

From: Ed DeVilbiss  
Sent: 2/25/2016 9:16:44 AM  
To:  
Cc:  
Subject: The road mess

Friends,

Thought you might want to view how our state government functions on a critical issue. It avoids communicating with the people. It avoids trying to follow our laws. It avoids changing the process to be accountable and transparent. And it wants to take the easy way out by raising taxes before it fixes the poor system of administration.

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## The Gas Tax Debate: How We Got Here

Posted by South Carolina Policy Council  
<<http://www.scpolicycouncil.org/author/scpolicycouncil>> on Wednesday, February 24, 2016 ·

<http://www.scpolicycouncil.org/wp-content/uploads/2016/02/road-closed.jpg>

**Lawmakers have bypassed the public, the law, their own rules, and the constitution to get a gas tax through the Senate. Citizens deserve better.**

Legislation to raise the gas tax and a host of fees is now before the Senate. It's currently held up by a filibuster. For the bill to get as far as it has, legislative leaders have had to pulled parliamentary tricks and extra-legal shenanigans.

A quick review:

### **Bill began life as unconstitutional**

In March 2015 a special Senate subcommittee met for the express purpose of debating multiple bills that would raise the gas tax and other user fees to raise

more revenue for roads. These bills were filed, and a meeting was held on them despite **Article 3, Section 15**

<<http://www.scstatehouse.gov/scconstitution/a03.php>> of the constitution. That section states that “bills for raising revenue shall originate in the House of Representatives, but may be altered, amended or rejected by the Senate.”

One **bill** <<http://www.scstatehouse.gov/billsearch.php?billnumbers=523>> to raise the gas tax went **all the way to the Senate floor** <<http://www.scpolicycouncil.org/research/taxes/senate-revenue>> and was put up for a vote to prioritize that bill. That vote failed in large part due to an attorney general opinion finding that the measure raised revenue and thus had to originate in the House.

### **No public input**

After having failed once to set a gas tax increase bill for special order, the Senate Finance Committee gutted a House bill – H.3579 – to raise the gas tax and other taxes and fees, and replaced it with the language of S.523. That was done in the Senate Finance Committee, without the bill having gone through the subcommittee process, and with Finance Committee chairman Hugh Leatherman refusing to allow committee members to offer amendments to the bill.

Subcommittee is the stage at which a bill receives scrutiny and input from the public. This bill had none.

### **Special order vote failed twice, so lawmakers took sketchy voice vote**

Despite the bill having received virtually no debate or input in the committee process, the bill made it to the Senate floor and was put up for a special order vote. Once again, the Senate failed to prioritize a more than \$800 million gas tax hike.

Yet less than two weeks after a 26-19 vote against special order, the Senate moved to prioritize the gas tax increase *on a voice vote* – with no record of who was in favor or against. It would have taken 31 favorable votes out of 46 (two-thirds of the members present and voting) for the motion to carry, and the closest they had previously gotten was 26. In other words: The move would have likely failed. Hence the voice vote.

### **Likely illegal ‘working group’**

Sate law mandates that meetings of public officials in which public business is conducted be open to the public. Yet a group of senators commonly referred to as the Senate “working group” met outside of the official committee process. The meetings were not posted in advance, and the public was neither invited nor allowed to attend.

The purpose of the group, **according to one of its members** [<http://www.thenerve.org/secret-road-funding-meetings-likely-violating-law/>](http://www.thenerve.org/secret-road-funding-meetings-likely-violating-law/), was not to create policy or guidelines but to “build consensus” on raising the gas tax. But consensus building takes place before and after public meetings, not during them. In any case, an amendment currently up for debate on the Senate floor appears to have been crafted during these closed-door meetings.

### **Bill was in two places at one time**

While the credibility of the voice vote moving a tax hike to special order is highly questionable, it was nevertheless the status of H.3579 on the Senate calendar when the 2016 session began. Even so, Senate Finance met several times to debate the bill and try to reach some sort of agreement on how to move forward on the bill.

Here’s the problem. The Senate can’t debate bills while they’re on special order on the Senate calendar. The rules allow lawmakers to send a bill back to committee – to recommit it – after it has been sent to the floor. But that never happened to H.3579, meaning the bill was in two places at one time.

What to make of all this? The bill currently being filibustered in the Senate has been ushered through the chamber by a procedurally underhanded, constitutionally dubious, and highly secretive process – apparently with the express purpose of sidelining its critics within the legislature and keeping its details from public view.

This legislation deserves serious and open debate.