

REPORT OF THE REVENUE POLICY SUBCOMMITTEE

(White, Limehouse, Bingham, Pitts & Herbkersman - Staff Contact: Kenzie Riddle/Daniel Boan)

HOUSE BILL 4776

H. 4776 -- Reps. Allison, Erickson, Crosby, Yow, Gagnon, Duckworth, Clary, Govan, Neal, George, Anthony, Willis, Bannister, Bingham, R.L. Brown, Daning, Hayes, Henderson, Hixon, Long, Lucas, V.S. Moss, Murphy, Pope, Simrill, Tallon and Wells: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 158 TO TITLE 59 SO AS TO ENACT THE "SOUTH CAROLINA EDUCATION FACILITY AUTHORITY ACT" IN ORDER TO PROVIDE ASSISTANCE TO ENABLE SCHOOL DISTRICTS TO PROVIDE SCHOOL FACILITIES, TO ESTABLISH A BOARD OF DIRECTORS, TO PROVIDE THE POWERS AND DUTIES OF THE AUTHORITY, TO PROVIDE FOR FUNDING OF THE AUTHORITY, TO AUTHORIZE THE ISSUANCE OF SOUTH CAROLINA EDUCATION FACILITY REVENUE BONDS, AND TO SPECIFY THE MANNER IN WHICH BOND PROCEEDS ARE ALLOCATED TO SCHOOL DISTRICTS.

Summary of Bill:

This bill enacts an Education Facility Authority Act to enable school districts to provide school facilities. The bill establishes a Board of Directors to provide the powers and duties of the authority. The Authority would authorize the issuance of the Education Facility Revenue Bonds. The revenue bonds would be allocated to the districts.

Introduced: 01/28/2016

Received by Ways and Means: 01/28/2016

Estimated Fiscal Impact:

Pending

Subcommittee Recommendation:

Favorable with Amendment

Full Committee Recommendation:

Pending

Other Notes/Comments:

The amendment is a complete strike and insert of the entire bill. The amendment creates a South Carolina Facility Act to enable school districts to provide school facilities. The Department of Education, along with the State Board of Education, will be responsible for putting together a priority list that will go before the General Assembly. The General Assembly may adopt a proviso or joint resolution annually to authorize an amount of General Obligation debt to be issued for that particular year.

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

DRAFFIN/LEE
APRIL 13, 2016

CLERK OF THE HOUSE

Revenue Policy Subcommittee
PROPOSES THE FOLLOWING AMENDMENT
No. TO H. 4776 (COUNCIL\NL\4776C003.NL.SD16):

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE BILL, AS AND IF AMENDED, BY
STRIKING ALL AFTER THE ENACTING WORDS AND
INSERTING:**

**/ SECTION 1. TITLE 59 OF THE 1976 CODE IS
AMENDED BY ADDING:**

“CHAPTER 158

**SOUTH CAROLINA EDUCATION SCHOOL
FACILITIES ACT**

ARTICLE 1

SCHOOL FACILITIES ASSISTANCE

SECTION 59-158-110. THIS CHAPTER IS KNOWN AND MAY BE CITED AS THE ‘SOUTH CAROLINA EDUCATION SCHOOL FACILITIES ACT’.

SECTION 59-158-120. AS USED IN THIS CHAPTER:

(1)‘AUTHORITY’ MEANS THE SOUTH CAROLINA STATE FISCAL ACCOUNTABILITY AUTHORITY.

(2)‘BONDS’ MEANS GENERAL OBLIGATION BONDS, NOTES, INTERIM CERTIFICATES, GRANT OR BOND ANTICIPATION NOTES, OR ANY OTHER SIMILAR TYPES OF INDEBTEDNESS ISSUED BY THE STATE OF SOUTH CAROLINA.

(3)‘FACILITIES PLAN’ MEANS THE REPORT DESCRIBED IN SECTION 59-158-180(B).

(4) 'FACILITIES STUDY' MEANS THAT STUDY DESCRIBED IN SECTION 59-158-180(A).

(5) 'FINANCING AGREEMENT' MEANS AN AGREEMENT ENTERED INTO BETWEEN THE STATE BOARD AND A SCHOOL DISTRICT PERTAINING TO A LOAN OR OTHER FINANCIAL ASSISTANCE. THIS AGREEMENT MAY CONTAIN, IN ADDITION TO FINANCIAL TERMS, PROVISIONS RELATING TO THE REGULATION AND SUPERVISION OF A QUALIFIED SCHOOL PROJECT, AND THOSE OTHER PROVISIONS AS THE STATE BOARD MAY DETERMINE.

(6) 'LOAN' MEANS AN OBLIGATION SUBJECT TO REPAYMENT WHICH IS PROVIDED BY THE STATE BOARD TO A SCHOOL DISTRICT FOR ALL OR A PART OF THE ELIGIBLE COST OF A QUALIFIED SCHOOL PROJECT. A LOAN MAY BE DISBURSED IN ANTICIPATION OF REIMBURSEMENT FOR OR DIRECT PAYMENT OF ELIGIBLE COSTS OF A QUALIFIED SCHOOL PROJECT.

(7) 'OTHER FINANCIAL ASSISTANCE' MEANS, BUT IS NOT LIMITED TO, GRANTS, CONTRIBUTIONS, CREDIT ENHANCEMENT, CAPITAL OR DEBT RESERVES FOR BONDS OR DEBT INSTRUMENT FINANCING, INTEREST RATE SUBSIDIES, PROVISION OF LETTERS OF CREDIT AND CREDIT INSTRUMENTS, PROVISION OF BOND OR OTHER DEBT FINANCING

INSTRUMENT SECURITY, AND OTHER LAWFUL FORMS OF FINANCING AND METHODS OF LEVERAGING FUNDS THAT ARE APPROVED BY THE STATE BOARD, AND IN THE CASE OF FEDERAL FUNDS, AS ALLOWED BY FEDERAL LAW.

(8) 'PRIORITIZATION REPORT' MEANS THE REPORT DESCRIBED IN SECTION 59-158-180 AND WHICH IS PREPARED BY THE STATE BOARD.

(9) 'QUALIFIED SCHOOL PROJECTS' MEAN SCHOOL FACILITIES THAT ARE CONSTRUCTED, RENOVATED OR EQUIPPED WITH MONEY GENERATED UNDER THE PROVISIONS OF THIS CHAPTER AND IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER.

(10) 'SCHOOL DISTRICT' MEANS A PUBLIC BODY CORPORATE AND POLITIC OPERATING AS A SCHOOL DISTRICT UNDER THE PROVISIONS OF CHAPTER 17, TITLE 59, AND CHARTER SCHOOLS WITHIN THE MEANING OF CHAPTER 40, TITLE 59.

(11) 'SCHOOL FACILITIES' MEANS ONLY FACILITIES NECESSARY FOR INSTRUCTIONAL AND RELATED SUPPORTING PURPOSES INCLUDING, BUT NOT LIMITED TO, CLASSROOMS, LIBRARIES, MEDIA CENTERS, LABORATORIES, CAFETERIAS, PHYSICAL EDUCATION SPACES, RELATED INTERIOR AND EXTERIOR FACILITIES, AND THE CONDUIT, WIRING, AND POWERING OF HARDWARE INSTALLATIONS FOR CLASSROOM COMPUTERS OR FOR AREA NETWORK SYSTEMS. SCHOOL FACILITIES UNDER THIS CHAPTER ALSO INCLUDE:

(A) HEALTH AND SAFETY UPGRADES;

(B) TECHNOLOGY UPGRADES INSIDE SCHOOL FACILITIES;

(C) UPGRADES ASSOCIATED WITH CAREER AND TECHNOLOGY EDUCATION PROGRAMS;

(D) DEFERRED MAINTENANCE NEEDS AS DESCRIBED IN THE DISTRICT'S CAPITAL IMPROVEMENT PLAN.

'SCHOOL FACILITIES' DOES NOT INCLUDE UNIMPROVED REAL PROPERTY, CENTRALIZED DISTRICT ADMINISTRATION FACILITIES, OR OTHER FACILITIES, INCLUDING THOSE NORMALLY IDENTIFIED WITH INTERSCHOLASTIC SPORTS ACTIVITIES. 310

(12) ‘SOUTH CAROLINA EDUCATION SCHOOL FACILITIES GENERAL OBLIGATION BONDS’ MEANS BONDS ISSUED UNDER THE AUTHORITY OF ARTICLE 3 OF THIS CHAPTER.

(13) ‘STATE BOARD’ MEANS THE STATE BOARD OF EDUCATION.

SECTION 59-158-130. (A) CONSISTENT WITH THE DEFINITION OF SCHOOL FACILITIES IN SECTION 59-158-120(11), FUNDS MADE AVAILABLE THROUGH THIS CHAPTER MUST BE USED FOR PERMANENT SCHOOL INSTRUCTIONAL FACILITIES, HEALTH AND SAFETY UPGRADES, TECHNOLOGY ACCESS INSIDE THE SCHOOL, AND FIXED BUILDING ASSETS INCLUDING THE COSTS FOR CONSTRUCTION, IMPROVEMENT, ENLARGEMENT, OR RENOVATION OF SCHOOL FACILITIES.

(B) FUNDS MADE AVAILABLE UNDER THIS CHAPTER MUST BE ALLOCATED TO SCHOOL DISTRICTS FOR SCHOOL FACILITIES ACCORDING TO PRIORITIES ESTABLISHED BY THE OFFICE OF SCHOOL FACILITIES OF THE DEPARTMENT OF EDUCATION AS APPROVED BY THE STATE BOARD OF EDUCATION.

SECTION 59-158-140. (A) THE STATE BOARD OF EDUCATION’S RESPONSIBILITIES IN REGARD TO THIS CHAPTER INCLUDE:

(1) DEVELOPING POLICIES AND STANDARDS FOR A UNIFORM ASSESSMENT OF FACILITIES’ NEEDS AND STANDARDIZED COST ALLOWANCES FOR ESTIMATING THE COST IN MEETING THESE NEEDS IN ORDER TO PROVIDE FOR A SYSTEMATIC REPORTING OF EACH DISTRICT’S NEEDS TO BE USED IN CALCULATING THE PRIORITY ALLOTMENT OF FUNDS UNDER THIS CHAPTER. ANY STANDARDIZED COST ALLOWANCES MUST TAKE INTO ACCOUNT REGIONAL VARIANCES THAT ARE BEYOND THE CONTROL OF INDIVIDUAL DISTRICTS. FACILITIES’ NEEDS INCLUDE, BUT ARE NOT LIMITED TO, FACILITY NEED CAPACITY AND CONDITION, SPACE REQUIREMENTS, PROGRAM STANDARDS, AND PUPIL GROWTH. COST ALLOWANCES SHALL BE DEVELOPED TO INCLUDE SUCH MEASURES AS COSTS PER SQUARE FOOT, COSTS PER PUPIL, OR COSTS PER TEACHING

UNIT WITH SUCH COSTS ADJUSTED ANNUALLY TO REFLECT CHANGES IN THE COST OF LABOR AND MATERIALS. THESE STANDARDS AND COST ALLOWANCES ARE TO BE USED ONLY FOR PROVIDING A UNIFORM REPORTING OF DISTRICTS' NEEDS FOR ALLOTMENT AND PRIORITY PURPOSES AND ARE NOT INTENDED TO LIMIT DISTRICT OPTIONS IN DETERMINING THE MOST APPROPRIATE MANNER IN WHICH TO MEET INDIVIDUAL DISTRICT NEEDS; AND

(2) ADOPTING POLICIES AND STANDARDS TO ENSURE THE ACCURACY OF DISTRICT REPORTING REQUIRED UNDER THIS CHAPTER AND THE USE OF FUNDS DISBURSED UNDER THIS CHAPTER.

(B) IN ORDER TO IMPLEMENT THE PROVISIONS OF THIS CHAPTER, THE STATE BOARD ALSO SHALL:

(1) ESTABLISH POLICIES, PROCEDURES, AND PRIORITIES FOR THE MAKING AND ADMINISTERING OF GRANTS, LOANS OR A COMBINATION OF THESE TO THE VARIOUS SCHOOL DISTRICTS WHICH POLICIES, PROCEDURES, AND PRIORITIES MUST BE ESTABLISHED BY APPROPRIATE REGULATIONS OF THE STATE BOARD;

(2) TOGETHER WITH THE OFFICE OF THE STATE TREASURER, ESTABLISH FISCAL CONTROLS AND ACCOUNTING PROCEDURES TO ENSURE PROPER ACCOUNTING AND REPORTING BY THE STATE DEPARTMENT OF EDUCATION, THE STATE BOARD OF EDUCATION, AND THE SCHOOL DISTRICTS;

(3) MAINTAIN AN APPLICATION PROCESS FOR SCHOOL DISTRICTS TO REQUEST FUNDING FOR QUALIFIED SCHOOL PROJECTS; AND

(4) DEVELOP FINANCIAL AND OPERATING CONDITIONS TO WHICH SCHOOL DISTRICTS MUST AGREE PRIOR TO RECEIVING FINANCIAL ASSISTANCE PROVIDED FOR IN THIS CHAPTER.

(C) IN ORDER TO FULFILL ITS DUTIES SET FORTH IN THIS SECTION, THE STATE BOARD MAY:

(1) EXPEND FUNDS CREDITED TO THE STATE BOARD AS THE STATE BOARD DETERMINES NECESSARY FOR THE COSTS OF ADMINISTERING THE OPERATIONS OF THE STATE BOARD;

(2) ESTABLISH ADVISORY COMMITTEES AS THE STATE BOARD DETERMINES APPROPRIATE, WHICH MAY INCLUDE INDIVIDUALS FROM THE PRIVATE SECTOR WITH BANKING AND FINANCIAL EXPERTISE;

(3) COLLECT FEES AND CHARGES IN CONNECTION WITH ITS LOANS OR OTHER FINANCIAL ASSISTANCE;

(4) APPLY FOR, RECEIVE AND ACCEPT FROM ANY SOURCE, AID, GRANTS, AND CONTRIBUTIONS OF MONEY, PROPERTY, LABOR, OR OTHER THINGS OF VALUE TO BE USED TO CARRY OUT THE PURPOSES OF THIS CHAPTER SUBJECT TO THE CONDITIONS UPON WHICH THE AID, GRANTS, OR CONTRIBUTIONS ARE MADE;

(5) ENTER INTO CONTRACTS OR AGREEMENTS FOR THE SERVICING AND PROCESSING OF FINANCIAL AGREEMENTS;

(6) PROMULGATE REGULATIONS CONSIDERED NECESSARY TO EFFECT THE RESPONSIBILITIES SET FORTH IN THIS CHAPTER; IN ORDER TO AID THE STATE BOARD IN THE PERFORMANCE OF ITS DUTIES, THE STATE DEPARTMENT OF EDUCATION SHALL PROVIDE STAFF AND TECHNICAL ASSISTANCE AS NECESSARY; AND

(7) DO ALL OTHER THINGS NECESSARY OR CONVENIENT TO EXERCISE POWERS GRANTED OR REASONABLY IMPLIED BY THIS CHAPTER.

SECTION 59-158-150. THE DEPARTMENT OF EDUCATION'S RESPONSIBILITIES UNDER THIS CHAPTER TO ASSIST THE STATE BOARD IN THE PERFORMANCE OF ITS DUTIES SHALL INCLUDE:

(1) PROVIDING STAFFING ASSISTANCE TO THE STATE BOARD IN THE DEVELOPMENT OF POLICIES AND STANDARDS, AND REGULATIONS IMPLEMENTING THIS CHAPTER;

(2) ENSURING COMPLIANCE WITH STATE STANDARDS AND REQUIREMENTS, INSPECTING CONSTRUCTION PROJECTS FOR

EDUCATION FACILITIES, AND APPROVING COMPLETED CONSTRUCTION PURSUANT TO CHAPTER 23 OF THIS TITLE FOR PROJECTS FINANCED IN WHOLE OR IN PART WITH FUNDS ALLOCATED UNDER THIS CHAPTER;

(3) DEFINING CAPITAL IMPROVEMENT PLANS THAT SHALL INCLUDE MAINTENANCE AND CONSTRUCTION PLANS, STUDENT GROWTH PROJECTIONS, CROSS DISTRICT COOPERATION, PARTNERSHIP WITH LOCAL TECHNICAL COLLEGES AND INFORMATION TECHNOLOGY NEEDS; AND

(4) RANKING THE PROJECTS IN PRIORITY ORDER ACCORDING TO NEED AND SUBMITTING THE RANKINGS FOR APPROVAL TO THE STATE BOARD OF EDUCATION.

SECTION 59-158-160. ALL MONEY OF THE STATE BOARD RECEIVED UNDER THIS CHAPTER, EXCEPT AS OTHERWISE AUTHORIZED BY LAW OR PROVIDED IN THIS CHAPTER, MUST BE DEPOSITED WITH AND INVESTED BY THE STATE TREASURER. FUNDS OF THE STATE BOARD NOT NEEDED FOR IMMEDIATE USE OR DISBURSEMENT MAY BE INVESTED BY THE STATE TREASURER IN OBLIGATIONS OR SECURITIES WHICH ARE DECLARED TO BE LEGAL OBLIGATIONS BY THE PROVISIONS OF SECTION 11-9-660.

SECTION 59-158-170. FOLLOWING THE CLOSE OF EACH STATE FISCAL YEAR, THE STATE BOARD SHALL SUBMIT AN ANNUAL REPORT OF ITS ACTIVITIES FOR THE PRECEDING YEAR TO THE GOVERNOR AND TO THE GENERAL ASSEMBLY. AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SHALL PERFORM AN AUDIT OF THE BOOKS AND ACCOUNTS OF THE STATE BOARD AT LEAST ONCE IN EACH STATE FISCAL YEAR.

SECTION 59-158-180. (A) THE STATE DEPARTMENT OF EDUCATION SHALL CONDUCT A FACILITIES STUDY OF ALL SCHOOL DISTRICTS' FACILITIES AND PHYSICAL ASSETS. THE FACILITIES STUDY SHALL PROVIDE AN ASSESSMENT OF THE FACILITIES PRESENTLY BEING

UTILIZED BY THE VARIOUS SCHOOL DISTRICTS AND OUTLINE THE REQUIRED CONSTRUCTION, RENOVATION AND EQUIPPING OF FACILITY NEEDS OF EACH SCHOOL DISTRICT IN ORDER TO ENABLE EACH SCHOOL DISTRICT TO PROVIDE FOR COMPARABLE ACCESS TO SCHOOL AMENITIES, EDUCATIONAL SPACE AND INFRASTRUCTURE, AND SAFETY TO STUDENTS REGARDLESS OF THEIR SCHOOL DISTRICT OF RESIDENCE. THE FACILITIES STUDY SHALL BE COMPLETED BY OCTOBER 1, 2017, AND DELIVERED TO THE STATE BOARD, AND SHALL BE UTILIZED BY THE STATE BOARD IN THE PERFORMANCE OF ITS DUTIES AND FUNCTIONS UNDER THIS CHAPTER. THE FACILITIES STUDY SHALL BE UPDATED FROM TIME TO TIME BY THE DEPARTMENT AS NECESSARY TO ENABLE THE STATE BOARD TO PERFORM ITS DUTIES AND FUNCTIONS UNDER THIS CHAPTER.

(B) BY OCTOBER 1, 2017, AND THE FIRST DAY OF OCTOBER OF EACH YEAR THEREAFTER, EACH SCHOOL DISTRICT SHALL PROVIDE ANNUALLY TO THE DEPARTMENT A THOROUGH FACILITIES PLAN THAT DESCRIBES THE SCHOOL FACILITIES IN THAT SCHOOL DISTRICT. EACH FACILITIES PLAN SHALL:

- (1) DESCRIBE THE PRESENT FACILITIES BEING UTILIZED BY THE SCHOOL DISTRICT;**
- (2) DESCRIBE THE DEFICIENCIES OF THESE FACILITIES; AND**
- (3) PROVIDE THE SCHOOL DISTRICT'S RECOMMENDATIONS TO REMEDY THESE DEFICIENCIES, INCLUDING APPROPRIATE DESIGNS, AND AN ESTIMATED COST OF IMPLEMENTING SUCH RECOMMENDATIONS, INCLUDING A COST ESTIMATE OF UTILITY AND OTHER INFRASTRUCTURE TO BE PROVIDED BY PUBLIC ENTITIES NECESSARY TO SERVE EACH PROPOSED FACILITY.**

IN DOING SO, THE SCHOOL DISTRICTS MUST UNDERTAKE A STUDY OF FUTURE ENROLLMENT TRENDS SO THAT BOTH THE CONSTRUCTION AND CLOSING OF BUILDINGS IS CONSIDERED. ADDITIONALLY, EACH SCHOOL DISTRICT'S FACILITIES PLAN SHALL ENSURE THAT SCHOOL DISTRICTS HAVE A BUILDING MAINTENANCE PLAN. FAILURE ON THE PART OF A

SCHOOL DISTRICT TO PREPARE AN ANNUAL FACILITY PLAN AND DELIVER IT TO THE STATE BOARD SHALL PROHIBIT THAT SCHOOL DISTRICT FROM RECEIVING FUNDS AS PROVIDED IN THIS CHAPTER.

(C) UPON RECEIPT OF THE FACILITIES STUDY AND THE FACILITIES PLAN PREPARED BY THE SCHOOL DISTRICTS, THE DEPARTMENT ANNUALLY SHALL PREPARE A PRIORITIZATION REPORT WHICH RANKS THE NEEDS OF EACH SCHOOL DISTRICT BEGINNING WITH THOSE MOST IN NEED OF SCHOOL FACILITIES IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER. FACTORS WHICH MUST BE USED BY THE DEPARTMENT IN CREATING ITS RANKING WITHIN THE PRIORITIZATION REPORT ARE COMPRISED OF THE FOLLOWING:

(1) THE CURRENT CONDITION OF SCHOOL FACILITIES IN EACH SCHOOL DISTRICT;

(2) SCHOOL DISTRICT POPULATION TRENDS;

(3) SCHOOL DISTRICT MILLAGE AND FEE LEVELS;

(4) SCHOOL DISTRICT FINANCIAL HEALTH WHICH INCLUDES WHETHER THE SCHOOL DISTRICT HAS ACHIEVED BALANCED BUDGETS;

(5) ABILITY OF A SCHOOL DISTRICT TO PAY BONDED INDEBTEDNESS; AND

(6) ABILITY OF A SCHOOL DISTRICT TO INCUR DEBT, WITHOUT THE NECESSITY OF A REFERENDUM, UNDER THE PROVISIONS OF SECTION 15, ARTICLE X OF THE CONSTITUTION.

(D) EACH ANNUAL PRIORITIZATION REPORT SHALL LIST THE QUALIFIED SCHOOL PROJECTS REQUIRED BY EACH SCHOOL DISTRICT AND A RECOMMENDATION OF THOSE QUALIFIED SCHOOL PROJECTS WHICH SHOULD BE UNDERTAKEN IMMEDIATELY AND COST IN THE AGGREGATE NOT MORE THAN TWO HUNDRED MILLION DOLLARS. THE DEPARTMENT ALSO SHALL PROVIDE A RECOMMENDATION WITHIN THE PRIORITIZATION REPORT WHETHER ASSISTANCE FOR A SPECIFIC QUALIFIED SCHOOL PROJECT OF A PARTICULAR SCHOOL DISTRICT SHALL BE BY WAY OF GRANTS, LOANS OR A COMBINATION OF BOTH.

(E) ALL DESIGNS OF QUALIFIED SCHOOL PROJECTS ARE SUBJECT TO APPROVAL BY THE DEPARTMENT, WHICH MAY PERIODICALLY AMEND DESIGN STANDARDS TO IMPROVE THE EFFICIENCY, SAFETY, OR EFFECTIVENESS OF EACH QUALIFIED SCHOOL PROJECT.

(F) ALL FACILITIES STUDIES, FACILITIES PLANS, PRIORITIZATION REPORTS, AND RELATED MATERIAL PREPARED BY THE DEPARTMENT UNDER THIS SECTION MUST BE SUBMITTED TO THE STATE BOARD FOR ITS APPROVAL AND IMPLEMENTATION.

SECTION 59-158-190. THE STATE BOARD, WITH THE ASSISTANCE OF THE DEPARTMENT, BY REGULATION SHALL DEVELOP AND IMPLEMENT FINANCIAL INCENTIVES IN THE FORM OF ADDITIONAL ALLOCATIONS OF SCHOOL FACILITY FUNDING UNDER THIS CHAPTER TO ENCOURAGE SCHOOL DISTRICTS AND THEIR GOVERNING BODIES TO COMBINE THEIR PURCHASING, PROCUREMENT, ACCOUNTING, FOOD SERVICE, TRANSPORTATION, HUMAN RESOURCES, OR OTHER NONINSTRUCTIONAL FUNCTIONS WITH ANOTHER SCHOOL DISTRICT OR DISTRICTS IN THE COUNTY OR WITH AN ADJOINING SCHOOL DISTRICT OR DISTRICTS IN ANOTHER COUNTY, OR TO CONSOLIDATE WITH ONE OR MORE OTHER SCHOOL DISTRICTS IN THEIR COUNTY. NOTHING IN THIS SECTION PREVENTS A SCHOOL DISTRICT FROM RECEIVING ADDITIONAL ALLOCATIONS IN BOTH CATEGORIES. HOWEVER, TOGETHER WITH THE ADDITIONAL ALLOCATIONS AUTHORIZED BY THIS SECTION, THE TOTAL ALLOCATIONS FOR ALL SCHOOL DISTRICTS MAY NOT EXCEED IN ANY YEAR THE TOTAL AMOUNT OF GENERAL OBLIGATION BONDS AUTHORIZED TO BE ISSUED AS PROVIDED BY SECTION 59-158-310 FOR THAT YEAR.

SECTION 59-158-200. IN ADDITION TO ALL OTHER PROVISIONS OF THIS CHAPTER, AS A CONDITION OF RECEIVING FUNDS FROM THE STATE BOARD AS PROVIDED IN THIS CHAPTER, THE DEPARTMENT SHALL REQUIRE DISTRICTS TO UNDERGO A THOROUGH ENERGY AUDIT THAT

HIGHLIGHTS THE OPERATION OF SCHOOL BUILDINGS IN TERMS OF BEING ENERGY EFFICIENT AND AS COST EFFECTIVE AS POSSIBLE. DESIGNS FOR NEW SCHOOL FACILITIES TO BE BUILT IN WHOLE OR IN PART WITH FUNDS PROVIDED UNDER THIS CHAPTER ALSO MUST BE AS ENERGY EFFICIENT AND COST EFFECTIVE AS POSSIBLE. THE STATE BOARD MAY REQUIRE RECOMMENDATIONS MADE BY THE ENERGY AUDIT TO BE INCORPORATED INTO EXISTING FACILITIES AND INTO NEW FACILITIES AS A CONDITION OF RECEIVING FUNDS UNDER THIS CHAPTER TO THE EXTENT FUNDS ARE AVAILABLE TO MAKE THESE RECOMMENDED ENERGY IMPROVEMENTS.

SECTION 59-158-210. TO QUALIFY FOR FUNDING UNDER THIS CHAPTER, EACH SCHOOL DISTRICT SHALL MEET THE REQUIREMENTS OF THIS CHAPTER AND ANY REGULATIONS PROMULGATED PURSUANT TO THIS CHAPTER. FUNDS MAY BE WITHHELD FROM A SCHOOL DISTRICT BY THE STATE BOARD WHEN THE DEPARTMENT OF EDUCATION FINDS INAPPROPRIATE REPORTING OF FACILITIES' NEEDS, INAPPROPRIATE USE OF FUNDS, OR OTHER VIOLATIONS OF THIS CHAPTER, INCLUDING THE PROVISIONS OF THIS SECTION.

SECTION 59-158-220. NEITHER THE STATE BOARD, STATE DEPARTMENT, NOR ANY OFFICER, EMPLOYEE, OR COMMITTEE OF THE STATE BOARD OR DEPARTMENT ACTING ON BEHALF OF IT, WHILE ACTING WITHIN THE SCOPE OF THIS AUTHORITY, IS SUBJECT TO ANY LIABILITY RESULTING FROM CARRYING OUT ANY OF THE POWERS GIVEN IN THIS CHAPTER.

SECTION 59-158-230. BY DECEMBER 1, 2018, THE STATE BOARD OF EDUCATION SHALL RECOMMEND TO THE GENERAL ASSEMBLY CHANGES TO BE MADE TO THIS CHAPTER REGARDING PROGRAM OBJECTIVES, APPROPRIATE FUNDING LEVELS, AND FUNDING ALLOTMENTS FORMULAS.

ARTICLE 3

PROCESS AND PROCEDURES

SECTION 59-158-310. (A) BY JANUARY FIRST OF EACH YEAR, THE FACILITIES STUDY, AS ORIGINALLY COMPLETED OR UPDATED FROM TIME TO TIME, EACH FACILITIES PLAN, AS ORIGINALLY COMPLETED OR AS UPDATED FROM TIME TO TIME, AND THE PRIORITIZATION REPORT, AS ORIGINALLY COMPLETED OR AS UPDATED FROM TIME TO TIME, MUST BE SUBMITTED BY THE STATE BOARD TO THE FOLLOWING:

- (1) GOVERNOR OF SOUTH CAROLINA;**
- (2) PRESIDENT PRO TEMPORE OF THE SOUTH CAROLINA SENATE;**
- (3) SPEAKER OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES; AND**
- (4) STATE TREASURER OF SOUTH CAROLINA;**
- (5) CHAIRMAN OF THE HOUSE WAYS AND MEANS COMMITTEE;**
- (6) CHAIRMAN OF THE SENATE FINANCE COMMITTEE;**
- (7) CHAIRMAN OF THE HOUSE EDUCATION AND PUBLIC WORKS COMMITTEE; AND**
- (8) CHAIRMAN OF THE SENATE EDUCATION COMMITTEE.**

THE ABOVE MUST BE ACCOMPANIED BY A CERTIFICATE OF THE STATE BOARD WHICH CONTAINS THE FOLLOWING INFORMATION:

- (1) A DESCRIPTION OF EACH QUALIFIED SCHOOL PROJECT;**
- (2) AN ESTIMATE OF THE COST OF EACH QUALIFIED SCHOOL PROJECT; AND**
- (3) CERTIFICATES OF THE STATE AUDITOR AND STATE TREASURER SETTING FORTH THE AVAILABLE DEBT LIMIT UNDER SECTION 13(6)(C), ARTICLE X OF THE SOUTH CAROLINA CONSTITUTION.**

(B) UPON THE REVIEW OF THE INFORMATION PROVIDED WITHIN THIS SECTION, THE GENERAL ASSEMBLY MAY BY PROVISIO TO THE BUDGET FOR THE THEN FISCAL YEAR OR BY JOINT RESOLUTION SET THE

PRINCIPAL AMOUNT OF THE STATE SCHOOL FACILITIES GENERAL OBLIGATION BONDS TO BE CONSIDERED.

SECTION 59-158-320. WITHIN THIRTY DAYS AFTER ENACTMENT OF THE GENERAL APPROPRIATIONS BILL OR A JOINT RESOLUTION TAKES EFFECT SETTING FORTH THE AMOUNT OF GENERAL OBLIGATION BONDS WHICH MAY BE ISSUED AS PROVIDED IN SECTION 59-158-310, THE PRIORITIZATION REPORT, TOGETHER WITH THE CERTIFICATE OF THE STATE BOARD, MUST BE SUBMITTED TO THE JOINT BOND REVIEW COMMITTEE FOR ITS REVIEW.

SECTION 59-158-330. THEREAFTER, THE PRIORITIZATION REPORT MUST BE SUBMITTED TO THE AUTHORITY, TOGETHER WITH A RESOLUTION PROVIDING FOR THE ISSUANCE OF BONDS, WITH A CERTIFICATE OF THE STATE BOARD SETTING FORTH THE FOLLOWING:

(1) THAT IT IS NECESSARY FOR BONDS TO BE ISSUED IN THE AMOUNT PROPOSED; AND

(2) THAT THE BONDS ARE BEING ISSUED IN ACCORDANCE WITH SECTION 13(6)(C), ARTICLE X OF THE SOUTH CAROLINA CONSTITUTION AND ARTICLE 3 OF THIS CHAPTER.

SECTION 59-158-340. THOSE STATE ENTITIES CHARGED WITH THE RESPONSIBILITY OF ISSUING OR APPROVING THE ISSUANCE OF THESE BONDS ARE DIRECTED TO SYNCHRONIZE THEIR DUTIES AND FUNCTIONS UNDER THIS CHAPTER SO THAT A CONTINUOUS STREAM OF REVENUE WILL BE AVAILABLE TO THE SCHOOL DISTRICTS TO DEFRAY THE COSTS OF QUALIFIED SCHOOL PROJECTS.

ARTICLE 5

EDUCATION SCHOOL FACILITIES GENERAL OBLIGATION BONDS

SECTION 59-158-510. FOLLOWING THE RECEIPT OF THE INFORMATION PRESENTED PURSUANT TO SECTION 59-158-330, THE AUTHORITY, UPON ITS APPROVAL, BY RESOLUTION DULY ADOPTED, SHALL EFFECT THE ISSUANCE OF THE BONDS, OR PENDING THE ISSUANCE OF THE BONDS, EFFECT THE ISSUANCE OF BOND ANTICIPATION NOTES PURSUANT TO CHAPTER 17, TITLE 11.

SECTION 59-158-520. IN ORDER TO EFFECT THE ISSUANCE OF THE BONDS, THE AUTHORITY SHALL ADOPT A RESOLUTION PROVIDING FOR THE ISSUANCE OF THE BONDS PURSUANT TO THE PROVISIONS OF THIS CHAPTER. THE AUTHORIZING RESOLUTION MUST INCLUDE:

(1) THE LIST OF QUALIFIED SCHOOL PROJECTS AND THE ESTIMATED COST OF EACH AS SET FORTH IN THE PRIORITIZATION REPORT;

(2) SCHEDULES SETTING FORTH THE AGGREGATE OF ALL GENERAL OBLIGATION DEBT OF THE STATE, EXCLUDING HIGHWAY BONDS, STATE INSTITUTION BONDS, TAX ANTICIPATION NOTES, AND BOND ANTICIPATION NOTES, TOGETHER WITH CERTIFICATES OF THE STATE TREASURER AND STATE AUDITOR EVIDENCING COMPLIANCE WITH THE PROVISIONS OF SECTION 13(6)(C), ARTICLE X OF THE SOUTH CAROLINA CONSTITUTION;

(3) A SCHEDULE SHOWING THE AGGREGATE OF BONDS ISSUED, THE PURPOSES FOR WHICH THEY WERE ISSUED, THE ANNUAL PAYMENTS REQUIRED TO RETIRE THE BONDS, THE INTEREST ON THE BONDS, AND THE AMOUNT OF ANY SPECIAL FUNDS APPLICABLE TO THE RETIREMENT OF OUTSTANDING BONDS;

(4) THE AMOUNT OF BONDS TO BE ISSUED; AND

(5) A SCHEDULE SHOWING FUTURE ANNUAL PRINCIPAL REQUIREMENTS AND ESTIMATED ANNUAL INTEREST REQUIREMENTS ON THE BONDS TO BE ISSUED.

SECTION 59-158-530. THE BONDS MUST BEAR THE DATE AND MATURE AT THE TIME THAT THE RESOLUTION PROVIDES, EXCEPT THAT

NO BOND MAY MATURE MORE THAN THIRTY YEARS FROM ITS DATE OF ISSUE. THE BONDS MAY BE IN THE DENOMINATIONS, BE PAYABLE IN THE MEDIUM OF PAYMENT, BE PAYABLE AT THE PLACE AND AT THE TIME, AND BE SUBJECT TO REDEMPTION OR REPURCHASE AND CONTAIN OTHER PROVISIONS DETERMINED BY THE AUTHORITY BEFORE THEIR ISSUANCE. THE BONDS MAY BEAR INTEREST PAYABLE AT THE TIMES AND AT THE RATES AS DETERMINED BY THE AUTHORITY.

SECTION 59-158-540. ALL BONDS ISSUED UNDER THIS CHAPTER ARE EXEMPT FROM TAXATION AS PROVIDED IN SECTION 12-2-50.

SECTION 59-158-550. ALL BONDS ISSUED UNDER THIS CHAPTER MUST BE SIGNED BY THE GOVERNOR AND THE STATE TREASURER. THE GOVERNOR AND THE STATE TREASURER SHALL ISSUE THE BONDS NOT LATER THAN SIXTY DAYS AFTER THE ADOPTION OF THE AUTHORITY'S RESOLUTION AUTHORIZING THE ISSUANCE OF THE BONDS. THE GOVERNOR AND THE STATE TREASURER MAY SIGN THESE OBLIGATIONS BY A FACSIMILE OF THEIR SIGNATURES. THE GREAT SEAL OF THE STATE MUST BE AFFIXED TO, IMPRESSED ON, OR REPRODUCED UPON EACH OF THEM AND EACH MUST BE ATTESTED BY THE SECRETARY OF STATE. THE DELIVERY OF THE BONDS EXECUTED AND AUTHENTICATED IS VALID NOTWITHSTANDING CHANGES IN OFFICERS OR SEAL OCCURRING AFTER THE EXECUTION OR AUTHENTICATION.

SECTION 59-158-560. FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST ON ALL BONDS ISSUED AND OUTSTANDING PURSUANT TO THIS CHAPTER THERE IS PLEDGED THE FULL FAITH, CREDIT, AND TAXING POWER OF THE STATE OF SOUTH CAROLINA, AND IN ACCORDANCE WITH THE PROVISIONS OF SECTION 13(4), ARTICLE X OF THE SOUTH CAROLINA CONSTITUTION, THE GENERAL ASSEMBLY HEREBY ALLOCATES ON AN ANNUAL BASIS SUFFICIENT TAX REVENUES TO

PROVIDE FOR THE PUNCTUAL PAYMENT OF THE PRINCIPAL AND INTEREST ON THE BONDS AUTHORIZED BY THIS CHAPTER.

SECTION 59-158-570. BONDS MUST BE SOLD BY THE GOVERNOR AND THE STATE TREASURER AT PUBLIC SALE, AFTER PUBLICATION OF NOTICE OF THE SALE ONE OR MORE TIMES AT LEAST SEVEN DAYS BEFORE THE SALE, IN A FINANCIAL PAPER PUBLISHED IN NEW YORK CITY WHICH REGULARLY PUBLISHES NOTICES OF SALE OF STATE OR MUNICIPAL BONDS. THE RIGHT IS RESERVED TO WAIVE TECHNICALITIES OR TO REJECT ALL BIDS AND TO READVERTISE THE BONDS FOR SALE. FOR THE PURPOSE OF BRINGING ABOUT SUCCESSFUL SALES OF THE BONDS, THE AUTHORITY MAY DO ALL THINGS ORDINARILY AND CUSTOMARILY DONE IN CONNECTION WITH THE SALE OF STATE OR MUNICIPAL BONDS. ALL EXPENSES INCIDENT TO THE SALE OF THE BONDS MUST BE PAID FROM THE PROCEEDS OF THE SALE OF THE BONDS.

SECTION 59-158-580. THE PROCEEDS OF THE SALE OF BONDS MUST BE RECEIVED BY THE STATE TREASURER AND APPLIED TO THE PURPOSES FOR WHICH ISSUED, EXCEPT THAT THE ACCRUED INTEREST, IF ANY, MUST BE USED TO DISCHARGE IN PART THE FIRST INTEREST TO BECOME DUE ON THE BONDS, BUT THE PURCHASERS OF THE BONDS ARE NOT LIABLE FOR THE PROPER APPLICATION OF THE PROCEEDS TO THE PURPOSES FOR WHICH THEY ARE INTENDED.

SECTION 59-158-590. IT IS LAWFUL FOR ALL EXECUTORS, ADMINISTRATORS, GUARDIANS, AND OTHER FIDUCIARIES TO INVEST ANY MONIES IN THEIR HANDS IN BONDS ISSUED PURSUANT TO THIS CHAPTER.

SECTION 59-158-600. THE PROCEEDS RECEIVED FROM THE ISSUANCE OF BONDS, AFTER DEDUCTING THE COSTS OF ISSUANCE, MUST BE DEPOSITED AT THE OFFICE OF STATE TREASURER AND USED TO

DEFRAY THE COSTS OF THE QUALIFIED SCHOOL PROJECTS AS PROVIDED IN THE RESOLUTION OF THE AUTHORITY.

SECTION 59-158-610. THE FINANCIAL ASSISTANCE RECEIVED FOR A PARTICULAR QUALIFIED SCHOOL PROJECT MUST BE USED BY THAT SCHOOL DISTRICT AND ITS GOVERNING BODY FOR THAT QUALIFIED SCHOOL PROJECT. THE STATE BOARD, TOGETHER WITH THE OFFICE OF STATE TREASURER, IS RESPONSIBLE FOR ESTABLISHING A PROGRAM TO ENSURE THAT THE PROCEEDS ARE UTILIZED BY THE RECEIVING SCHOOL DISTRICTS IN ACCORDANCE WITH THE REQUIREMENTS OF THIS CHAPTER.

SECTION 59-158-620. THE BONDS ARE LEGAL INVESTMENTS IN WHICH ALL PUBLIC OFFICERS OR PUBLIC BODIES OF THE STATE, ITS POLITICAL SUBDIVISIONS, ALL MUNICIPALITIES AND POLITICAL SUBDIVISIONS, ALL INSURANCE COMPANIES AND ASSOCIATIONS AND OTHER PERSONS CARRYING ON INSURANCE BUSINESS, ALL BANKS, BANKERS, BANKING ASSOCIATIONS, TRUST COMPANIES, SAVINGS BANKS, SAVINGS ASSOCIATIONS, INCLUDING SAVINGS AND LOAN ASSOCIATION INVESTMENT COMPANIES, AND OTHER PERSONS CARRYING ON A BANKING BUSINESS, ALL ADMINISTRATORS, GUARDIANS, EXECUTORS, TRUSTEES, AND OTHER FIDUCIARIES, AND ALL OTHER PERSONS WHO ARE NOW OR MAY BE AUTHORIZED IN THE FUTURE TO INVEST IN BONDS OR OTHER OBLIGATIONS OF THE STATE, MAY INVEST FUNDS IN THEIR CONTROL OR BELONGING TO THEM. THE BONDS ARE ALSO SECURITIES WHICH MAY BE DEPOSITED WITH AND RECEIVED BY ALL PUBLIC OFFICERS AND BODIES OF THE STATE OR ANY AGENCY OR POLITICAL SUBDIVISION OF THE STATE AND ALL MUNICIPALITIES AND PUBLIC CORPORATIONS FOR ANY PURPOSE FOR WHICH THE DEPOSIT OF BONDS OR OTHER OBLIGATIONS OF THE STATE IS NOW OR MAY LATER BE REQUIRED BY LAW.

ARTICLE 7

NONRECURRING MAINTENANCE GRANTS

SECTION 59-158-710. THE STATE BOARD OF EDUCATION SHALL ESTABLISH A REVOLVING FUND WITH SUCH MONIES AS MAY BE APPROPRIATED BY THE GENERAL ASSEMBLY TO OPERATE A GRANT PROGRAM TO PROVIDE NONRECURRING AID TO SCHOOL DISTRICTS FOR FACILITY MAINTENANCE EXPENSES TO INCLUDE ROOF AND HEATING AND AIR CONDITIONING REPAIRS OR REPLACEMENTS. THE STATE BOARD MUST MANAGE THE FUND AND PROMULGATE REGULATIONS SETTING FORTH THE REQUIREMENTS FOR A SCHOOL DISTRICT TO BECOME AN AID RECIPIENT. IN MAKING AID DETERMINATIONS, THE STATE BOARD BY REGULATION MUST ESTABLISH A PRIORITY SYSTEM WHERE SCHOOL DISTRICTS WITH THE MOST CRITICAL NEEDS SHALL RECEIVE PRIORITY FUNDING FIRST, BASED ON THE REQUIREMENTS DEVELOPED BY THE STATE BOARD IN THESE REGULATIONS.”

SECTION 2. CHAPTER 146, TITLE 59 OF THE 1976 CODE IS REPEALED.

SECTION 3. THIS ACT TAKES UPON APPROVAL BY THE GOVERNOR.

/

RENUMBER SECTIONS TO CONFORM.

AMEND TITLE TO READ:

/ TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 158 TO TITLE 59 SO AS TO ENACT THE “SOUTH CAROLINA EDUCATION SCHOOL FACILITIES

ACT” TO PROVIDE FINANCIAL ASSISTANCE TO SCHOOL DISTRICTS IN ORDER TO ACQUIRE SCHOOL FACILITIES BY USING GENERAL OBLIGATION BONDS, AND OTHER FORMS OF ASSISTANCE, TO PROVIDE THAT THE STATE BOARD OF EDUCATION SHALL DETERMINE AND SELECT ON A PRIORITY BASIS, QUALIFIED SCHOOL PROJECTS WHICH SHALL RECEIVE FINANCIAL ASSISTANCE FROM THE STATE, TO PROVIDE FOR THE POWERS AND DUTIES OF THE STATE BOARD OF EDUCATION AND STATE DEPARTMENT OF EDUCATION IN THIS REGARD, AND TO PROVIDE FOR OTHER RELATED PROVISIONS IN CONNECTION WITH THE CONSTRUCTION OR RENOVATION OF SCHOOL FACILITIES; AND TO REPEAL CHAPTER 146, TITLE 59 RELATING TO THE STATE SCHOOL FACILITIES BONDS ACT WHICH AUTHORIZED THE ISSUANCE OF SPECIFIC DOLLAR AMOUNTS OF STATE SCHOOL FACILITIES BONDS WITHIN A SPECIFIED TIME PERIOD. /

South Carolina General Assembly
121st Session, 2015-2016

H. 4776

STATUS INFORMATION

General Bill

Sponsors: Reps. Allison, Erickson, Crosby, Yow, Gagnon, Duckworth, Clary, Govan, Neal, George, Anthony, Willis, Bannister, Bingham, R.L. Brown, Daning, Hayes, Henderson, Hixon, Long, Lucas, V.S. Moss, Murphy, Pope, Simrill, Tallon, Wells, W.J. McLeod and Kennedy

Document Path: I:\council\bill\13572sd16.docx

Introduced in the House on January 28, 2016

Currently residing in the House Committee on **Ways and Means**

Summary: SC Education Facility Authority Act

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
1/28/2016	House	Introduced and read first time (House Journal-page 10)
1/28/2016	House	Referred to Committee on Ways and Means (House Journal-page 10)
2/2/2016	House	Member(s) request name added as sponsor: W.J.McLeod
2/9/2016	House	Member(s) request name added as sponsor: Kennedy

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VERSIONS OF THIS BILL

[1/28/2016](#)

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A BILL

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TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 158 TO TITLE 59 SO AS TO ENACT THE "SOUTH CAROLINA EDUCATION FACILITY AUTHORITY ACT" IN ORDER TO PROVIDE ASSISTANCE TO ENABLE SCHOOL DISTRICTS TO PROVIDE SCHOOL FACILITIES, TO ESTABLISH A BOARD OF DIRECTORS, TO PROVIDE THE POWERS AND DUTIES OF THE AUTHORITY, TO PROVIDE FOR FUNDING OF THE AUTHORITY, TO AUTHORIZE THE ISSUANCE OF SOUTH CAROLINA EDUCATION FACILITY REVENUE BONDS, AND TO SPECIFY THE MANNER IN WHICH BOND PROCEEDS ARE ALLOCATED TO SCHOOL DISTRICTS.

23
24
25

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

26
27

SECTION 1. Title 59 of the 1976 Code is amended by adding:

28
29

“CHAPTER 158

30
31

South Carolina Education Facility Authority Act

32
33

Article 1

34
35

South Carolina Education Facility Authority

36
37

Section 59-158-10. This chapter may be referred to as the ‘South Carolina Education Facility Authority Act’.

40

Section 59-158-20. It is declared that, for the benefit of the people of this State, the increase of their commerce, welfare, and

1 prosperity, and the improvement of their health and living
2 conditions, it is essential that this and future generations of youth be
3 given the full opportunity to learn and to develop their intellectual
4 and mental capacities; that it is essential that school districts of this
5 State be provided with adequate educational facilities, access to
6 technology, and appropriate additional means to assist the youth in
7 achieving the required levels of learning and development of their
8 intellectual and mental capacities; and that it is the purpose of this
9 chapter to provide a measure of assistance to enable school districts
10 in this State to provide the facilities and structures which are needed
11 to accomplish the purposes of this chapter, all to the public benefit
12 and good, to the extent and manner provided in this chapter.

13

14 Section 59-158-30. (A) There is created a body corporate and
15 politic and an instrumentality of the State to be known as the South
16 Carolina Education Facility Authority.

17 (B) The Authority is governed by a board of directors as
18 provided in this chapter.

19 (C) The corporate purpose of the Authority is to select and assist
20 in the provision of financial assistance for the construction or
21 enhancement of school facilities to school districts. The exercise by
22 the Authority of a power conferred in this chapter is an essential
23 public function.

24

25 Section 59-158-40. As used in this chapter:

26 (1) 'Authority' means the South Carolina Education Facility
27 Authority.

28 (2) 'Board' means the board of directors of the Authority.

29 (3) 'Bonds' means any bonds, notes, debentures, interim
30 certificates, grant or revenue anticipation notes, or any other
31 evidence of indebtedness of the Authority incurred pursuant to
32 Article 3.

33 (4) 'School district' means a public body corporate and politic
34 operating as a school district under the provisions of Chapter 17,
35 Title 59.

36 (5) 'School facilities' means only those facilities defined as
37 'school facilities' in Section 59-144-30.

38 (6) 'South Carolina Education Facility Revenue Bonds' mean
39 bonds issued under the authority of this chapter.

40

41 Section 59-158-50. The board of directors is the governing board
42 of the Authority. The board consists of nine voting directors. The
43 board shall be composed of one director from each congressional

1 district elected by the General Assembly in a joint assembly, one
2 at-large member appointed by the Governor, and one at-large
3 member appointed by the State Treasurer. Elected directors shall
4 serve a term of four years, and appointed directors shall serve terms
5 coterminous with those of their appointing authority; provided,
6 however, that of the first members of the board elected by the
7 General Assembly, members elected from congressional districts
8 two, four, and six shall serve initial terms of two years each. The
9 chairman and vice chairman must be elected by the board. Directors
10 shall serve until their successor is appointed or elected, as
11 applicable, and qualified. Any person elected or appointed to fill a
12 vacancy must be elected or appointed in the same manner, as
13 applicable, and shall serve for the remainder of the unexpired term.
14

15 Section 59-158-60.(A) In addition to the powers contained
16 elsewhere in this chapter, the Authority has all power necessary,
17 useful, or appropriate to fund, operate, and administer the Authority,
18 and to perform its other functions including, but not limited to, the
19 power to:

- 20 (1) have perpetual succession;
- 21 (2) adopt, promulgate, amend, and repeal bylaws, not
22 inconsistent with provisions in this chapter for the administration of
23 the Authority's affairs and the implementation of its functions
24 including the right of the board to select qualifying projects and to
25 provide loans and other financial assistance;
- 26 (3) sue and be sued in its own name;
- 27 (4) have a seal and alter it at its pleasure, although the failure
28 to affix the seal does not affect the validity of an instrument executed
29 on behalf of the Authority;
- 30 (5) acquire, hold, and sell bonds at prices and in a manner as
31 the board determines advisable;
- 32 (6) enter into contracts, arrangements, and agreements with
33 persons and execute and deliver all instruments necessary or
34 convenient to the exercise of the powers granted in this chapter;
- 35 (7) enter into agreements with a department, agency, or
36 instrumentality of the United States or of this State or another state
37 for the purpose of planning and providing for the financing of school
38 facilities;
- 39 (8) establish:
 - 40 (a) policies and procedures for the making and
41 administering of financial assistance; and
 - 42 (b) fiscal controls and accounting procedures to ensure
43 proper accounting and reporting by the Authority, the State

1 Department of Education, the State Board of Education, and school
2 districts;

3 (9) procure insurance, guarantees, letters of credit, and other
4 forms of collateral or security or credit support from any public or
5 private entity, including any school district, department, agency, or
6 instrumentality of the United States or this State, for the payment of
7 any bonds issued by it, including the power to pay premiums or fees
8 on any insurance, guarantees, letters of credit, and other forms of
9 collateral or security or credit support;

10 (10) borrow money through the issuance of bonds and other
11 forms of indebtedness as provided in this chapter;

12 (11) expend funds to obtain accounting, management, legal,
13 financial consulting, and other professional services necessary to the
14 operations of the Authority;

15 (12) expend funds credited to the Authority as the board
16 determines necessary for the costs of administering the operations
17 of the Authority;

18 (13) establish advisory committees as the board determines
19 appropriate, which may include individuals from the private sector
20 with banking and financial expertise;

21 (14) procure insurance against losses in connection with its
22 property, assets, or activities including insurance against liability for
23 its acts or the acts of its employees or agents or to establish cash
24 reserves to enable it to act as a self-insurer against any and all such
25 losses;

26 (15) collect fees and charges in connection with its loans or
27 other financial assistance;

28 (16) apply for, receive and accept from any source, aid, grants,
29 and contributions of money, property, labor, or other things of value
30 to be used to carry out the purposes of this chapter subject to the
31 conditions upon which financial assistance is granted;

32 (17) enter into contracts or agreements for the servicing and
33 processing of financial assistance; and

34 (18) do all other things necessary or convenient to exercise
35 powers granted or reasonably implied by this chapter.

36 (B) The Authority is not authorized or empowered to be or to
37 constitute a bank or trust company within the jurisdiction or under
38 the control of the State or an agency of it or the Comptroller of the
39 Currency or the Treasury Department of the United States, or a
40 bank, banker, or dealer in securities within the meaning of, or
41 subject to the provisions of, any securities, securities exchange, or
42 securities dealers' law of the United States or this State.

1 (C) The Authority is subject to the provisions of Article 1,
2 Chapter 23, Title 1, the Administrative Procedures Act.

3
4 Section 59-158-70. (A) The following sources may be used to
5 capitalize the Authority and for the Authority to carry out its
6 purposes:

- 7 (1) federal funds made available to the State;
- 8 (2) federal funds made available to the State for the Authority;
- 9 (3) contributions and donations from government units,
10 private entities, and any other source as may become available to the
11 Authority including, but not limited to, appropriations from the
12 General Assembly;
- 13 (4) all monies paid or credited to the Authority, and interest
14 earnings which may accrue from the investment or reinvestment of
15 the Authority's monies;
- 16 (5) proceeds from the issuance of bonds as provided in this
17 chapter; and
- 18 (6) other lawful sources as determined appropriate by the
19 board, including funds received by the Authority under Section
20 59-158-80.

21
22 Section 59-158-80. Beginning in Fiscal Year 2017-2018, the
23 Authority shall be funded through the general appropriations act.

24
25 Section 59-158-90. The Authority is performing an essential
26 governmental function in the exercise of the powers conferred upon
27 it and is not required to pay taxes or assessments upon property or
28 upon its operations or the income from them.

29
30 Section 59-158-100. (A) The proceeds received from the issuance
31 of South Carolina Education Facility Revenue Bonds, after
32 deducting the costs of issuance, must be allocated annually to the
33 school districts of this State, according to the formula provided in
34 Section 59-144-100(A). The State Department of Education shall
35 provide assistance to the Authority board in making the required
36 allocation computations.

37 (B) In addition to the allocations made to a school district under
38 subsection (A), any school district which, after the effective date of
39 this chapter, has combined a majority of its purchasing,
40 procurement, accounting, food service, transportation, human
41 resources, or other noninstructional functions with another school
42 district or districts in the county or with an adjoining school district
43 or districts in another county which has resulted in a cost-savings to

1 the affected districts of at least twenty-five percent of the former
2 costs of these functions as determined and certified by the State
3 Department of Education shall receive an additional allocation from
4 the board under this chapter for a period of five years equal to ten
5 percent of its original allocation for that year. Additionally, a school
6 district that is the result of the consolidation of one or more school
7 districts in a county which occurred after the effective date of this
8 chapter also shall receive an additional allocation from the board
9 under this chapter for a period of five years equal to ten percent of
10 its original allocation for that year. Nothing in this subsection
11 prevents a school district from receiving additional allocations in
12 both categories.

13 (C)(1) To qualify for the bond proceeds under this chapter, each
14 school district shall meet the requirements of this chapter and any
15 guidelines set forth pursuant to this chapter. Allocations and funds
16 may be withheld from a school district when inappropriate reporting
17 of facilities' needs is found, when inappropriate use of funds is
18 documented, or when other violations of this chapter occur,
19 including the provisions of this subsection.

20 (2) In addition, as a condition of receiving funds from the
21 Authority as provided in this chapter, the Authority shall require
22 districts to undergo a thorough efficiency audit that highlights the
23 operation of school buildings. The Authority shall stipulate that
24 districts also undertake a study of future enrollment trends so that
25 both the construction and closing of buildings is considered.
26 Additionally, it shall ensure that districts have a building
27 maintenance plan, and the wherewithal to implement it.

28 (3) Lastly, districts receiving funds under the provisions of
29 this chapter must agree to prioritize its school building needs and
30 construction requirements after the effective date of this chapter to
31 take into account and be based on the results of a facilities study of
32 all school districts' needs which the State Department of Education
33 conducts or causes to be conducted.

34
35 Section 59-158-110. Neither the board nor any officer,
36 employee, or committee of the Authority acting on behalf of it,
37 while acting within the scope of this authority, is subject to any
38 liability resulting from carrying out any of the powers given in this
39 chapter.

40
41 Section 59-158-120. Notice, proceeding, or publication, except
42 those required in this chapter, are not necessary to the performance

1 of any act authorized in this chapter nor is any act of the Authority
2 subject to any referendum.

3
4 Section 59-158-130. All money of the Authority, except as
5 authorized by law or provided in this chapter, must be deposited
6 with and invested by the State Treasurer. Funds of the Authority not
7 needed for immediate use or disbursement may be invested by the
8 State Treasurer in obligations or securities which are declared to be
9 legal obligations by the provisions of Section 11-9-660.

10
11 Section 59-158-140. Following the close of each state fiscal
12 year, the Authority shall submit an annual report of its activities for
13 the preceding year to the Governor and to the General Assembly.
14 An independent certified public accountant shall perform an audit
15 of the books and accounts of the Authority at least once in each state
16 fiscal year.

17
18 Section 59-158-150. The responsibilities and duties of the State
19 Department of Education and State Board of Education shall be as
20 outlined in Sections 59-144-120, 59-144-130, and 59-144-140.

21
22 Section 59-158-160. This chapter, being for the welfare of this
23 State and its inhabitants, must be liberally construed to effect the
24 purposes specified in this chapter.

25
26 Article 3

27
28 South Carolina Education Facility Revenue Bonds

29
30 Section 59-158-310. In order to obtain funds for allocation to
31 school districts for school facilities, there shall be issued from time
32 to time South Carolina Education Facility Revenue Bonds under the
33 conditions prescribed by this chapter.

34
35 Section 59-158-320. The Authority may pledge any of its
36 revenue or funds to the payment of its bonds, subject only to any
37 prior agreements with the holders of particular bonds which may
38 have pledged specific money or revenue. Bonds may be secured by
39 a pledge of any loan obligation owned by the Authority, any grant,
40 contribution, or guaranty from the United States, the State, or any
41 corporation, association, institution, or person, any other property or
42 assets of the Authority, or a pledge of any money, income, or
43 revenue of the Authority from any source.

1

2 Section 59-158-330. Bonds issued by the Authority do not
3 constitute a debt or a pledge of the full faith and credit of this State,
4 or any of its political subdivisions other than the Authority, but are
5 payable solely from the revenue, money, or property of the
6 Authority as provided in this chapter. The bonds issued do not
7 constitute an indebtedness of the State within the meaning of any
8 constitutional or statutory limitation. A member of the Authority or
9 any person executing bonds of the Authority is not liable personally
10 on the bonds by reason of their issuance or execution. Each bond
11 issued under this article must contain on its face a statement to the
12 effect that:

13 (1) neither the State, nor any of its political subdivisions, nor the
14 Authority is obligated to pay the principal of or interest on the bond
15 or other costs incident to the bond except from the revenue, money,
16 or property of the Authority pledged;

17 (2) neither the full faith and credit nor the taxing power of the
18 State, or any of its political subdivisions, is pledged to the payment
19 of the principal of or interest on the bond; and

20 (3) the Authority does not have taxing power.

21

22 Section 59-158-340. The bonds of the Authority must be
23 authorized by a resolution of the Authority. The bonds must bear the
24 date and mature at the time which the resolution provides, except
25 that a bond may not mature more than thirty years from its date of
26 issue. The bonds may be in the denominations, be executed in the
27 manner, be payable in the medium of payment, be payable at the
28 place and at the time, and be subject to redemption or repurchase
29 and contain other provisions determined by the Authority before
30 their issuance. The bonds may bear interest payable at a time and at
31 a rate as determined by the Authority, including the determination
32 by agents designated by the Authority under guidelines established
33 by it. Bonds may be sold by the Authority at public or private sale
34 at the price it determines and approves. The State Treasurer shall
35 issue the bonds of the Authority not later than sixty days upon the
36 resolution of the Authority authorizing the issuance of the bonds.

37

38 Section 59-158-350. (A) Bonds may be secured by a trust
39 indenture between the Authority and a corporate trustee, which may
40 be the State Treasurer or any bank having trust powers or any trust
41 company, designated by the State Treasurer doing business in South
42 Carolina. A trust indenture may contain provisions for protecting
43 and enforcing the rights and remedies of the bondholders which are

1 reasonable and proper, including covenants setting forth the duties
2 of the Authority in relation to the exercise of its powers and the
3 custody, safekeeping, and application of its money. The Authority
4 may provide by the trust indenture for the payment of the proceeds
5 of the bonds and all or any part of the revenues of the Authority to
6 the trustee under the trust indenture or to some other depository, and
7 for the method of its disbursement with safeguards and restrictions
8 prescribed by it. All expenses incurred in performing the obligations
9 of the Authority under the trust indenture may be treated as part of
10 its operating expenses.

11 (B) Any resolution or trust indenture pursuant to which bonds
12 are issued may contain provisions which are part of the contract with
13 the holders of the bonds as to:

14 (1) pledging all or any part of the revenue of the Authority to
15 secure the payment of the bonds;

16 (2) pledging all or any part of the assets of the Authority
17 owned by it to secure the payment of the bonds;

18 (3) the establishment of reserves, sinking funds, and other
19 funds and accounts, and their regulation and disposition;

20 (4) limitations on the purposes to which the proceeds from the
21 sale of the bonds may be applied, and limitations on pledging the
22 proceeds to secure the payment of the bonds;

23 (5) limitations on the issuance of additional bonds, the terms
24 upon which additional bonds may be issued and secured, and the
25 refunding of outstanding or other bonds;

26 (6) the procedure, if any, by which the terms of any contract
27 with bondholders may be amended or abrogated, the amount of
28 bonds, if any, the holders of which must consent to, and the manner
29 in which any consent may be given;

30 (7) limitations on the amount of money to be expended by the
31 Authority for its operating expenses;

32 (8) vesting in a trustee property, rights, powers, and duties as
33 the Authority may determine, limiting or abrogating the right of
34 bondholders to appoint a trustee, and limiting the rights, powers, and
35 duties of the trustee;

36 (9) defining the acts or omissions which constitute a default,
37 the obligations or duties of the Authority to the holders of the bonds,
38 and the rights and remedies of the holders of the bonds in the event
39 of default, including as a matter of right the appointment of a
40 receiver, and all other rights generally available to creditors; and

41 (10) any other matter relating to the terms of the bonds or the
42 security or protection of the holders of the bonds which may be
43 considered appropriate.

1
2 Section 59-158-360. Any pledge made by the Authority is valid
3 and binding from the time the pledge is made. The revenue, money,
4 or property pledged and thereafter received by the Authority is
5 immediately subject to the lien of the pledge without any physical
6 delivery or further act. The lien of any pledge is valid and binding
7 as against all parties having claims of any kind in tort, contract, or
8 otherwise against the Authority, irrespective of whether the parties
9 have notice of the pledge. A recording or filing of the resolution
10 authorizing the issuance of bonds, the trust indenture securing the
11 bonds, or any other instrument including filings under the Uniform
12 Commercial Code is not necessary to create or perfect any pledge or
13 security interest granted by the Authority to secure any bonds, but
14 the record of the proceedings relative to the issuance of any bonds
15 must be filed as prescribed in Section 11-15-20.

16
17 Section 59-158-370. The Authority, subject to agreements with
18 bondholders as may then exist, may purchase outstanding bonds of
19 the Authority with any available funds, at any reasonable price. If
20 the bonds are then redeemable, the price must not exceed the
21 redemption price then applicable plus accrued interest to the next
22 interest payment date.

23
24 Section 59-158-380. Bonds of the Authority must be in a form
25 and must be executed in a manner prescribed by the Authority.

26
27 Section 59-158-390. If any of the members or officers of the
28 Authority cease to be members before the delivery of any bonds
29 signed by them, their signatures or authorized facsimile signatures
30 are nevertheless valid and sufficient for all purposes as if they had
31 remained in office until the delivery of the bonds.

32
33 Section 59-158-400. Subsequent amendments to this article may
34 not limit the rights vested in the Authority with respect to any
35 agreements made with, or remedies available to, the holders of
36 bonds issued pursuant to this article before the enactment of the
37 amendments until the bonds, with all premiums and interest on
38 them, and all costs and expenses in connection with any proceeding
39 by or on behalf of the holders, are fully met and discharged.

40
41 Section 59-158-410. Any bonds issued by the Authority, the
42 transfer of bonds, and the income from them, are free from taxation

1 and assessment of every kind by the State and by the local
2 governments and other political subdivisions of the State.

3

4 Section 59-158-420. The bonds issued by the Authority are legal
5 investments in which all public officers or public bodies of the State,
6 its political subdivisions, all municipalities and political
7 subdivisions, all insurance companies and associations and other
8 persons carrying on insurance business, all banks, bankers, banking
9 associations, trust companies, savings banks, savings associations,
10 including savings and loan association investment companies, and
11 other persons carrying on a banking business, all administrators,
12 guardians, executors, trustees, and other fiduciaries, and all other
13 persons who are now or may be authorized in the future to invest in
14 bonds or other obligations of the State, may invest funds in their
15 control or belonging to them. The bonds of the Authority are also
16 securities which may be deposited with and received by all public
17 officers and bodies of the State or any agency or political
18 subdivision of the State and all municipalities and public
19 corporations for any purpose for which the deposit of bonds or other
20 obligations of the State is now or may later be required by law.”

21

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

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