

**South Carolina General Assembly**  
122nd Session, 2017-2018

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## H. 3405

### STATUS INFORMATION

General Bill

Sponsors: Rep. Ridgeway

Document Path: l:\council\bill\13622sd17.docx

Introduced in the House on January 11, 2017

Currently residing in the House Committee on **Judiciary**

Summary: Zoning regulations

### HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
1/11/2017	House	Introduced and read first time ( <a href="#">House Journal-page 33</a> )
1/11/2017	House	Referred to Committee on <b>Judiciary</b> ( <a href="#">House Journal-page 33</a> )

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### VERSIONS OF THIS BILL

[1/11/2017](#)

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## A BILL

TO AMEND SECTION [6-29-760](#), CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PROCEDURE FOR THE ENACTMENT OF ZONING REGULATIONS OR MAPS, SO AS TO PROVIDE THAT ONLY A LANDOWNER, HIS OR HER APPOINTED REPRESENTATIVE, OR THE GOVERNING BODY OF THE POLITICAL SUBDIVISION WHICH IS RESPONSIBLE FOR THE ZONING REGULATIONS OR MAPS PERTAINING TO THE PROPERTY MAY APPLY TO AMEND OR CHANGE ANY ZONING REGULATION OR MAP RELATING TO THAT PROPERTY.

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

SECTION 1. Section [6-29-760](#) of the 1976 Code is amended to read:

"Section [6-29-760](#). (A) Before enacting or amending any zoning regulations or maps, the governing authority or the planning commission, if authorized by the governing authority, shall hold a public hearing on it, which must be advertised and conducted according to lawfully prescribed procedures. If no established procedures exist, then at least fifteen days' notice of the time and place of the public hearing must be given in a newspaper of general circulation in the municipality or county. In cases involving rezoning, conspicuous notice shall be posted on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property. If the local government maintains a list of groups that have expressed an interest in being informed of zoning proceedings, notice of such meetings must be mailed to these groups. No change in or departure from the text or maps as recommended by the local planning commission may be made pursuant to the hearing unless the change or departure be first submitted to the planning commission for review and recommendation. The planning commission shall have a time prescribed in the ordinance which may not be more than thirty days within which to submit its report and recommendation on the change to the governing authority. If the planning commission fails to submit a report within the prescribed time period, it is deemed to have approved the change or departure. When the required public hearing is held by the planning commission, no public hearing by the governing authority is required before amending the zoning ordinance text or maps.

(B) Only a landowner, his or her appointed representative, or the governing body of the political subdivision which is responsible for the zoning regulations or maps pertaining to the landowner's property, or the planning commission if authorized to do so by the governing body, may apply to amend or change any zoning regulation or map relating to that property. If a landowner whose land is the subject of a proposed amendment will be allowed to present oral or written comments to the planning commission, at least ten days' notice and an opportunity to comment in the same manner must be given to other interested members of the public, including owners of adjoining property.

(C) An owner of adjoining land or his representative has standing to bring an action contesting the ordinance or amendment but may not propose a change in the zoning regulations or maps relating to the adjoining property after the zoning regulations or maps relating to the adjoining property have taken effect upon the final resolution of the adjoining landowner's action to contest; however, this subsection does not create any new substantive right in any party.

(D) No challenge to the adequacy of notice or challenge to the validity of a regulation or map, or amendment to it, whether enacted before or after the effective date of this section, may be made sixty days after the decision of the governing body if there has been substantial compliance with the notice requirements of this section or with established procedures of the governing authority or the planning commission."

SECTION 2. This act takes effect upon approval by the Governor.

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This web page was last updated on January 17, 2017 at 10:39 AM

**South Carolina General Assembly**  
122nd Session, 2017-2018

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**S. 346**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Kimpson

Document Path: l:\council\bill\ggs\22913zw17.docx

Introduced in the Senate on February 1, 2017

Currently residing in the Senate Committee on **Judiciary**

Summary: SC Inclusionary Zoning Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date	Body	Action Description with journal page number
2/1/2017	Senate	Introduced and read first time ( <a href="#">Senate Journal-page 20</a> )
2/1/2017	Senate	Referred to Committee on <b>Judiciary</b> ( <a href="#">Senate Journal-page 20</a> )
3/31/2017	Senate	Referred to Subcommittee: Massey (ch), McElveen, Senn

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**VERSIONS OF THIS BILL**

[2/1/2017](#)

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**A BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 7, TITLE 6 SO AS TO ENACT THE "SOUTH CAROLINA INCLUSIONARY ZONING ACT" TO PROVIDE THAT COUNTIES AND MUNICIPALITIES ARE AUTHORIZED TO USE INCLUSIONARY ZONING STRATEGIES TO INCREASE THE AVAILABILITY OF AFFORDABLE HOUSING.

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

SECTION 1. Chapter 7, Title 6 of the 1976 Code is amended by adding:

"Article 5

## South Carolina Inclusionary Zoning Act

Section [6-7-510](#). (A) The General Assembly finds:

(1) in many counties and municipalities, there is a critical shortage of decent, safe, and affordable residential housing available to low- and moderate-income families;

(2) the affordable housing shortage constitutes a danger to the health, safety, and welfare of residents of the State, and is a barrier to sound growth and sustainable economic development for South Carolina counties and municipalities; and

(3) affordable housing can include multifamily rental, single-family rental, and single-family homeownership.

(B) The purpose of this act is to provide authority for counties and municipalities to use inclusionary zoning strategies to increase the development of affordable housing for low- and moderate-income families.

Section [6-7-520](#). (A)(1) Pursuant to Section [31-22-20](#), 'affordable housing' means residential housing for rent or sale which is appropriately priced for rent or sale to a person or family whose income does not exceed eighty percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD). South Carolina's high cost counties will not exceed one hundred twenty percent of the Area Median Income (AMI) for sale or rental of affordable housing. The Federal Housing Administration (FHA) designates high-cost counties through its annual publication of loan limits - 'Counties with FHA Loan Limits Between the National Floor and Ceiling'.

(2) 'Inclusionary Zoning' means a zoning regulation, requirement, or condition of development imposed by ordinance or regulation, or pursuant to a special or conditional permit, special exception, or subdivision plan that promotes the development of affordable dwelling units.

(B)(1) A municipality or county may adopt a land use regulation or functional plan provision or impose as a condition for approving a permit, a requirement that has the effect of establishing the sales or rental price for a new multifamily or single-family structure, or that requires a new multifamily or single-family structure to be designated for sale or rent as affordable housing.

(2) A regulation, provision, or requirement adopted or imposed pursuant to this section:

(a) may not require more than thirty percent of housing units within a multifamily structure or single-family development to be sold or rented as affordable housing. The specific percentage will be determined by local municipal or county zoning ordinances;

(b) only may apply to multifamily or single-family developments containing five or more housing units;

(c) shall provide developers the option to pay a 'fee in lieu', in an amount determined by the municipality or county, rather than to include affordable units within their overall development; and

(d) shall provide an expedited process for developments that meet the percentage of affordable units. For example, an expedited process may include putting these developments at the front of the

line for review of plans and other requirements, or other ways to reduce the time for the review and permitting process.

(3) A regulation, provision, or requirement adopted or imposed under item (2) of this subsection shall offer developers one or more of the following incentives:

(a) density adjustments;

(b) modification of height, floor area, or other site-specific requirements; or

(c) whole or partial waivers of system development charges, impact, or permit fees set by the municipality

or county;

(d) tax adjustments; or

(e) other incentives as determined by the municipality or county.

(4) Item (2) of this subsection does not:

(a) restrict the authority of a municipality or county to offer additional incentives for building affordable housing units that are affordable to households with incomes at or below sixty percent of the AMI for the county or metropolitan statistical area; or

(b) apply to existing multifamily structures or single-family developments for sale or rent or to pending developments that have received permits prior to the municipality or county enacting an inclusionary zoning ordinance.

(5) A municipality or county is authorized to require recorded deed restrictions or restrictive covenants to ensure the affordable units within a development remain affordable for a period of time to be determined by the municipality or county.

(6)(a) A municipality or county that adopts or imposes a regulation, provision, or requirement pursuant to item (2) of this subsection shall adopt and apply only clear and objective standards, conditions, and procedures regulating the development of affordable housing units within its jurisdiction. The standards, conditions, and procedures may not have the effect, either individually or cumulatively, of discouraging development of affordable housing units through unreasonable cost or delay; and

(b) In addition to an approval process for affordable housing based on clear and objective standards, conditions, and procedures as provided in this item, a municipality or county may adopt and apply an alternative approval process for applications and permits for residential development based on clear and objective approval criteria regulating aesthetics, either in whole or in part."

SECTION 2. This act takes effect upon approval by the Governor.

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**South Carolina General Assembly**  
122nd Session, 2017-2018

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## H. 3653

### STATUS INFORMATION

General Bill

Sponsors: Reps. Forrester, Yow, Loftis, Henegan, Spires, Anderson, Burns, V.S. Moss, Crawford, Hamilton, Felder, Norman, Anthony, Chumley, Erickson, Gagnon, Hayes, Henderson, Hosey, Jefferson, S. Rivers, Ryhal, Sandifer, Thayer, Willis, Atkinson, Alexander, West, Hixon, Murphy, Arrington, Bennett and Crosby

Document Path: I:\council\bill\agm\19091wab17.docx

Companion/Similar bill(s): 323

Introduced in the House on February 2, 2017

Introduced in the Senate on March 29, 2017

Currently residing in the Senate

Summary: Manufacturing or industrial facilities

### HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
2/2/2017	House	Introduced and read first time ( <a href="#">House Journal-page 19</a> )
2/2/2017	House	Referred to Committee on <b>Labor, Commerce and Industry</b> ( <a href="#">House Journal-page 19</a> )
2/7/2017	House	Member(s) request name added as sponsor: Atkinson
2/8/2017	House	Member(s) request name added as sponsor: Alexander
2/14/2017	House	Member(s) request name added as sponsor: West
3/7/2017	House	Committee report: Favorable <b>Labor, Commerce and Industry</b> ( <a href="#">House Journal-page 3</a> )
3/8/2017	House	Requests for debate-Rep(s). Sandifer, Hiott, Clary, Allison, Hixion, Bedingfield, Martin, Henderson, Blackwell, Toole, Brown, Anderson, Cogswell, Crosby, Danning, Chumley, Long, VS Moss, Elliott, Cole, Hosey, Yow, Erickson, Wheeler, Hewitt, Jordon, Williams, Douglas, W. Newton, Hart, Hill, Tallon, Knight ( <a href="#">House Journal-page 19</a> )
3/22/2017	House	Member(s) request name added as sponsor: Hixon, Murphy, Arrington, Bennett, Crosby
3/22/2017	House	Read second time ( <a href="#">House Journal-page 62</a> )
3/22/2017	House	Roll call Yeas-78 Nays-27 ( <a href="#">House Journal-page 62</a> )
3/23/2017	House	Read third time and sent to Senate ( <a href="#">House Journal-page 48</a> )
3/23/2017	House	Roll call Yeas-75 Nays-24 ( <a href="#">House Journal-page 48</a> )
3/29/2017	Senate	Introduced and read first time ( <a href="#">Senate Journal-page 12</a> )
3/29/2017	Senate	Referred to Committee on <b>Labor, Commerce and Industry</b> ( <a href="#">Senate Journal-page 12</a> )

4/18/2017 Senate Polled out of committee **Labor, Commerce and Industry**  
([Senate Journal-page 10](#))

4/18/2017 Senate Committee report: Favorable **Labor, Commerce and Industry**  
([Senate Journal-page 10](#))

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## **VERSIONS OF THIS BILL**

[2/2/2017](#)

[3/7/2017](#)

[4/18/2017](#)

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POLLED OUT OF COMMITTEE

MAJORITY FAVORABLE

April 18, 2017

### **H. 3653**

Introduced by Reps. Forrester, Yow, Loftis, Henegan, Spires, Anderson, Burns, V.S. Moss, Crawford, Hamilton, Felder, Norman, Anthony, Chumley, Erickson, Gagnon, Hayes, Henderson, Hosey, Jefferson, S. Rivers, Ryhal, Sandifer, Thayer, Willis, Atkinson, Alexander, West, Hixon, Murphy, Arrington, Bennett and Crosby

S. Printed 4/18/17--S.

Read the first time March 29, 2017.

## **THE COMMITTEE ON**

### **LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 3653) to amend the Code of Laws of South Carolina, 1976, by adding Chapter 24 to Title 31 so as to provide the operations or expansions of manufacturing and industrial facilities may, etc., respectfully

### **REPORT:**

Has polled the Bill out majority favorable.

### **STATEMENT OF ESTIMATED FISCAL IMPACT**

#### **Explanation of Fiscal Impact**

**Introduced on February 2, 2017**

#### **State Expenditure**

This bill creates a new chapter in Title 31 regarding nuisance suits for manufacturing and industrial property. Manufacturing or industrial facilities are defined as any facility that operates under North American Industry Classification System codes 31-33 and 48-49 including, but not limited to, any land, building, structure, pond, impoundment, appurtenance, machinery, or equipment used for manufacturing, processing, distribution, warehousing, and technology intensive operations. A manufacturing or industrial facility, or expansion of such a facility, may not be found to be a public or private nuisance if it is operating pursuant to the issuance of requisite licenses, permits, certifications, or authorizations under applicable federal and state environmental law and commenced operations before a change in the land use in the vicinity of the manufacturing or industrial facility.

Additionally, a manufacturing or industrial facility is protected pursuant to the provisions of this section may reasonably expand its operation or facilities without losing its protected status if all county, municipal, state, and federal environmental codes, laws, or regulations are met by the manufacturing or industrial operation. Once the protected status is acquired, it is assignable, alienable, and inheritable, and may not be waived by the temporary cessation of operation or by diminishing the size of the operation. Further, a city, county, taxing district, or other political subdivision may not adopt an ordinance or resolution that declares a manufacturing or industrial facility, or an expansion of such a facility that is operated in accordance with this chapter to be a nuisance, nor may a zoning ordinance that requires abatement or forces the closure of a manufacturing or industrial facility be adopted. Such an ordinance is void and has no force or effect. This bill does not apply to any nuisance complaint or lawsuit commenced within one year of the effective date of this bill.

**South Carolina Judicial Department.** The department indicates the curtailing of nuisance lawsuits may lead to fewer nuisance lawsuits being filed in Common Pleas court. However, there is no data readily available on the number of nuisance lawsuits filed. Therefore, the bill's expenditure impact on general fund expenditures for the Judicial Department is undetermined. There is no expenditure impact on other funds or federal funds.

### **Local Expenditure**

The Revenue and Fiscal Affairs Office contacted twenty-three county governments and the Municipal Association of South Carolina regarding the impact of the bill. Three counties and two municipalities responded. Clarendon and Lancaster Counties reported this bill will have no fiscal impact since they received only a few nuisance complaints against manufacturing and industrial facilities combined. Florence County stated they have not received nuisance complaints related to manufacturing or industrial sites, and this bill will have no fiscal impact. Bluffton and Hartsville stated there would be no fiscal impact.

The bill is not expected to impact local government expenditures for the three counties and two municipalities who responded. However, the overall impact statewide is undetermined given the limited number of responses and lack of data regarding nuisance lawsuits and complaints statewide.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

### **A BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 24 TO TITLE 31 SO AS TO PROVIDE THE OPERATIONS OR EXPANSIONS OF



MANUFACTURING AND INDUSTRIAL FACILITIES MAY NOT BE CONSIDERED PUBLIC OR PRIVATE NUISANCES IN CERTAIN CIRCUMSTANCES, TO PROVIDE RELATED FINDINGS, TO EXPLICITLY PROHIBIT LOCAL GOVERNMENTS FROM ENACTING ORDINANCES TO THE CONTRARY, TO DEFINE NECESSARY TERMINOLOGY, TO PROVIDE THAT THE PROVISIONS OF THIS ACT MAY NOT BE CONSTRUED TO MODIFY STATUTORY EMINENT DOMAIN LAWS OR ENVIRONMENTAL LAWS, AND TO PROVIDE THE PROVISIONS OF THIS ACT DO NOT APPLY TO NUISANCE ACTIONS COMMENCED WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS CHAPTER.

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

SECTION 1. Title 31 of the 1976 Code is amended by adding:

"CHAPTER 24

Nuisance Suits Related to Manufacturing and Industrial Uses of Real Property

Section [31-24-110](#). The General Assembly finds that manufacturing and industrial operations are a vital part of the economy of South Carolina, and that it is in the best interests of the State to induce the retention, location, expansion, and improvement of manufacturing, processing, distribution, warehousing, and technology intensive projects within the State. The General Assembly recognizes that, when nonindustrial land uses extend into industrial areas, manufacturing or industrial facilities may become the subject of nuisance suits despite having located first in time. As a result, such facilities may be forced to cease operations or may be discouraged from making investments or improvements to their facilities. It is the intent of the General Assembly to reduce the loss to the State of its manufacturing and industrial resources by limiting the circumstances under which a manufacturing or industrial facility may be deemed to be a nuisance when such plaintiffs came to the nuisance, and it is the General Assembly's intent to generally codify the common law defense of 'coming to the nuisance' to promote economic development.

Section [31-24-120](#). For purposes of this chapter, 'manufacturing or industrial facility' means any facility that operates under North American Industry Classification System codes 31-33 (Manufacturing) and 48-49 (Transportation and Warehousing), including, but not limited to, any land, building, structure, pond, impoundment, appurtenance, machinery, or equipment used for manufacturing, processing, distribution, warehousing, and technology intensive operations.

Section [31-24-130](#). (A) A manufacturing or industrial facility, or expansion of such a facility, may not be found to be a public or private nuisance by reason of the operation of that facility if the manufacturing or industrial facility:

- (1) is operating pursuant to the issuance of requisite licenses, permits, certifications, or authorizations under applicable federal and state environmental law; and
- (2) commenced operations before a change in the land use in the vicinity of the manufacturing or industrial facility.

(B) A manufacturing or industrial facility protected pursuant to the provisions of this section may reasonably expand its operation or facilities without losing its protected status if all county, municipal, state, and federal environmental codes, laws, or regulations are met by the manufacturing or industrial operation. This protected status of a manufacturing or industrial facility, once acquired:

(1) is assignable, alienable, and inheritable; and

(2) may not be waived by the temporary cessation of operation or by diminishing the size of the operation.

Section [31-24-140](#). A city, county, taxing district, or other political subdivision of this State may not adopt an ordinance or resolution that declares a manufacturing or industrial facility, or an expansion of such a facility, that is operated in accordance with this chapter to be a nuisance, nor may a zoning ordinance that requires abatement or forces the closure of a manufacturing or industrial facility be adopted. Such an ordinance is void and has no force or effect.

Section [31-24-150](#). The provisions of this chapter may not be construed to modify a provision of existing statutory eminent domain or environmental law.

Section [31-24-160](#). The provisions of this chapter do not apply to nuisance actions commenced within one year after the effective date of this chapter, but no nuisance actions may be commenced on or after one year after the effective date of this act."

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect upon approval by the Governor.

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