAINST WHOM AN ORDER HAS BEEN ENTERED MAY APPEAL THE ORDER, AND TO PROVIDE THAT THE APPEAL MUST BE MADE TO THE ADMINISTRATIVE LAW JUDGE DIVISION INSTEAD OF THE CIRCUIT

COURT; TO AMEND SECTION 55-8-10, AS AMENDED, RELATING TO DEFINITION OF TERMS CONTAINED IN THE UNIFORM AIRCRAFT FINANCIAL RESPONSIBILITY ACT, SO AS TO SUBSTITUTE THE TERM DEPARTMENT OF TRANSPORTATION FOR THE TERM DEPARTMENT OF COMMERCE WITHIN THE DEFINITION OF THE TERM AGENCY; TO AMEND SECTION 55-8-50, AS AMENDED, RELATING TO POLICY BONDS CONTAINED IN THE UNIFORM AIRCRAFT FINANCIAL RESPONSIBILITY ACT, SO AS TO SUBSTITUTE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION FOR SECRETARY OF COMMERCE; TO AMEND SECTION 55-11-10, AS AMENDED, RELATING TO THE POWERS OF THE BOARD OF TRUSTEES OF CLEMSON UNIVERSITY, SO AS TO SUBSTITUTE DEPARTMENT OF TRANSPORTATION FOR DEPARTMENT OF COMMERCE; TO AMEND SECTION 55-15-10, AS AMENDED, RELATING TO DEFINITIONS CONTAINED IN THE PROVISIONS THAT PERTAIN TO RELOCATION ASSISTANCE, SO AS TO SUBSTITUTE THE TERM DEPARTMENT OF TRANSPORTATION FOR DEPARTMENT OF COMMERCE; TO AMEND SECTION 57-1-20, AS AMENDED, RELATING TO THE ESTABLISHMENT OF THE DEPARTMENT OF TRANSPORTATION, SO AS TO CREATE A DIVISION OF AERONAUTICS WITHIN THE DEPARTMENT; TO AMEND SECTION 57-1-30, AS AMENDED, RELATING TO THE FUNCTIONS AND PURPOSES OF THE DEPARTMENT OF TRANSPORTATION, SO AS TO PROVIDE THAT AMONG ITS FUNCTIONS AND PURPOSES, THE DEPARTMENT SHALL DEVELOP STATE PUBLIC AIRPORTS AND AN AIR TRANSPORTATION SYSTEM; TO AMEND SECTION 57-3-10, AS AMENDED, RELATING TO THE ADMINISTRATION OF THE DEPARTMENT OF TRANSPORTATION, SO AS TO PROVIDE THAT THE DEPARTMENT MUST CONTAIN A DIVISION OF AERONAUTICS; TO AMEND SECTION 57-3-20, AS AMENDED, RELATING TO THE RESPONSIBILITIES AND DUTIES OF THE DEPARTMENT OF TRANSPORTATION'S DIVISION DIRECTORS, SO AS TO PROVIDE FOR THE DUTIES AND RESPONSIBILITIES OF THE DIVISION OF AERONAUTICS' DEPUTY DIRECTOR; TO AMEND SECTION 57-11-20, AS AMENDED, RELATING TO THE STATE HIGHWAY FUND AND THE FEDERAL AID HIGHWAY FUND, SO AS TO DELETE THE PROVISION THAT RELATES TO THE FEDERAL AID HIGHWAY FUND AND TO PROVIDE THAT THE STATE HIGHWAY FUND MAY NOT BE USED FOR PURPOSES OF THE DEPARTMENT OF TRANSPORTATION DIVISION OF AERONAUTICS; AND TO REPEAL ARTICLE 7, CHAPTER 1, TITLE 13 AND SECTIONS 55-5-240 AND 55-5-250 RELATING TO THE APPEAL OF A DECISION ENTERED BY THE DEPARTMENT OF COMMERCE DIVISION OF AERONAUTICS.

Amend Title To Conform

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

SECTION 1. A. Section 13-1-30(C) of the 1976 Code, as last amended by Act 361 of 1994, is further amended to read:

“(C) Notwithstanding any other provision of law, the Secretary of Commerce may appoint a director for each division of the department, except for the Division of Aeronautics who must be appointed by the Governor in accordance with Section 13-1-1080. Except for the Executive Director of the Division of Aeronautics who shall serve at the pleasure of the Aeronautics Commission, each director shall serve at the pleasure of the Secretary of Commerce and shall be responsible to the secretary for the operation of the programs outlined by the secretary.”

B. Chapter 1, Title 13 of the 1976 Code is amended by adding:

“Article 6

Aeronautics Commission

Section 13-1-1000. Notwithstanding any other provision of law, the following terms, when used in this article, have the following meanings unless the context clearly requires otherwise:

- (1) 'Department' means the Department of Commerce;
- (2) 'Executive director' means the Executive Director for the Division of Aeronautics;
- (3) 'Division' means the Division of Aeronautics; and
- (4) 'Commission' means the Aeronautics Commission.

Section 13-1-1010. Notwithstanding any other provision of law, the Aeronautics Commission is hereby created within the Department of Commerce to assist the Secretary of Commerce in the operation of and to oversee the Division of Aeronautics and there may be no purchase or sale of any aeronautics assets without the approval of the commission and the Secretary of Commerce.

Section 13-1-1020. Notwithstanding any other provision of law, the congressional districts of this State are constituted and created commission districts of the State, designated by numbers corresponding to the number of the respective congressional districts. The commission shall be composed of one member from each district elected by the delegations of the congressional district and one member appointed by the Governor, upon the advice and consent of the Senate, from the State at large. The elections or appointments shall take into account race and gender so as to represent, to the greatest extent possible, all segments of the population of the State and shall comply with the provisions of Chapter 13, Title 8. However, consideration of these factors in making an appointment or in an election does not create 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.

Section 13-1-1030. (A) Notwithstanding any other provision of law, a county that is divided among two or more commission districts, for purposes of electing a commission member, is considered to be in the district which contains the largest number of residents from that county.

(B) Notwithstanding any other provision of law, no county within a commission district shall have a resident commission member for more than one consecutive term and in no event shall any two persons from the same county serve as a commission member simultaneously.

Section 13-1-1040. Notwithstanding any other provision of law, legislators residing in the congressional district shall meet upon written call of a majority of the members of the delegation of each district at a time and place to be designated in the call for the purpose of electing a commissioner to represent the district. A majority present, either in person or by written proxy, of the delegation from a given congressional district constitutes a quorum for the purpose of electing a district commissioner. No person may be elected commissioner who fails to receive a majority vote of the members of the delegation.

The delegation must be organized by the election of a chairman and a secretary, and the delegations of each congressional district shall adopt rules they consider proper to govern the election. Any absentee may vote by written proxy. When the election is completed, the chairman and the secretary of the delegation shall immediately transmit the name of the person elected to the Secretary of State who shall issue to the person after he has taken the usual oath of office, a certificate of election as commissioner. The Governor then shall issue a commission to the person, and pending the issuance of the commission, the certificate of election is sufficient warrant to the person to perform all of the duties and functions of his office as commissioner. Each commissioner shall serve until his successor is elected and qualified.

Section 13-1-1050. (A) Notwithstanding any other provision of law, beginning February 15, 2005, commissioners must be elected by the legislative delegation of each congressional district. For the purposes of electing a commission member, a legislator shall vote only in the congressional district in which he resides. All commission members must serve for a term of office of four years that expires on February fifteenth of the appropriate year. Commissioners shall continue to serve until their successors are elected and qualify, provided that a commissioner may only serve until their successors are elected and qualify, and provided that a commissioner may only serve in a hold-over capacity for a period not to exceed six months. Any vacancy occurring in the office of commissioner must be filled by election in the manner provided in this article for the unexpired term only. No person is eligible to serve as a commission member who is not a resident of that district at the time of his appointment, except that the at-large commission member may be appointed from any county in the State regardless of whether another commissioner is serving from that county. Failure by a commission member to maintain residency in the district for which he is elected shall result in the forfeiture of his office. The at-large commission member, upon confirmation by the Senate, shall serve as chairman of the commission.

(B) The terms of the initial members of the commission appointed from congressional district are as follows:

- (1) commission members appointed to represent congressional district one and two, two years;
- (2) commission members appointed to represent congressional district three and four, three years;
- (3) commission members appointed to represent congressional district five and six, four years.

(C) The at-large commissioner shall serve at the pleasure of the Governor.

Section 13-1-1060. Notwithstanding any other provision of law, each voting commission member, within thirty days after his election or appointment, and before entering upon the discharge of the duties of his office, shall take, subscribe, and file with the Secretary of State the oath of office prescribed by the Constitution of the State.

Section 13-1-1070. (A) The commission may adopt an official seal for use on official documents of the division.

(B) The commission shall adopt its own rules and procedures and may select additional officers to serve terms designated by the commission.

(C) Commissioners must be reimbursed for official expenses as provided by law for members of state boards and commissions as established in the annual general appropriation act.

Section 13-1-1080. Notwithstanding any other provision of law, the executive director shall be appointed in accordance with the following procedures:

(A)(1) The commission shall nominate no more than one qualified candidate for the Governor to consider for appointment as executive director. In order to be nominated, a candidate must meet the minimum requirements as provided in Section 13-1-1090.

(2) If the Governor rejects a person nominated by the commission for the position of executive director, the commission must nominate another candidate for the Governor to consider until such time as the Governor makes an appointment.

(3) In the case of a vacancy in the position of executive director for any reason, the name of a nominee for the executive director's successor must be submitted by the commission to the Governor.

(4) The appointment must comply with the provisions contained in Chapter 13, Title 8.

(B) The executive director shall serve at the pleasure of the commission and be appointed as provided in Section 13-1-1080.

Section 13-1-1090. Notwithstanding any other provision of law, individuals serving on the commission must meet the following minimum qualifications to be qualified:

(1) the commission chairman must have experience in the fields of business, general aviation, and airport management;

(2) all other members of the commission must have a proven record of public and community service, and experience in the fields of business and aviation. Additionally, each member must meet at least two of the following criteria:

- (a) general aviation experience;
- (b) airport or fixed based operator (FBO) management experience;
- (c) aviation service provider experience;
- (d) previous service as a state or regional airport commissioner;
- (e) legal experience; or
- (f) active involvement in a recognized aviation association.”

C. Section 55-1-5(3) of the 1976 Code, as last amended by Act 361 of 1994, is further amended to read:

“(3) Notwithstanding any other provision of law, ‘Director’ means the person or persons appointed by the Governor in accordance with Section 13-1-1080 and serving at the pleasure of the Aeronautics Commission to supervise and carry out the functions and duties of the Division of Aeronautics as provided for by law.”

D. Section 55-5-20(12) of the 1976 Code is amended to read:

“(12) Notwithstanding any other provision of law, ‘aviation gasoline’ means gasoline and aviation jet fuel manufactured exclusively for use in airplanes and sold for such purposes.”

E. Section 55-5-50 of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“Section 55-5-50. Notwithstanding any other provision of law, the Aeronautics Commission shall employ a deputy director of aeronautics in accordance with the provision contained in Section 13-1-1050 and 13-1-1080 and such other employees as necessary for the proper transaction of the division’s business.”

F. Section 55-5-280 of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“Section 55-5-280. All moneys received from licensing of airports, landing fields or air schools, funds appropriated for aviation grants, the tax on aviation gasoline, and fees for other licenses issued under this chapter must be paid into the State Treasury and credited to the fund known as the ‘State Aviation Fund’.”

----XX----