

## A RESOLUTION

### A RESOLUTION TO EXPRESS CLARENDON COUNTY COUNCIL'S REQUEST THAT THE SC GENERAL ASSEMBLY TAKE THE NECESSARY ACTIONS TO CONTINUE TO ALLOW LOCAL GOVERNMENTS TO COLLECT USER FEES THAT FUND CRITICAL NEEDS SUCH AS PUBLIC SAFETY AND INFRASTRUCTURE

**WHEREAS**, Clarendon County, along with the vast majority of citizens, acknowledge that as a result of the recent SC Supreme Court decision in *Burns v. Greenville County Council* (2021), and revenues lost due to the COVID-19 pandemic, counties throughout the state have been and will continue to struggle funding critical needs such as public safety and infrastructure; and

**WHEREAS**, counties were specifically granted the authority to impose uniform service charges in §4-9-30 and road fees were specifically considered and deemed allowed by the SC Supreme Court in *Brown v. County of Horry* (1992); and

**WHEREAS**, in 1997, the SC General Assembly enacted §6-1-300(6), which defines "service or user fee" as "a charge required to be paid in return for a particular government service or program made available to the payer that benefits the payer in some manner different from the members of the general public not paying the fee"; and

**WHEREAS**, relying on this code section, the SC Supreme Court ruled Greenville County's road fee ordinance invalid as it determined that the county's residents who pay the user fee receive the same benefit as the non-payers; and

**WHEREAS**, the SC Supreme Court made it clear in its decision that the fee payer must receive a different benefit from paying the fee, not merely a greater benefit; and

**WHEREAS**, the *Burns* decision potentially puts user fees, including those that have been in place for decades, in jeopardy which could result in the loss of millions of dollars in county revenues throughout South Carolina; and

**WHEREAS**, one solution to this issue would be for the SC General Assembly to amend §6-1-300(6) to allow counties to have the option to utilize user fees that benefit the payer some manner different from or greater than the members of the general public not paying the fee; and

**WHEREAS**, the above solution does not increase counties' revenue-raising authority beyond its ability prior to the recent *Burns* decision and therefore does not constitute a "new fee or tax"; and

WHEREAS, another potential solution would be to amend §6-1-300(6) to state that “the general public may derive a benefit from the fee as long as the substantial benefit goes to the payer”; and

NOW THEREFORE, BE IT RESOLVED by the Clarendon County Council that it is in support of legislation that would preserve user fees as they are a vital source of local revenue and requests that all members of the South Carolina General Assembly take action to ensure that Home Rule is protected and that appropriate legislation is enacted to preserve this important county financial resource during the 124<sup>th</sup> Session of the General Assembly.

DONE IN REGULAR MEETING THIS 13<sup>th</sup> DAY OF Sept., 2021.

ATTEST:

  
Clerk to Council

CLARENDON COUNTY, SOUTH CAROLINA

  
Chairman, Clarendon County Council

