~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

January 26, 2011

**H. 3410**

Introduced by Reps. Owens, Cooper, Harrell, Branham, Limehouse, Atwater, Bikas, Govan, Loftis, Skelton, Taylor and Young

S. Printed 1/26/11--H.

Read the first time January 25, 2011.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Bill (H. 3410) to amend the Code of Laws of South Carolina, 1976, by enacting the “South Carolina Higher Education Efficiency and Administrative Policies Act of 2011”; to amend Sections, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

PHILLIP D. OWENS for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE “SOUTH CAROLINA HIGHER EDUCATION EFFICIENCY AND ADMINISTRATIVE POLICIES ACT OF 2011”; TO AMEND SECTIONS 2‑47‑30, 2‑47‑35, 2‑47‑40, AND 2‑47‑50, AS AMENDED, RELATING THE JOINT BOND REVIEW COMMITTEE, SO AS TO PROVIDE FOR THE ESTABLISHMENT OF PERMANENT IMPROVEMENT PROJECTS BY STATE AGENCIES AND FOR THE APPROVAL OF THESE PROJECTS; BY ADDING SECTION 2‑47‑53 SO AS TO PROVIDE FOR THE ESTABLISHMENT OF PERMANENT IMPROVEMENT PROJECTS BY PUBLIC INSTITUTIONS OF HIGHER LEARNING, TO DEFINE PERMANENT IMPROVEMENT PROJECTS WITH RESPECT TO THOSE INSTITUTIONS, TO ALLOW THE COMMITTEE TO REQUEST ASSISTANCE WITH THE REVIEW OF PROJECTS, AND TO DEFINE PERMANENT IMPROVEMENT PROJECTS WITH RESPECT TO THOSE INSTITUTIONS; BY ADDING SECTION 2‑47‑54 SO AS TO ALLOW PUBLIC INSTITUTIONS OF HIGHER LEARNING TO ENTER INTO GROUND LEASE AGREEMENTS WITH A PRIVATE ENTITY AND TO PROVIDE REQUIREMENTS FOR THOSE AGREEMENTS; BY ADDING SECTION 59‑53‑168 SO AS TO REQUIRE THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION TO ESTABLISH A TIERED SYSTEM FOR CATEGORIZING TECHNICAL COLLEGES WITH RESPECT TO FINANCIAL STRENGTH AND OTHER FACTORS BY WHICH TECHNICAL COLLEGES MAY APPLY FOR CERTAIN EFFICIENCY POLICIES GRANTED BY THE BOARD AND TO REQUIRE THE BOARD TO ESTABLISH AN ADVISORY BOARD AND REPORT TO THE GENERAL ASSEMBLY; TO AMEND SECTIONS 59‑53‑290, 59‑53‑630, 59‑53‑740, 59‑53‑1784, AND 59‑53‑2430, ALL RELATING TO LEASE AGREEMENTS OF TECHNICAL COLLEGES, SO AS TO PROVIDE FOR THE FAVORABLE REVIEW OF THE AGREEMENT BY THE JOINT BOND REVIEW COMMITTEE AND ITS APPROVAL BY THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION; TO AMEND SECTION 1‑11‑65, RELATING TO APPROVAL OF REAL PROPERTY TRANSACTIONS BY THE STATE BUDGET AND CONTROL BOARD AND ACCEPTANCE OF THE TRANSFER OF TANGIBLE PERSONAL PROPERTY BY A STATE ENTITY, SO AS TO EXEMPT CERTAIN REAL PROPERTY TRANSACTIONS MADE FOR OR BY THESE INSTITUTIONS OF HIGHER LEARNING; BY ADDING SECTIONS 59‑147‑42 AND 59‑147‑43 AND TO AMEND SECTION 59‑147‑30, AS AMENDED, RELATING TO THE PROCEDURES FOR THE ISSUANCE OF REVENUE BONDS UNDER THE HIGHER EDUCATION REVENUE BOND ACT, ALL SO AS TO REVISE THESE PROCEDURES AND THE PURPOSES FOR WHICH THE BONDS MAY BE USED; BY ADDING ARTICLE 7 TO CHAPTER 101, TITLE 59 SO AS TO PROVIDE FOR CERTAIN PROVISIONS APPLICABLE TO BOND ACTS FOR INSTITUTIONS OF HIGHER LEARNING; TO AMEND SECTION 11‑35‑1210, AS AMENDED, RELATING TO CERTIFICATION OF THE BUDGET AND CONTROL BOARD TO ALLOW GOVERNMENTAL BODIES TO MAKE DIRECT PROCUREMENTS, SO AS TO PROVIDE FOR APPROVAL OF PROCUREMENT AUTHORITY BY THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION; TO AMEND SECTION 11‑35‑1550, AS AMENDED, RELATING TO SMALL PURCHASES UNDER THE CONSOLIDATED PROCUREMENT CODE AND BID PROCEDURES ON PROCUREMENTS UP TO FIFTY THOUSAND DOLLARS, SO AS TO INCREASE THE AMOUNT OF AUTHORIZED SMALL PURCHASES BY PUBLIC INSTITUTIONS OF HIGHER LEARNING AND TO AUTHORIZE THESE INSTITUTIONS TO USE PURCHASING CARDS FOR THESE PURCHASES IN THE AMOUNT AUTHORIZED; TO AMEND SECTION 11‑35‑3310, AS AMENDED, RELATING TO INDEFINITE DELIVERY CONTRACTS FOR CONSTRUCTION, ARCHITECTURAL‑ENGINEERING AND LAND SURVEYING SERVICES, SO AS TO RAISE THE PERMITTED AMOUNTS OF THESE CONTRACTS; TO AMEND SECTION 11‑35‑4810, AS AMENDED, RELATING TO COOPERATIVE PURCHASES OF PUBLIC ENTITIES UNDER THE CONSOLIDATED PROCUREMENT CODE, SO AS TO ESTABLISH CERTAIN EXCEPTIONS FOR PUBLIC INSTITUTIONS OF HIGHER LEARNING IN REGARD TO NOTICE AND ELIGIBLE VENDORS; TO AMEND SECTION 1‑7‑170, RELATING TO THE REQUIRED APPROVAL OF THE ATTORNEY GENERAL BEFORE AN AGENCY OR DEPARTMENT OF THIS STATE MAY ENGAGE AN ATTORNEY AT LAW ON A FEE BASIS AND EXCEPTIONS TO THIS REQUIREMENT, SO AS TO ESTABLISH A SPECIAL APPROVAL PROCEDURE FOR PUBLIC INSTITUTIONS OF HIGHER LEARNING; BY ADDING SECTION 59‑101‑55 SO AS TO PROVIDE THAT STATE APPROPRIATED FUNDS MAY NOT BE USED TO PROVIDE OUT‑OF‑STATE SUBSIDIES TO STUDENTS ATTENDING STATE‑SUPPORTED INSTITUTIONS OF HIGHER LEARNING; TO AMEND SECTION 59‑101‑620, RELATING TO LIMITATIONS ON EDUCATIONAL FEE WAIVERS OFFERED BY PUBLIC INSTITUTIONS OF HIGHER LEARNING, SO AS TO REVISE THESE LIMITATIONS FOR CERTAIN INSTITUTIONS AND TO PROVIDE FOR ANNUAL REPORTING REQUIREMENTS TO THE COMMISSION ON HIGHER EDUCATION IN REGARD TO THESE WAIVERS; BY ADDING SECTION 59‑112‑115 SO AS TO PROVIDE THAT WHEN THE GOVERNING BOARD OF A FOUR‑YEAR AND GRADUATE LEVEL PUBLIC INSTITUTION OF HIGHER LEARNING IN THIS STATE ADOPTS A CHANGE TO THE TUITION OR FEES IMPOSED ON STUDENTS, THE CHANGE ONLY MAY BE IMPLEMENTED BY THE INSTITUTION AFTER A PUBLICALLY RECORDED ROLL CALL VOTE, AND A MAJORITY VOTE SHALL BE REQUIRED TO IMPLEMENT ANY CHANGE TO THE TUITION OR FEES, AND TO PROVIDE REPORTING REQUIREMENTS; AND TO AMEND SECTION 1‑11‑55, RELATING TO LEASING OF REAL PROPERTY FOR GOVERNMENTAL BODIES, SO AS TO ALLOW PUBLIC INSTITUTIONS OF HIGHER LEARNING TO ENTER INTO LEASE AGREEMENTS UP TO ONE HUNDRED THOUSAND DOLLARS ANNUALLY UPON APPROVAL BY THE INSTITUTIONAL BOARDS.

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

Part I

Citation

SECTION 1. This act is known and may be cited as the “South Carolina Higher Education Efficiency and Administrative Policies Act of 2011”.

Part II

Facilities and Capital Expenditure Revisions

SECTION 2. Section 2‑47‑30 of the 1976 Code is amended to read:

“Section 2‑47‑30. The committee is specifically charged with, but not limited to, the following responsibilities, to:

(1) ~~To~~ review, prior to approval by the State Budget and Control Board if required, the establishment of any permanent improvement project and the source of funds for ~~any such~~ the project not previously authorized specifically by the General Assembly~~.~~;

(2) ~~To~~ study the amount and nature of existing general obligation and institutional bond obligations and the capability of the State to fulfill ~~such~~ these obligations based on current and projected revenues~~.~~;

(3) ~~To~~ recommend priorities of future bond issuance based on the social and economic needs of the State~~.~~;

(4) ~~To~~ recommend prudent limitations of bond obligations related to present and future revenue estimates~~.~~;

(5) ~~To~~ consult with independent bond counsel and other nonlegislative authorities on ~~such~~ these matters and with fiscal officials of other states to gain in‑depth knowledge of capital management and assist in the formulation of short and long‑term recommendations for the General Assembly~~.~~;

(6) ~~To~~ carry out all of ~~the above~~ its assigned responsibilities in consultation and cooperation with the executive branch of government and the State Budget and Control Board~~.~~; and

(7) ~~To~~ report its findings and recommendations to the General Assembly annually or more frequently if deemed advisable by the committee.”

SECTION 3. Section 2‑47‑35 of the 1976 Code is amended to read:

“Section 2‑47‑35. ~~No~~ A project authorized in whole or in part for capital improvement bond funding ~~under~~ pursuant to the provisions of Act 1377 of 1968, as amended, may not be implemented until funds ~~can be~~ are made available and until the Joint Bond Review Committee, in consultation with the State Budget and Control Board, if required, establishes priorities for the funding of the projects. The Joint Bond Review Committee shall report its priorities to the members of the General Assembly within thirty days of the establishment of the funding priorities.”

SECTION 4. Section 2‑47‑40 of the 1976 Code is amended to read:

“Section 2‑47‑40. (A) To assist the State Budget and Control Board (~~the~~ board), if required, and the Joint Bond Review Committee (~~the~~ committee) in carrying out their respective responsibilities provided by law, ~~any~~ an agency or institution requesting or receiving funds from any source for use in the financing of ~~any~~ a permanent improvement project, as a minimum, shall provide to the board if required, pursuant to Section 2‑47‑50, and to the committee pursuant to Section 2‑47‑53, in ~~such~~ the form and at ~~such~~ the times as the board, ~~after review by~~ or the committee, may prescribe:

(~~a~~1) a complete description of the proposed project;

(~~b~~2) a statement of justification for the proposed project;

(~~c~~3) a statement of the purposes and intended uses of the proposed project;

(~~d~~4) the estimated total cost of the proposed project;

(~~e~~5) an estimate of the additional future annual operating costs associated with the proposed project;

(~~f~~6) a statement of the expected impact of the proposed project on the five‑year operating plan of the agency or institution proposing the project;

(~~g~~7) a proposed plan of financing the project, specifically identifying funds proposed from sources other than capital improvement bond authorizations; and

(~~h~~8) the specification of the priority of each project among those proposed.

(B) All public institutions of higher learning, as defined in Section 59‑103‑5, shall submit permanent improvement project proposal and justification statements to the ~~Board~~ committee pursuant to Section 2‑47‑53 through the Commission on Higher Education, which shall forward all ~~such~~ statements and all supporting documentation ~~received~~ to the ~~Board~~ committee together with its comments and recommendations. The recommendations of the Commission on Higher Education, among other things, ~~shall~~ must include all of the permanent improvement projects requested by the several institutions listed in the order of priority deemed appropriate by the Commission on Higher Education without regard to the sources of funds proposed for the financing of the projects requested.

(C) The board shall forward a copy of each project proposal and justification statement and supporting documentation received pursuant to subsection (A) together with the board’s recommendations on ~~such~~ the projects to the committee for its review and action. The recommendations of the Commission on Higher Education ~~shall be included in the materials~~ must be forwarded to the committee ~~by the Board~~.

(D) ~~No provision in this section or elsewhere in~~ This chapter~~, shall be construed to~~ does not limit in any manner the prerogatives of the Committee and the General Assembly with regard to recommending or authorizing permanent improvement projects and the funding ~~such~~ the projects may require.”

SECTION 5. Section 2‑47‑50 of the 1976 Code, as last amended by Act 143 of 2005, is further amended to read:

“Section 2‑47‑50. (A) The board shall establish formally each permanent improvement project proposed to be undertaken by a state agency before actions ~~of any sort~~ which implement the project in any way may be undertaken and ~~no~~ before expenditure of any funds for any services or for any other project purpose contracted for, delivered, or otherwise provided prior to the date of the formal action of the board to establish the project ~~shall~~ may be approved. State agencies ~~and institutions~~ may advertise and interview for project architectural and engineering services for a pending project so long as the architectural and engineering contract is not awarded until after a state project number is assigned. After the committee has reviewed the form to be used to request the establishment of permanent improvement projects and has reviewed the time schedule for considering ~~such~~ the requests as proposed by the board, requests to establish permanent improvement projects ~~shall~~ must be made in ~~such~~ a form and at ~~such~~ the times ~~as~~ the board ~~may require~~ requires.

(B) ~~Any~~ A proposal to finance all or any part of ~~any~~ a project using ~~any~~ funds not previously authorized specifically for the project by the General Assembly or using ~~any~~ funds not previously approved for the project by the board and reviewed by the committee ~~shall~~ must be referred to the committee for review prior to approval by the board.

(C) ~~Any~~ A proposed revision of the scope or of the budget of an established permanent improvement project deemed by the board to be substantial ~~shall~~ must be referred to the committee for its review ~~prior to~~ before any final action by the board. In making their determinations regarding changes in project scope, the board and the committee shall utilize the permanent improvement project proposal and justification statements, together with any supporting documentation, considered at the time the project was authorized or established originally. ~~Any~~ A proposal to increase the budget of a previously approved project using ~~any~~ funds not previously approved for the project by the board and reviewed by the committee ~~shall in all cases~~ must be deemed in all cases to be a substantial revision of a project budget ~~which shall~~ that must be referred to the committee for review. The committee ~~shall~~ must be advised promptly of all actions taken by the board which approve revisions in the scope of or the budget of ~~any~~ a previously established permanent improvement project not deemed substantial by the board.

~~For purposes of this chapter, with regard to all institutions of higher learning, permanent improvement project is defined as:~~

~~(1) acquisition of land, regardless of cost;~~

~~(2) acquisition, as opposed to the construction, of buildings or other structures, regardless of cost;~~

~~(3) construction of additional facilities and work on existing facilities for any given project including their renovation, repair, maintenance, alteration, or demolition in those instances in which the total cost of all work involved is five hundred thousand dollars or more;~~

~~(4) architectural and engineering and other types of planning and design work, regardless of cost, which is intended to result in a permanent improvement project. Master plans and feasibility studies are not permanent improvement projects and are not to be included;~~

~~(5) capital lease purchase of a facility acquisition or construction; and~~

~~(6) equipment that either becomes a permanent fixture of a facility or does not become permanent but is included in the construction contract shall be included as a part of a project.~~

~~Any permanent improvement project that meets the above definition must become a project, regardless of the source of funds. However, an institution of higher learning that has been authorized or appropriated capital improvement bond funds, capital reserve fund or state appropriated funds, or state infrastructure bond funds by the General Assembly for capital improvements shall process a permanent improvement project, regardless of the amount.~~

(D) This section does not apply to permanent improvement projects undertaken or proposed to be undertaken by public institutions of higher learning, as defined in Section 59‑103‑5.”

SECTION 6. Chapter 47, Title 2 of the 1976 Code is amended by adding:

“Section 2‑47‑53. (A) Except as otherwise provided in this subsection, the institutional board of a public institution of higher learning shall establish formally each permanent improvement project, upon favorable review by the committee, before actions which implement the project in any way may be undertaken and before expenditure of funds for any services or for any other project purpose contracted for, delivered, or otherwise provided prior to the date of the formal action of the institutional board to establish the project may be approved. Public institutions of higher learning may advertise and interview for project architectural and engineering services for a pending project so long as the architectural and engineering contract is not awarded until after a state project number is assigned. After the committee has reviewed the form to be used to request the establishment of permanent improvement projects and has reviewed the time schedule for considering the requests as proposed by the institution, requests for review of the permanent improvement projects may be made in the form and at the times the committee requires.

(B) Except as provided in subsection (C)(2), a proposal to finance all or any part of any project using any funds not previously authorized specifically for the permanent improvement project by the General Assembly or using any funds not previously approved for the project must be referred to the committee for review prior to approval by the institutional board.

(C)(1) A proposed revision of the scope or of the budget of an established permanent improvement project deemed by the committee to be substantial must be reviewed by the committee prior to any final action by the institutional board. In making its determinations regarding changes in project scope, the committee shall utilize the permanent improvement project proposal and justification statements, together with supporting documentation, considered at the time the project was authorized or established originally. Except as provided in subsection (C)(2), a proposal to increase the budget of a previously approved project using any funds not previously approved for the project by the institutional board must be deemed in all cases to be a substantial revision of a project budget which must be referred to the committee for review.

(2) Notwithstanding subsection (C)(1), a previously approved permanent improvement project undertaken by a public institution of higher learning, whose total costs increase not more than ten percent of the most recently approved total costs, not to exceed two million dollars, is not required to have that proposal reviewed by the committee. The proposal, however, is subject to staff level review.

(D)(1) For purposes of this chapter, with regard to public institutions of higher learning, a permanent improvement project is defined as:

(a) acquisition of land costing more than two hundred fifty thousand dollars. For the acquisition of land costing two hundred fifty thousand dollars or less, the proposal is subject to staff level review;

(b) acquisition, as opposed to the construction, of buildings or other structures costing more than two hundred fifty thousand dollars. For the acquisition, as opposed to construction, of building or other structures costing two hundred fifty thousand dollars or less, the proposal is subject to staff level review;

(c) work on existing facilities for any given project including their renovation, repair, maintenance, alteration, or demolition in those instances in which the total cost of all work involved is one million dollars or more;

(d) architectural and engineering and other types of planning and design work, regardless of cost, which is intended to result in a permanent improvement project. Master plans and feasibility studies are not permanent improvement projects and are not included;

(e) capital lease purchase of a facility acquisition or construction in which the total cost is one million dollars or more;

(f) equipment that either becomes a permanent fixture of a facility or does not become permanent but is included in the construction contract must be included as a part of a project in which the total cost is one million dollars or more; and

(g) new construction of a facility that exceeds a total cost of five hundred thousand dollars.

(2) A permanent improvement project that meets the definition provided in subsection (D)(1) must become a project, regardless of the source of funds.

(E) For purposes of this chapter, Clemson University Public Service Activities (Clemson‑‑PSA) and South Carolina State University Public Service Activities (SC State‑PSA) are subject to subsection (C) of this section and Section 2‑47‑40(A) and (D).

(F) For projects submitted to the Joint Bond Review Committee for review, the committee may request the assistance of the Office of the State Treasurer to review the feasibility and financing structure of the project.

(G) For purposes of this section, ‘institutional board’ means the governing board of a public institution of higher learning, as defined in Section 59‑103‑5, excluding technical colleges. For purposes of this section, the institutional board of a technical college is the State Board for Technical and Comprehensive Education.”

SECTION 7. Chapter 47, Title 2 of the 1976 Code is amended by adding:

“Section 2‑47‑54. (A) The institutional boards of the public institutions of higher learning in this State, upon favorable review of the committee, may enter into one or more ground lease agreements with a private entity whereby the private entity provides all services necessary for the creation or operation of institution infrastructure including, but not limited to, financing which is subject to review and approval of the State Treasurer, designing, constructing, managing, operating, maintaining, and related services. Upon expiration of the ground lease agreement term, the private entity shall surrender unto the appropriate institutional board the premises with the existing buildings, other structures, and improvements constructed and located thereon and therein, in the same condition as when the construction of the buildings, other structures, and improvements were completed, only natural and normal wear and tear excepted. The committee first shall favorably review and the institutional board shall approve, all ground lease agreement terms and conditions, including the consideration involved. The full faith and credit of the State toward the lease obligations may not be pledged, and any statement to the contrary is deemed null and void as a matter of public policy. The private entity may be a nonprofit organization. The favorable review of the committee and institutional board approval required is instead of or a substitute for any other approval required by any other provision of law or regulation in connection with the undertaking of the private entity and the subject institution; however, the private entity and the subject institution shall adhere to fire, life, and safety codes as required by the Office of the State Engineer. This section and the approval required by this section does not exempt any transaction or entity from complying with Chapter 35, Title 11.

(B) For purposes of this section, ‘institutional board’ means the governing board of a public institution of higher learning, as defined in Section 59‑103‑5, excluding technical colleges. For purposes of this section, the institutional board of a technical college is the State Board for Technical and Comprehensive Education.”

SECTION 8. Article 2, Chapter 53, Title 59 of the 1976 Code is amended by adding:

“Section 59‑53‑168. (A) The State Board for Technical and Comprehensive Education (state board) is granted the authority to employ and administer certain administrative efficiency provisions provided in Sections 2‑47‑53, 2‑47‑54, 59‑147‑30, 11‑35‑1210, 11‑35‑1550(2), 11‑35‑3310, 11‑35‑4810, 1‑7‑170, 59‑101‑620, and 1‑11‑55(2) of the 1976 Code. The state board shall establish a tiered system for categorizing technical colleges with respect to their financial strength and ability to manage day‑to‑day operations. Technical colleges, by way of application from their area commissions, may request the state board apply these administrative efficiency provisions to their respective institutions. The state board shall review the technical college’s request and determine the proper category for the technical college.

(B) The state board shall establish an advisory board to provide oversight and review of the provisions of this chapter. The state board shall submit an annual report on oversight to the Governor, the Chairman of the House Ways and Means Committee, and the Chairman of the Senate Finance Committee by November fifteenth of each year and shall submit a report every two years to include how changes have benefitted the agency to the Governor and the Chairmen of the House Ways and Means Committee, the Senate Finance Committee, the House Education and Public Works Committee, and the Senate Education Committee.”

SECTION 9. Section 59‑53‑290(A) of the 1976 Code, as added by Act 275 of 2008, is amended to read:

“(A) The Area Commission of Tri‑County Technical College, ~~with the approval of the State Budget and Control Board,~~ upon favorable review of the Joint Bond Review Committee and the approval of the State Board for Technical and Comprehensive Education, may enter into one or more ground lease agreements with a private entity in which the private entity provides all services necessary for the creation and operation of an on‑campus facility, the purpose of which must be determined by the commission including, but not limited to, financing, designing, constructing, managing, operating, maintaining, and related services. Upon expiration of the ground lease agreement term, the private entity shall surrender to the college the premises with the existing buildings, other structures, and improvements constructed and located on the premises, in the same condition as when the construction of the buildings, other structures, and improvements were completed, with only natural and normal wear and tear excepted. The ~~State Budget and Control Board shall first approve~~ committee first shall review favorably and the State Board for Technical and Comprehensive Education shall approve all ground lease agreement terms and conditions, including the consideration involved. The full faith and credit of the State toward the lease obligations may not be pledged, and a statement to the contrary is deemed null and void as a matter of public policy. The favorable review of the committee and state board approval required is in lieu of or a substitute for other approval required by another provision of law or regulation in connection with the undertaking of the private entity and the college; however, the private entity and the college shall adhere to fire, life, and safety codes as required by the Office of the State Engineer.”

SECTION 10. Section 59‑53‑630(C) of the 1976 Code, as added by Act 275 of 2008, is amended to read:

“(C) The Denmark Technical College Area Commission, ~~with the approval of the State Budget and Control Board,~~ upon favorable review of the Joint Bond Review Committee and the approval of the State Board for Technical and Comprehensive Education, may enter into one or more ground lease agreements with a private entity in which the private entity provides all services necessary for the creation and operation of an on‑campus student housing facility including, but not limited to, financing, designing, constructing, managing, operating, maintaining, and related services. Upon expiration of the ground lease agreement term, the private entity shall surrender to the Denmark Technical College Area Commission such premises with the existing buildings, other structures, and improvements constructed and located on the premises, in the same condition as when the construction of the buildings, other structures, and improvements were completed, with only natural and normal wear and tear excepted. The ~~State Budget and Control Board must first approve~~ committee first shall review favorably and the State Board for Technical and Comprehensive Education shall approve all ground lease agreement terms and conditions, including the consideration involved. The full faith and credit of the State toward the lease obligations ~~must~~ may not be pledged, and a statement to the contrary is deemed null and void as a matter of public policy. The private entity may be a nonprofit organization. The ~~State Budget and Control Board~~ favorable review of the committee and state board approval required ~~shall be~~ is in lieu of or a substitute for other approval required by another provision of law or regulation in connection with the undertaking of the private entity and Denmark Technical College. However, the private entity and the Denmark Technical College Area Commission shall adhere to fire, life, and safety codes as required by the Office of the State Engineer.”

SECTION 11. Section 59‑53‑740(A) ‑ (C) of the 1976 Code is amended to read:

“(A) The Area Commission of Florence‑Darlington Technical College ~~with the approval of the Budget and Control Board~~, upon favorable review of the Joint Bond Review Committee and the approval of the State Board for Technical and Comprehensive Education, may enter into one or more ground lease agreements with a private entity whereby the private entity will provide all services necessary for the creation and operation of an on‑campus facility, the purpose of which shall be determined by the commission including, but not limited to, financing, designing, constructing, managing, operating, maintaining, and related services. Upon expiration of the ground lease agreement term, the private entity shall surrender unto the college, such premises with the existing buildings, other structures, and improvements constructed and located thereon and therein, in the same condition as when the construction of the buildings, other structures, and improvements were completed, only natural and normal wear and tear excepted. The ~~Budget and Control Board must first approve~~ committee first shall review favorably and the State Board for Technical and Comprehensive Education shall approve all ground lease agreement terms and conditions, including the consideration involved. The full faith and credit of the State toward the lease obligations ~~must~~ may not be pledged, and any statement to the contrary is deemed null and void as a matter of public policy. The favorable review of the committee and state board approval required ~~herein shall be~~ by this section is in lieu of or a substitute for any other approval required by any other provision of law or regulation in connection with the undertaking of the private entity and the college; however, the private entity and the college shall adhere to fire, life, and safety codes as required by the Office of the State Engineer.

(B) The Area Commission of Florence‑Darlington Technical College, ~~upon the approval of the Budget and Control Board,~~ upon favorable review of the committee and the approval of the State Board for Technical and Comprehensive Education, may enter into a lease or lease purchase agreement with a private entity for the entity to occupy a college facility or a facility to be built by the college on college property for the purpose of conducting an entrepreneurial or commercial activity.

(C) The Area Commission of Florence‑Darlington Technical College, ~~upon approval of the Budget and Control Board,~~ upon favorable review by the committee and the approval of the State Board for Technical and Comprehensive Education, may enter into a ground lease with a private entity for the private entity to build a facility on property of the college in which the private entity will conduct an entrepreneurial or commercial activity consistent with the scope and mission of the college.”

SECTION 12. Section 59‑53‑1784(A) of the 1976 Code, as added by Act 200 of 2004, is amended to read:

“(A) The authority ~~must~~ shall comply with the provisions of Chapter 47 of Title 2; provided, however, only ~~State Budget and Control Board approval~~ favorable review of the committee and the approval of the State Board for Technical and Comprehensive Education is required for leases and lease purchase agreements, including ground lease agreements, the related terms and conditions ~~thereof~~, and the consideration involved, for the construction or use of facilities on the Enterprise Campus. Upon the expiration of the lease purchase agreements, including ground lease agreements, the private entity shall surrender unto the authority ~~such~~ thepremises with the existing buildings, other structures, and improvements constructed and located on the Enterprise Campus, in the same condition as when the construction of the buildings, other structures, and improvements were completed, only natural and normal wear and tear excepted. The ~~approval of the State Budget and Control Board~~ favorable review of the committee and State Board for Technical and Comprehensive Education approval required ~~herein~~ by this section for leases and lease purchase agreements, including ground lease agreements, is in lieu of or a substitute for any other approval required by any other provision of law or regulation. The full faith and credit of the State toward the lease obligations ~~must~~ may not be pledged, and any statement to the contrary is deemed null and void as a matter of public policy.

The authority shall adhere to fire, life, and safety codes as required by the Office of State Engineer. In the leasing of property and the granting of easements and rights‑of‑way by the authority, the authority is exempt from the provisions of Sections 1‑11‑55, 1‑11‑56, and 10‑1‑130.”

SECTION 13. Section 59‑53‑2430(A) of the 1976 Code, as added by Act 71 of 2009, is amended to read:

“(A) An authority ~~must~~ shall comply with the provisions of Chapter 47, Title 2, but only ~~State Budget and Control Board approval~~ favorable review of the committee and the approval of the State Board for Technical and Comprehensive Education is required for leases and lease purchase agreements, including ground lease agreements, the related terms and conditions ~~thereof~~, and the consideration involved, for the construction or use of facilities on an enterprise campus. Upon the expiration of the lease purchase agreements, including ground lease agreements, the private entity shall surrender to an authority the premises with the existing buildings, other structures, and improvements constructed and located on an enterprise campus, in the same condition as when the construction of the buildings, other structures, and improvements were completed, only natural and normal wear and tear excepted. Subject to the provisions of this article, the ~~approval of the State Budget and Control Board~~ favorable review of the committee and State Board for Technical and Comprehensive Education approval required for leases and lease purchase agreements, including ground lease agreements, is in lieu of or a substitute for any other approval required by another provision of law or regulation. The full faith and credit of the State toward the lease obligations may not be pledged, and a statement to the contrary is void as a matter of public policy.”

SECTION 14. Section 1‑11‑65(A) of the 1976 Code is amended to read:

“(A) All transactions involving real property, made for or by any governmental bodies, excluding political subdivisions of the State and excluding a real property transaction made for or by a public institution of higher learning, as defined by Section 59‑103‑5, must be approved by and recorded with the State Budget and Control Board. Upon approval of the transaction by the Budget and Control Board, there must be recorded simultaneously with the deed, a certificate of acceptance, which acknowledges the board’s approval of the transaction. The county recording authority cannot accept for recording any deed not accompanied by a certificate of acceptance. The board may exempt a governmental body from the provisions of this subsection.”

Part III

Financing and Administrative Improvements

SECTION 15. Section 59‑147‑30 of the 1976 Code, as last amended by Act 2 of 2009, is further amended to read:

“Section 59‑147‑30. Subject to the ~~approval~~ favorable review of the ~~State Budget and Control Board by resolution duly adopted,~~ Joint Bond Review Committee, approval of the institutional board, as defined by Section 2‑47‑53(G), and the provisions of Sections 59‑147‑42 and 59‑147‑43, the university may issue revenue bonds of the university for the purpose of financing or refinancing in whole or in part the cost of acquisition, construction, reconstruction, renovation and improvement of land, buildings, and other improvements to real property and equipment for the purpose of providing facilities serving the needs of the university including, but not limited to:

(1) dormitories, apartment buildings, dwelling houses, bookstores and other university operated stores, laundries, dining halls, cafeterias, parking facilities, student recreational, entertainment and fitness related facilities, inns, conference and other nondegree educational facilities and similar auxiliary facilities of the university and any other facilities which are auxiliary to any of the foregoing excluding, however, athletic department projects which primarily serve varsity athletic teams of the university; and

(2) those academic facilities as may be authorized by joint resolution of the General Assembly.”

SECTION 16. Chapter 147, Title 59 of the 1976 Code is amended by adding:

“Section 59‑147‑42. By resolution duly adopted pursuant to the requirements of Section 59‑147‑40, the institutional board shall transmit to the State Treasurer a request for the issuance of revenue bonds. The request must include:

(1) the name of the institution requesting issuance of revenue bonds, the amount of revenue bonds requested for issuance, and the annual principal and interest requirements on all then outstanding revenue bonds;

(2) a statement that the institutional board has made the findings required of it by Section 59‑147‑40;

(3) the proposed maturity schedule of the bonds;

(4) the anticipated aggregate annual principal and interest requirements for the bonds;

(5) the numbers and maturity dates of the bonds which are subject to redemption prior to their stated maturities;

(6) the proposed redemption premium schedule;

(7) the actual and projected revenues anticipated to be pledged by the institution supporting issuance of the bonds; and

(8) any other schedules, analyses, and documents prescribed by the State Treasurer which, in his discretion, are necessary to support the request for issuance of revenue bonds pursuant to this chapter.”

SECTION 17. Chapter 147, Title 59 of the 1976 Code is amended by adding:

“Section 59‑147‑43. The State Treasurer shall examine the request provided pursuant to Section 59‑147‑42, and if he determines that the facts and circumstances support the request for issuance of revenue bonds pursuant to this chapter, he shall provide for the issuance of revenue bonds in the amount approved by the institutional board.”

SECTION 18. Chapter 101, Title 59 of the 1976 Code is amended by adding:

“Article 7

Provisions Applicable to Bond Acts for Institutions of Higher Learning

Section 59‑101‑1010. As used in this article:

(1) ‘Bond acts’ means the various revenue bond acts for public institutions, including those identified in this item and also including any others not identified in this item.

(a) University of South Carolina:

(i) Act 518 of 1980 ‑ Athletic Facilities Revenue Bonds;

(ii) Act 366 of 2008 ‑ Business School Revenue Bonds;

(iii) Article 3, Chapter 117, Title 59 ‑ Auxiliary Facilities Revenue Bonds;

(b) Clemson University:

(i) Article 5, Chapter 119, Title 59 ‑ Clemson Revenue Bonds;

(ii) Article 9, Chapter 119, Title 59 ‑ Athletic Facilities Revenue Bonds;

(iii) Article 7, Chapter 119, Title 59 ‑ Auxiliary Facilities Revenue Bonds;

(c) Medical University of South Carolina:

(i) Act 392 of 1982 ‑ Student and Faculty Housing Facilities;

(d) The Citadel:

(i) Article 3, Chapter 121, Title 59 ‑ Citadel Athletic Facilities Bonds;

(ii) Chapter 122, Title 59 ‑ The Citadel Housing Revenue Bonds;

(e) College of Charleston:

(i) Chapter 130, Title 59 ‑ Revenue Bonds;

(ii) Chapter 131, Title 59 ‑ Parking Facilities at the College of Charleston;

(iii) Act 1281 of 1970 ‑ Student and Faculty Housing Revenue Bonds and Plant Improvement Bonds;

(iv) Act 77 of 1975 ‑ Parking Facilities Revenue Bonds;

(v) Act 653 of 1978 ‑ Student and Housing Revenue Bonds;

(f) South Carolina State University:

(i) Article 3, Chapter 127, Title 59 ‑ Special Obligations Bonds;

(ii) Article 4, Chapter 127, Title 59 ‑ South Carolina State University Academics and Admissions Faculty Facilities Bonds;

(g) Winthrop University:

(i) Article 3, Chapter 125, Title 59 ‑ Winthrop University Facilities Revenue Bond Act;

(ii) Article 5, Chapter 125 ‑ Winthrop University Athletic Facilities Bonds;

(iii) Act 488 of 1965 ‑ Student and Faculty Housing Revenue Bonds;

(h) Coastal Carolina University:

(i) Article 3, Chapter 136, Title 59 ‑ Revenue Bonds;

(i) Lander University:

(i) Act 1305 of 1974 ‑ Student and Faculty Housing Revenue Bonds;

(j) Francis Marion University:

(i) Act 653 of 1978 ‑ Student and Faculty Housing Revenue Bonds;

(ii) Article 3, Chapter 133, Title 59 ‑ Athletic Facilities Revenue Bonds.

(2) ‘Public institution of higher learning’ is defined by Section 59‑103‑5.

Section 59‑101‑1020. All authority and duties of the State Budget and Control Board with respect to bond acts is devolved upon the Joint Bond Revenue Committee established pursuant to Chapter 47, Title 2, for review and approval by the corresponding institutional board pursuant to this title.”

Part IV

Procurement Code Revisions

SECTION 19. Section 11‑35‑1210 of the 1976 Code, as last amended by Act 376 of 2006, is further amended by adding an appropriately numbered item at the end to read:

“( ) Subject to item (1), the State Board for Technical and Comprehensive Education, in coordination with the appropriate Chief Procurement Officer, may approve a cumulative total of up to fifty thousand dollars in additional procurement authority for technical colleges, provided that the designated board office makes no material audit findings concerning procurement. As provided by regulation, any authority granted pursuant to this paragraph is effective when certified in writing by the designated board office.”

SECTION 20. Section 11‑35‑1550(2) of the 1976 Code, as last amended by Act 376 of 2006, is further amended to read:

“(2) Competition and Price Reasonableness.

(a) Purchases not in excess of two thousand five hundred dollars. Except as provided in subitem (d), small purchases not exceeding two thousand five hundred dollars may be accomplished without securing competitive quotations if the prices are considered reasonable. The purchasing office must annotate the purchase requisition: ‘Price is fair and reasonable’ and sign. The purchases must be distributed equitably among qualified suppliers. When practical, a quotation must be solicited from other than the previous supplier before placing a repeat order. The administrative cost of verifying the reasonableness of the price of purchase ‘not in excess of’ may more than offset potential savings in detecting instances of overpricing. Action to verify the reasonableness of the price need be taken only when the procurement officer of the governmental body suspects that the price may not be reasonable, comparison to previous price paid, or personal knowledge of the item involved.

(b) Purchases over two thousand five hundred dollars to ten thousand dollars. Except as provided in subitem (d), solicitation of written quotes from a minimum of three qualified sources of supply must be made and documentation of the quotes attached to the purchase requisition for a small purchase over two thousand five hundred dollars but not in excess of ten thousand dollars. The award must be made to the lowest responsive and responsible sources.

(c) Purchases over ten thousand dollars up to fifty thousand dollars. Written solicitation of written quotes, bids, or proposals must be made for a small purchase over ten thousand dollars but not in excess of fifty thousand dollars. The procurement must be advertised at least once in the South Carolina Business Opportunities publication or through a means of central electronic advertising as approved by the designated board office. A copy of the written solicitation and written quotes must be attached to the purchase requisition. The award must be made to the lowest responsive and responsible source or, when a request for proposal process is used, the highest ranking offeror.

(d) For public institutions of higher learning in this State excluding technical colleges, small purchase amounts to which the provisions of subitem (a) apply are those purchases not exceeding ten thousand dollars, and for these purchases subitem (b) above does not apply. In addition, purchasing cards of the institution for these purchases also may be used by officials or employees of the institution as the governing board approves.

(e) For technical colleges as authorized by the State Board for Technical and Comprehensive Education, small purchase amounts to which the provisions of item (2)(a) apply are those purchases that do not exceed ten thousand dollars. The State Board for Technical and Comprehensive Education shall approve this authority for technical colleges. In addition, if authority is approved, technical colleges may use purchasing cards for these purchases.”

SECTION 21. Section 11‑35‑3310 of the 1976 Code, as last amended by Act 174 of 2008, is further amended to read:

“Section 11‑35‑3310. (1) General Applicability. Indefinite delivery contracts may be awarded on an as‑needed basis for construction services pursuant to the procedures in Section 11‑35‑3015(2)(b) and for architectural‑engineering and land surveying services pursuant to Section 11‑35‑3220.

(a) Construction Services. When construction services contracts are awarded, each contract ~~shall~~ must be limited to a total expenditure of seven hundred fifty thousand dollars for a two‑year period with individual project expenditures not to exceed one hundred fifty thousand dollars; provided, that these limits for public institutions of higher learning, as defined by Section 59‑103‑5, in this subitem are one million dollars for total expenditures and two hundred fifty thousand dollars for individual expenditures within the time periods specified.

(b) Architectural‑Engineering and Land Surveying Services. When architectural‑engineering and land surveying services contracts are awarded, each contract shall be limited to a total expenditure of three hundred thousand dollars for a two‑year period with individual project expenditures not to exceed one hundred thousand dollars; provided, that these limits for public institutions of higher learning, as defined by Section 59‑103‑5, in this subitem are five hundred thousand dollars for total expenditures and two hundred thousand dollars for individual expenditures within the time periods specified.

(2) Small Indefinite Delivery Contracts. Small indefinite delivery contracts for architectural‑engineering and land surveying services may be procured as provided in Section 11‑35‑3230. A contract established under this section ~~shall be~~ is subject to Section 11‑35‑3230, and any regulations promulgated thereunder except that the individual and total contract limits are fifty and one hundred fifty thousand dollars respectively for public institutions of higher learning, as defined by Section 59‑103‑5.”

SECTION 22. Section 11‑35‑4810 of the 1976 Code, as last amended by Act 153 of 1997, is further amended to read:

“Section 11‑35‑4810. ~~Any~~ A public procurement unit may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies, services, or construction with one or more public procurement units or external procurement activities in accordance with an agreement entered into between the participants. ~~Such~~ This cooperative purchasing may include, but ~~is~~ may not be limited to, joint or ~~multi‑party~~ multiparty contracts between public procurement units and open‑ended state public procurement unit contracts which ~~shall~~ may be made available to local public procurement units, except as provided in Section 11‑35‑4820 or except as ~~may~~ otherwise may be limited by the board through regulations.

However, thirty days notice of a proposed multi‑state solicitation ~~shall~~ must be provided through central advertising and such contracts may be only awarded to manufacturers who will be distributing the products to South Carolina governmental bodies through South Carolina vendors; provided, however, that the provisions of this paragraph do not apply to public institutions of higher learning if the institution demonstrates a cost savings to the Office of State Procurement in regard to the multistate solicitation and procurement.”

Part V

Miscellaneous Provisions

SECTION 23. Section 1‑7‑170 of the 1976 Code, as added by Act 353 of 2008, is amended to read:

“Section 1‑7‑170. (A) A department or agency of state government may not engage on a fee basis an attorney at law except upon the written approval of the Attorney General and upon a fee as must be approved by him. This section does not apply to the employment of attorneys in special cases in inferior courts when the fee to be paid does not exceed two hundred fifty dollars or exceptions approved by the State Budget and Control Board. This section does not apply to an attorney hired by the General Assembly or the judicial department.

(B) Notwithstanding the provisions of subsection (A), a public institution of higher learning when it determines to employ outside counsel on a particular matter, for a series of similar matters, or on a retainer basis shall submit the names of three qualified law firms consisting of a single practitioner or a group of practitioners from which the Attorney General shall approve one or more which the institution is then authorized to employ or retain. Approval by the Attorney General of these law firms also authorizes the institution to pay legal fees to that firm at its usual and customary rates for engaging in that type of work.”

SECTION 24. Article 1, Chapter 101, Title 59 of the 1976 Code, as added by Act 143 of 2005, is amended by adding:

“Section 59‑101‑55. State appropriated funds may not be used to provide out‑of‑state subsidies to students attending state‑supported public institutions of higher learning.”

SECTION 25. Section 59‑101‑620 of the 1976 Code, as added by Act 143 of 2005, is amended to read:

“Section 59‑101‑620. (A) A public institution of higher learning may offer educational fee waivers to no more than ~~four~~ eight percent of the undergraduate student body. Any fee waivers above four percent must be used for in‑state students. For the purposes of fee waivers, an ‘in‑state student’ is defined by Section 59‑112‑20(A).

(B) Public institutions of higher learning to which subsection (A) applies annually shall report to the Commission on Higher Education the amount of these waivers provided during that fiscal year and such other information as the commission may require with regard to these waivers.”

SECTION 26. Chapter 112, Title 59 of the 1976 Code is amended by adding:

“Section 59‑112‑115. When the governing board of a public institution of higher learning, excluding technical colleges, adopts a change to the tuition or fees imposed on students, the change may be implemented by the institution only after a public vote with the number of trustees voting for and against the change being counted. A majority vote is required to implement any change to the tuition or fees. For technical colleges, when the local area commission of a technical college adopts a change to the tuition or fees imposed on students, the change may be implemented by the technical college only after a public vote with the number of local area commissioners voting for and against the change being counted. A majority vote is required to implement any change to the tuition or fees. A change to tuition or fees adopted by the local area commission must be reported to the State Board for Technical and Comprehensive Education within five business days.”

SECTION 27. Section 1‑11‑55(2) of the 1976 Code is amended to read:

“(2) The State Budget and Control Board is hereby designated as the single central broker for the leasing of real property for governmental bodies. ~~No~~ A governmental body shall enter into any lease agreement or renew any existing lease except in accordance with the provisions of this section, except that institutional boards shall approve for public institutions of higher learning to enter into any lease agreement or renew any lease up to one‑hundred thousand dollars annually for each property or facility.”

Part VI

Severability and Time Effective

SECTION 28. 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 29. Unless otherwise provided, this act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑