

From: Veldran, Katherine <KatherineVeldran@gov.sc.gov>
To: Soura, Christian <ChristianSoura@gov.sc.gov>
Baker, Josh <JoshBaker@gov.sc.gov>
CC: Pitts, Ted <TedPitts@gov.sc.gov>
Patel, Swati <SwatiPatel@gov.sc.gov>
Schimsa, Rebecca <RebeccaSchimsa@gov.sc.gov>
Date: 4/30/2014 11:13:50 AM
Subject: FW: H5024 - Bamberg 2

Per N she would like a letter on the desks so the Senate know exactly where we are with this bill.
Senate goes in at 2:00pm.
Thanks, KV

From: Lawrence Flynn [mailto:lflynn@popezeigler.com]
Sent: Wednesday, April 30, 2014 10:21 AM
To: Veldran, Katherine
Cc: Patel, Swati; Bakari T. Sellers (bsellers@stromlaw.com); Brent Jeffcoat; Soura, Christian
Subject: H5024 - Bamberg 2

Katherine,

Bakari forwarded me the chain of emails between you, Swati and Christian. While I certainly understand the concerns expressed in Christian's email, adding a referendum requirement undercuts the whole purpose of the bill.

The goal in implementing this legislation is to avoid the overwhelming tax burden associated with a traditional, general obligation borrowing. In stating that the "legislation does not impose taxes and there is no tax increased planned," I meant that this legislation merely provides a structure to finance the construction of the new school; no new levy of taxes is mandated or otherwise required. The school district has not precisely determined how a tax structure will be implemented because each public-private partnership is unique and the number one goal is to minimize any potential tax burden on the tax payers of Bamberg 2, which includes Representative Sellers.

While it is possible that taxes could (in the future, subject to the approval to the Board of Trustees) be levied as capital millage, any such millage would be substantially less than the associated tax burden of financing the facilities with general obligation bonds. To the extent tax credits, grants, utility credits and operational costs savings offset the costs of construction, the lease payments and operational costs to the school district will be also be substantially reduced.

This legislation is just the first step in getting these schools constructed. Many additional steps remain (i.e. finding a willing developer, finding available tax credits, creating a viable financing structure, etc...). Anyone of these additional steps is time-consuming and further delays the ultimate goal of constructing the needed school facilities.

With this in mind, any extra steps, like requiring a referendum, will only further slow the process and fundamentally defeats the purpose of the legislation. We are trying to avoid the general obligation methodology where you establish a project amount and have the electorate approve a massive tax hike. By requiring the capital millage levy by referendum, you are, essentially, making the capital millage a debt service millage. We are trying to avoid that structure as it is inefficient, unworkable and unnecessary for a P3.

The Board of Trustees is elected from five single member districts within Bamberg 2. As constituted, the Board is the epitome of representative government. In a representative government, decisions cannot be and should not be made by popular election. From discussions with the Board and despite the pressing needs for new schools, they are unwilling to simply pass along massive tax increases to make this project work. Importantly, in reviewing the Board's

options, referendum-approved general obligation bonds or referendum-approved capital millage would create a long-term liability that definitively affects future tax-payers for the next 15 to 30 years. As written, the legislation imposing capital millage under the P3 operating lease structure would be subject to appropriation every year. As a result, any dissatisfied voters have a ballot box remedy that effectively limits any long term commitment to the term of the existing Board of Trustees (they can vote the Board out of office and elect Board members who decide not to appropriate funds to future lease payments, which is a known risk factor when the developer and any financiers are analyzing the financing structure).

Long story-short, if we add a referendum component, it defeats the whole purpose of the legislation – we are trying to get away from traditional financing methods and this change would simply re-enforce the traditional borrowing methodology.

Please call me if you have any questions. Best, LEF

Lawrence E. Flynn

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