**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3640**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Haley, Merrill, D.C. Smith, Bingham, Stringer, Erickson, G.M. Smith, Duncan, Thompson, Millwood, Toole, Frye, Ballentine, Edge, Hamilton, Herbkersman, E.H. Pitts, M.A. Pitts, Wylie, T.R. Young and Cole

Document Path: l:\council\bills\ms\7157mm09.docx

Companion/Similar bill(s): 658

Introduced in the House on February 26, 2009

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

Summary: Fiscal Accountability Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/26/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\02-26-09.docx)‑114

2/26/2009 House Referred to Committee on **Ways and Means** [HJ](file:///h:\HJ%20Archive\2009\02-26-09.docx)‑114

4/23/2009 House Member(s) request name added as sponsor: Cole

**VERSIONS OF THIS BILL**

[2/26/2009](file:///p:\pprever\2009-10\3640_20090226.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “SOUTH CAROLINA FISCAL ACCOUNTABILITY ACT” BY ADDING SECTION 2‑15‑140 SO AS TO CREATE A DIVISION WITHIN THE LEGISLATIVE AUDIT COUNCIL TO CONDUCT EVALUATIONS OF PROGRAMS OF CERTAIN STATE AGENCIES AND DEPARTMENTS TO DETERMINE IF THESE PROGRAMS HAVE OUTLIVED THEIR USEFULNESS OR MUST BE CHANGED TO ADDRESS THE PRIORITIES AND NEEDS OF THE CITIZENS THEY AFFECT, PROVIDE FOR A PROCEDURE FOR THE INITIATION OF A REVIEW AND FOR DISPOSITION OF ITS FINDINGS AFTER A REVIEW HAS BEEN COMPLETED, REQUIRE THE GOVERNOR IN THE PREPARATION OF THE ANNUAL RECOMMENDED STATE BUDGET TO APPLY “ZERO‑BASE” BUDGETING PRINCIPLES, AND REQUIRE THE HOUSE WAYS AND MEANS COMMITTEE AND THE SENATE FINANCE COMMITTEE IN THE CONSIDERATION OF THE ANNUAL GENERAL APPROPRIATIONS BILL AND BILLS OR JOINT RESOLUTIONS MAKING SUPPLEMENTAL APPROPRIATIONS TO APPLY “ZERO‑BASE” BUDGETING PRINCIPLES.

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

SECTION 1. This act may be cited as the “South Carolina Fiscal Accountability Act.”

SECTION 2. Title 2, Chapter 15 of the 1976 Code is amended by adding:

“Section 2‑15‑140. (A) As used in this section:

(1) ‘Agency’ means a state agency, board, committee, commission, institution, or other subdivision of state government.

(2) ‘Committee’ means the committee established pursuant to subsection (B) of this section.

(3) ‘Council’ means the Legislative Audit Council.

(4) ‘Evaluation’ means the audit and review conducted by the Legislative Audit Council pursuant to Section 2‑15‑140(C).

(5) ‘Zero‑base budget’ means an agency budget prepared applying the principles established pursuant to subsection (D) of this section.

(6) ‘Zero‑Base Budget Review’ means the review of an agency’s zero‑base budget request using the methodology established pursuant to subsection (D) of this section.

(B)(1) There is established the Joint Zero‑Base Budget and Agency Evaluation Selection Committee consisting of ten members of the General Assembly as follows:

(a) three members of the House Ways and Means Committee, appointed by that committee’s chairman;

(b) three members of the Senate Finance Committee, appointed by that committee’s chairman;

(c) two members of the House of Representatives who do not serve on the Ways and Means Committee, appointed by the Speaker of the House;

(d) two members of the Senate who do not serve on the Finance Committee, appointed by the President Pro Tempore of the Senate;

(e) members serve ex officio and shall serve for terms coterminous with their legislative terms. Vacancies must be filled in the manner of original appointments. The committee shall elect a chairman, who shall serve for the duration of a General Assembly. The chairmanship for each General Assembly must alternate between a house member and a senator.

(2) The committee annually shall select state agencies for evaluation and zero‑base budgeting during times the committee establishes. An agency budget submitted while an agency is undergoing evaluation must be prepared in the form of a zero‑base budget and reviewed accordingly by the Governor and the Office of State Budget and the House Ways and Means Committee and Senate Finance Committee. The council may assess an agency selected for evaluation and zero‑base budgeting an audit fee not to exceed one‑half of one percent of the agency’s budget which must be transferred to approved accounts of the council.

(C)(1) There is created within the Legislative Audit Council a government review division whose purpose is to conduct evaluations of programs of state agencies and departments to determine whether these programs have outlived their usefulness or should be changed to address the priorities and needs of the state’s citizens and the General Assembly.

(2) In conducting these evaluations, the review division shall consider the mission of the agency, as defined by the General Assembly, and how the programs fulfill that mission. The review division may consider, but is not limited to, evaluation of the following matters:

(a) the economic, fiscal, and other impacts that would occur in the absence of the administering of the programs or functions of the agency under review;

(b) the overall cost, including manpower, of the agency under review;

(c) the efficiency of the administration of the programs or functions of the agency under review, including the management process and structure;

(d) the extent to which the programs under review have encouraged the participation of the public and have provided service to the state’s citizens;

(e) the extent to which the programs duplicate the services, functions, and programs administered by any other state, federal, or other agency or entity;

(f) the extent to which the programs under review have complied with all applicable state, federal, and local statutes, and regulations;

(g) an identification of the objectives intended for the programs, including a review of the agency’s annual accountability report, and the problems or needs that the programs were intended to address, the extent to which the objectives have been achieved, and any activities of the programs in addition to those granted by statute and the authority for these activities;

(h) the extent to which an agency’s programs are ranked in priority order and are congruent with the agency’s mission and expenditures.

(3) After making its review and evaluation, the division shall hold a public hearing receiving testimony from the public, the executive administration and other personnel of the program of the agency under review and any other interested parties. The division shall consider the fiscal and economic impact of the program and any other relevant issues. In the hearing, the agency providing the program has the burden of demonstrating a public need for the program’s continued existence. The standing committee chairmen, as provided in item (4), or their designees, shall sit in conjunction with the division at these hearings. Pursuant to any other research or inquiries it deems appropriate, the division shall report its findings and conclusions to the members of the General Assembly, as well as the presiding officers of the Senate and the House. The presiding officers shall refer the report to the standing committees most concerned with the program of the agency. Legislation to enact the recommendations of the report must be introduced in each house, respectively, by the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee.

(4) Upon selection of an agency for evaluation, the division, and those chairmen of the standing committees, or their designees, that have jurisdiction over particular agencies whose programs are under review, as designated by the President Pro Tempore of the Senate and the Speaker of the House, shall meet and develop a criteria format and procedure for review of the programs and establish a termination schedule for the programs of the agencies which are not considered worthy of continuation.

(5) Separate legislation enacted by the General Assembly shall establish the programs of agencies to be reviewed and the termination date for those programs. Once the General Assembly has established a termination date for a program of an agency, the General Assembly may, at any time, by joint resolution, delete, substitute, add, or otherwise alter the termination schedule of the programs of the agencies.

(6) The existence of a program of an agency that is scheduled for termination under the provisions of this section may be reauthorized by the General Assembly for periods not to exceed five years, excluding the year of termination. A council review of an agency scheduled for termination is not required, but may be directed by the committee.

(7) The review and evaluation prepared by the council must be forwarded to the Governor, House Ways and Means Committee, and Senate Finance Committee.

(D)(1) A zero‑base budget is an agency budget developed using a process of preparing an operating plan or budget that starts with no authorized or appropriated funds. In a zero‑based budget, each activity to be funded must be justified as the budget is prepared.

(2) In compliance with current literature on zero‑base budgeting, the Office of State Budget of the State Budget and Control Board shall develop a format and criteria for an agency selected by the committee to use in preparing its zero‑base budget for submission. These criteria must incorporate existing best practices among states and may include, but are not limited to, performance‑based reviews and program budgeting.

(E) Notwithstanding another provision of law to the contrary, the provisions of this section must be enacted and implemented without the use of additionally appropriated funds for that purpose.”

SECTION 3. Notwithstanding the provisions of Section 2‑15‑140(B) of the 1976 Code as added by this act, and for calendar year 2010 only, the Joint Zero‑Base Budget and Agency Evaluation Selection Committee shall:

(1) before August, 2010, select four agencies for zero‑base budget submission. These agencies are not subject to the evaluation otherwise required pursuant to Section 2‑15‑140(C) of the 1976 Code as added by this act, but they must make their zero‑base budget submission to the Office of State Budget before November, 2010. The Governor is not required to apply zero‑base budget principles in his recommended 2011‑2012 fiscal year budget for these agencies;

(2) before August, 2010, select additional agencies subject to both the evaluation and zero‑base budget requirement of Section 2‑15‑140 of the 1976 Code as added by this act, and the agencies selected shall make their zero‑base budget submissions before October, 2011. The committee shall complete a review of all state agencies for legislative review for fiscal year 2015-2016.

SECTION 4. This act takes effect upon approval by the Governor.

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