

"C" Fund Law

SECTION 12-28-2740.

Distribution of gasoline user fee among counties; requirements for expenditure of funds; county transportation committees.

(A) The proceeds from two and sixty-six one-hundredths cents a gallon of the user fee on gasoline only as levied and provided for in this chapter must be deposited with the State Treasurer and expended for purposes set forth in this section. The monies must be apportioned among the counties of the State in the following manner:

(1) one-third distributed in the ratio which the land area of the county bears to the total land area of the State;

(2) one-third distributed in the ratio which the population of the county bears to the total population of the State as shown by the latest official decennial census;

(3) one-third distributed in the ratio which the mileage of all rural roads in the county bears to the total rural road mileage in the State as shown by the latest official records of the Department of Transportation. The Department of Revenue shall collect the information required pursuant to Section 12-28-1390 regarding the number of gallons sold in each county for use in making allocations of donor funds as provided in subsection (H). The Department of Revenue shall submit the percentage of the total represented by each county to the Department of Transportation and to each county transportation committee annually by May first of the following calendar year. Upon request of a county transportation committee, the Department of Transportation shall continue to administer the funds allocated to the county.

All interest earnings on the County Transportation Fund in the State Treasury must be added to the distribution to counties under this section in proportion to each county's portion of the entire County Transportation Fund. Except for those funds being used in connection with highway projects administered by the Department of Transportation on behalf of counties administering their own "C" funds, these distributions of earnings and the calculation required to determine the appropriate amount shall not include those counties administering their own "C" funds.

(B) The funds expended must be approved by and used in furtherance of a countywide transportation plan adopted by a county transportation committee. The county transportation committee must be appointed by the county legislative delegation and must be made up of fair representation from municipalities and unincorporated areas of the county. County transportation committees may join in approving a regional transportation plan, and the funds must be used in furtherance of the regional transportation plan. This subsection does not prohibit the county legislative delegation from making project recommendations to the county transportation committee. A county transportation committee may expend from the funds allocated under this section an amount not to exceed two thousand dollars for reasonable administrative expenses directly related to the activities of the committee. Administrative expenses may include costs associated with copying, mailings, public notices, correspondence,

and recordkeeping but do not include the payment of per diem or salaries for members of the committee.

(C) At least twenty-five percent of a county's apportionment of "C" funds, based on a biennial averaging of expenditures, must be expended on the state highway system for construction, improvements, and maintenance. The Department of Transportation shall administer all funds expended on the state highway system unless the department has given explicit authority to a county or municipal government or other agent acting on behalf of the county transportation committee to design, engineer, construct, and inspect projects using their own personnel. The county transportation committee, at its discretion, may expend up to seventy-five percent of "C" construction funds for activities including other local paving or improving county roads, for street and traffic signs, and for other road and bridge projects.

(D) The funds allocated to the county also may be used to issue county bonds or state highway bonds as provided in subsection (J), pay directly for appropriate highway projects, including engineering, contracting, and project supervision, and match federal funds available for appropriate projects. Beginning July 1, 2002, for any new "C" fund allocations received on or after this date, the balance of uncommitted funds carried forward from one year into the next may not exceed three hundred percent of the county's total apportionment for the most recent year. Expenditures must be documented on a per-project basis upon the completion of each project in reports to the respective county transportation committees. This documentation must be provided by the agency or local government actually expending the funds and it shall include a description of the completed project and a general accounting of all expenditures made in connection with the project summaries of these reports then must be forwarded by each county transportation committee to the department using guidelines established by the department and the department shall compile these reports into an annual statewide report to be submitted to the General Assembly by the second Tuesday of January of each year. The documentation and reporting requirements of this subsection apply only to counties administering their own "C" funds. For purposes of this section, "uncommitted funds" means funds held in the county's "C" fund account that have not been designated for specific projects.

(E) All unexpended "C" funds allocated to a county remain in the account allocated to the county for the succeeding fiscal year and must be expended as provided in this section.

(F) The countywide and regional transportation plans provided for in this section must be reviewed and approved by the Department of Transportation. Before the expenditure of funds by a county transportation committee, the committee shall adopt specifications for local road projects. In counties electing to expend their allocation directly pursuant to subsection (A), specifications of roads built with "C" funds are to be established by the countywide or regional transportation committee. In counties in which the county transportation committee elects to have "C" funds administered by the Department of Transportation, primary and secondary roads built using "C" funds must meet Department of Transportation specifications.

(G) This section must not be construed as affecting the plans and implementation of plans for a Statewide Surface Transportation System as developed by the Department of Transportation.

(H) (1) For purposes of this subsection, “donor county” means a county that contributes to the “C” fund an amount in excess of what it receives under the allocation formula as stated in subsection (A). In addition to the allocation to the counties pursuant to subsection (A), the Department of Transportation annually shall transfer to the donor counties an amount equal to seventeen million dollars in the ratio of the individual donor county’s contribution in excess of “C” fund revenue allocated to the county under subsection (A) to the total excess contributions of all donor counties.

(2) A county is eligible for an additional allocation from the Department of Transportation if the county contributed to the “C” fund an amount in excess of what it receives under the allocation formula as stated in subsection (A) plus what it receives under item (1). The Department of Transportation annually shall transfer to the eligible counties an amount up to three and one-half million dollars in the ratio of the individual eligible county’s contribution to the “C” fund in excess of the eligible county’s total allocations under subsection (A) and item (1) to the total excess contributions of all eligible counties remaining after all allocations under subsection (A) and item (1) have been made. Under no circumstances can an allocation under this item result in an eligible county receiving total allocations in excess of what the county contributed to the “C” fund.

(I) (1) In expending funds pursuant to this section, counties that administer their own “C” funds shall use a procurement system that requires competitive sealed bids, no bid preferences not required by state or federal law, and public advertisement of all projects. All bids for contracts in excess of one hundred thousand dollars must be accompanied by certified bid bonds, and all work awarded under the contracts must be covered by performance and payment bonds for one hundred percent of the contract value. Bid summaries must be published in a newspaper of general distribution following each award.

(2) The requirement of a bond for bid security or a bond for payment and performance may not include the requirement that the surety bond be furnished by a particular surety company or through a particular agent or broker.

(J) State highway bonds may be issued for the completion of projects for which “C” funds may be expended for projects as determined by the county transportation committee. The applicable source for payment of principal and interest on the bonds is the share of “C” fund revenues available for use by the county transportation committee. The application for the bonds must be filed by the county transportation committee with the Commission of the Department of Transportation and the State Treasurer, which shall forward the application to the State Fiscal Accountability Authority. The State Fiscal Accountability Authority shall consider the application in the same manner that it considers state highway bonds, *mutatis mutandis*.

(K) Members of the committee are insulated from all personal liability arising out of matters related directly to and within the scope of the performance of official duties and functions conferred upon the committee pursuant to this section.

(L) In Berkeley County, appointments made pursuant to this section are governed by the provisions of Act 159 of 1995.

(M) In Dorchester County, appointments made pursuant to this section are governed by the provisions of Act 512 of 1996.

(N) In Georgetown County, appointments made pursuant to this section are governed by the provisions of Act 515 of 1996 and Section 2, Act 141 of 2001.

(O) Notwithstanding other provisions of this section, the legislative delegation of a county may by delegation resolution abolish the county transportation committee and devolve its powers and duties on the governing body of the county. This devolution may be reversed and the county transportation committee reestablished by a subsequent delegation resolution. The exercise of county transportation committee powers and duties by a county governing body is not deemed to constitute dual office holding.

(P) The Department of Transportation shall perform reviews to ensure compliance with subsections (C), (D), (F), and (I). A county failing to comply with these subsections must have all subsequent "C" fund allocations withheld until the requirements of those subsections are met. If a county fails to comply with those subsections within twenty-four months, the county forfeits fifty percent of its allocations for the following year and the forfeited amount must be divided among the other counties as provided in subsection (A).

(Q) A county subject to a proposed withholding or forfeiture of "C" fund allocations pursuant to this section must be notified in writing of the department's decision. The county, within sixty days of receipt of notice of the decision, may request a review of the decision by a panel consisting of the state highway engineer or his designee, the chairman of the affected county's transportation committee or his designee, and a third person named by mutual agreement between the state highway engineer and the county transportation committee chairman. The panel shall meet and render a decision within ninety days of the request by the county transportation committee. The decision of the panel may be appealed by requesting a contested case hearing before the Administrative Law Court pursuant to Section 1-23-600 and the rules of procedure for the Administrative Law Court. The request for a hearing must be made within thirty days of receipt of the panel's decision.

(R) The legislative delegation of the county, by resolution, may rename the county transportation committee established by this section as the (insert name of county) Legislative Delegation transportation committee. Upon the adoption of such a resolution, all references in this section and any other provisions of law to the county transportation committee, for purposes of that county, are deemed references to that county's legislative delegation transportation committee.

(S) Notwithstanding the provisions of subsection (A), on July 1, 2018, and each July first thereafter until after July 1, 2021, the amount of proceeds of the user fee on gasoline only as levied for in this chapter that must be deposited with the State Treasurer and expended for the purposes of this section must be increased by .3325 cents a gallon, until such time as the total amount equals three and ninety-nine one-hundredths cents a gallon. Any increase in proceeds resulting from the provisions of this subsection must be used exclusively for repairs, maintenance, and improvements to the state highway system.

HISTORY: 1995 Act No. 136, Section 2; 1997 Act No. 117, Section 1; 1997 Act No. 155, Part II, Section 50A; 1997 Act No. 155, Part II, Section 51A; 2002 Act No. 253, Section 4, eff May 14, 2002; 2002 Act No. 293, Section 1, eff June 3, 2002; 2004 Act No. 215, Section 1, eff April 27, 2004; 2017 Act No. 40 (H.3516), Sections 11, 13, eff July 1, 2017.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Editor's Note

By a Ordinance No. 96-5-15, dated October 2, 1996, the Berkeley County Council has notified the Code Commissioner that it accepts the responsibility and authority for making the appointments provided in Act 159 of 1995 which were formerly made by the Berkeley County Legislative Delegation pursuant to the authority of this section.

By Resolution 96-07, dated July 15, 1996, the Dorchester County Council has notified the Code Commissioner that it accepts the responsibility and authority for making the appointments provided in Act 512 of 1996 which were formerly made by the Dorchester County Legislative Delegation pursuant to the authority of this section.

By a resolution dated August 13, 1996, the Georgetown County Council has notified the Code Commissioner that it accepts the responsibility and authority for making the appointments provided in Act 515 of 1996 which were formerly made by the Georgetown County Legislative Delegation pursuant to the authority of this section.

2002 Act No. 253, Section 7, provides as follows:

"This act takes effect upon approval by the Governor and applies to all subject contracts entered into after that date."

2003 Act No. 69, Section 3.BBB directed the Code Commissioner to substitute "user fee" for "tax" and "motor fuel subject to the user fee" for "taxable motor fuel" wherever appearing in Title 12, Chapter 28.

Effect of Amendment

2017 Act No. 40, Section 11, in (H), inserted the paragraph identifiers; in (H)(1), deleted "from the state highway fund" following "shall transfer"; and added (H)(2), relating to the distribution of the motor fuel user fee to counties and allowing for certain additional allocations.

2017 Act No. 40, Section 13, added (S), relating to increasing the amount of proceeds of the user fee on gasoline.