

Appendix A

**State Legislation Directing the SCSPA to begin
Environmental Impact Studies and other Required Actions
in Regard to the Permitting Process to Locate a New
Terminal Facility on the West Bank of the Cooper River**

(A256, R317, S926) Effective: 5/20/02

A JOINT RESOLUTION TO REQUIRE THE STATE PORTS AUTHORITY TO BEGIN ENVIRONMENTAL IMPACT STUDIES AND OTHER REQUIRED ACTIONS IN REGARD TO THE PERMITTING PROCESS TO LOCATE A NEW TERMINAL FACILITY ON THE WEST BANK OF THE COOPER RIVER AT A LOCATION IT DETERMINES APPROPRIATE, TO ESTABLISH CERTAIN CRITERIA TO BE USED IN REGARD TO THE LOCATION OF THIS TERMINAL FACILITY, TO AUTHORIZE THE STATE PORTS AUTHORITY TO BEGIN THE PROCESS OF ACQUIRING ANY REAL PROPERTY NECESSARY FOR THIS NEW FACILITY AT THIS LOCATION, TO PROVIDE THAT THE PORTS AUTHORITY AT THE COMPLETION OF THE PERMITTING PROCESS SHALL RENDER A REPORT TO THE GENERAL ASSEMBLY CONCERNING THE NEW TERMINAL FACILITY WHICH SHALL INCLUDE A PROPOSED REQUEST FOR ANY STATE FUNDING NECESSARY TO COMPLETE THE PROJECT, TO PROVIDE THAT THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, THE PUBLIC RAILWAYS DIVISION OF THE DEPARTMENT OF COMMERCE, AND THE STATE INFRASTRUCTURE BANK ARE DIRECTED TO EXPLORE ALL POTENTIAL OPPORTUNITIES FOR FEDERAL FUNDING OF THE INFRASTRUCTURE ENHANCEMENTS FOR PORT EXPANSION ON THE WESTERN SIDE OF THE COOPER RIVER, TO PROVIDE THAT THE STATE BUDGET AND CONTROL BOARD SHALL TAKE APPROPRIATE STEPS TO PROVIDE INDEMNIFICATION TO THE STATE PORTS AUTHORITY BOARD MEMBERS FROM ANY PERSONAL LIABILITY RELATED TO THEIR SERVICE ON THE BOARD IN REGARD TO FUNDING PROVIDED TO THE SOUTH CAROLINA TRANSPORTATION INFRASTRUCTURE BANK FOR THE COOPER RIVER BRIDGE, AND TO PROVIDE THAT A STATE ENTITY WHICH ACQUIRES REAL PROPERTY FROM THE FEDERAL GOVERNMENT OR FROM A STATE INSTRUMENTALITY OR REDEVELOPMENT AGENCY WHICH ACQUIRED IT FROM THE FEDERAL GOVERNMENT SHALL BE PERMITTED THE SAME USE OF THE PROPERTY AS WAS THE FEDERAL GOVERNMENT AND TO PROVIDE THAT NO COUNTY OR MUNICIPALITY BY ZONING OR OTHER MEANS MAY RESTRICT THIS PERMITTED USE OR ENJOYMENT OF THE PROPERTY.

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

Findings, declarations, intent

SECTION 1. The General Assembly finds and declares that the promotion of interstate and international commerce and transportation is a legitimate and necessary public purpose of this State which the General Assembly intends to accomplish by enacting the provisions of this joint resolution. The General Assembly further declares that it specifically intends the provisions of Section 3 as contained herein, which by general law

prohibit a local political subdivision from impeding or preventing certain uses of former federal property through zoning or other means, to apply to any location on the west bank of the Cooper River identified by the State Ports Authority as a site for new terminal facilities if, at such locations, the acquisition of real property owned by the federal government or owned by a state instrumentality or redevelopment agency that received it from the federal government is required in conjunction with new terminal facilities.

It is the expressed intent of the General Assembly for the new terminal facilities on the west bank of the Cooper River as required in Section 2 to be completed by December 31, 2008, if possible. The State Ports Authority shall report at least annually to the General Assembly as to the status and progress of the permitting process.

Permitting process, funding, indemnity

SECTION 2. (A) The State Ports Authority is required to begin environmental impact studies and other required actions in regard to the permitting process to locate new terminal facilities on the west bank of the Cooper River at locations it determines appropriate and with a capacity in conformance with available land at the proposed location or locations. If the locations identified are on real property not owned by the State Ports Authority, the authority is also authorized to begin the process of acquiring such property. Upon completion of the permitting process, the State Ports Authority shall render a report to the General Assembly concerning the new terminal facilities which shall include a request for any state funding necessary to complete the projects and the form such funding is requested to take. The State Ports Authority must provide the General Assembly with a summary of criteria developed for use in delineating the needs, requirements, and specifications of port expansion. The permit application must be drawn in a manner that is comprehensive, fair, and open to all sites available on the west bank of the Cooper River, based on their particular attributes, and may not exclude or prejudice artificially or unreasonably the acceptance of any site. This subsection does not authorize or allow State Ports Authority activity on the east bank of the Cooper River or the Wando side of Daniel Island except for use as dredge spoil disposal sites. This joint resolution does not constitute approval for the State Ports Authority required by Section 54-3-260 of the 1976 Code.

(B) The South Carolina Department of Transportation, the Public Railways Division of the Department of Commerce, and the State Infrastructure Bank are directed to explore all potential opportunities for federal funding of the infrastructure enhancements for port expansion on the western side of the Cooper River.

(C) The State Budget and Control Board shall take appropriate steps to provide indemnification to the State Ports Authority board members from any personal liability related to their service on the board in regard to funding provided to the South Carolina Transportation Infrastructure Bank for the Cooper River Bridge.

Use of property; zoning

SECTION 3. Notwithstanding the provisions of Section 6-29-770 of the 1976 Code or any other provision of law, a state agency or entity that acquires real property from the federal government or from a state instrumentality or redevelopment agency that received it from the federal government shall be permitted to use the property in the same manner the federal government was permitted to use the property. Further, the property in the hands of the state agency or entity shall be subject only to the same restrictions, if any, as it was in the hands of the federal government, and no county or municipality of this State by zoning or other means may restrict this permitted use or enjoyment of the property.

Time effective

SECTION 4. This joint resolution takes effect upon approval by the Governor.

Ratified the 14th day of May, 2002.

Approved the 20th day of May, 2002.