COMMITTEE REPORT

March 10, 2016

**H. 4521**

Introduced by Reps. Putnam, Burns, Loftis, Felder and Taylor

S. Printed 3/10/16--H.

Read the first time January 12, 2016.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Bill (H. 4521) to amend the Code of Laws of South Carolina, 1976, to enact the “Tucker Hipps Transparency Act” by adding Section 59‑101‑210 so as to provide, etc., respectfully

**REPORT:**

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

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. This act must be known and may be cited as the “Tucker Hipps Transparency Act”.

SECTION 2. Article 1, Chapter 101, Title 59 of the 1976 Code is amended by adding:

“Section 59‑101‑210. (A)(1) Beginning with the 2016‑2017 academic year, a public institution of higher learning shall maintain a report of actual findings of violations of the institution’s Student Code of Conduct by fraternity and sorority organizations formally affiliated with the institution and actual findings of student misconduct that the university is made aware of, committed by a person who is both:

(a) affiliated formally with fraternity or sorority registered as a student organization with the university at the time of alleged misconduct; and

(b) engaged in an activity associated with a fraternity or sorority registered as a student organization with the university.

(2) A report of a violation of a Student Code of Conduct is required for offenses involving:

(a) alcohol;

(b) drugs;

(c) sexual assault;

(d) harm to others;

(e) threats;

(f) endangerment; and

(g) hazing.

(3) A report must contain two components:

(a) information concerning the alleged organizational misconduct, including:

(i) the name of the organization;

(ii) when the organization was charged with misconduct;

(iii) the dates on which the citation was issued or the event occurred;

(iv) the date the investigation was initiated;

(v) a general description of the incident, the charges, findings and sanctions placed on the organization; and

(vi) the date on which matter was resolved; and

(b) aggregate data of charges against individual members of the organization when members are charged with Student Conduct Code violations outlined in items (1) and (2);

(4) In addition to the components required in item (3), a report also must:

(a) be in descending order from most charges to least;

(b) include no personal identifying information of the individuals, but must include the name of the respective social organizations to which the parties are affiliated;

(c) include any law enforcement report associated with the alleged misconduct which is in the possession of the institution; provided, however, disclosure of this report is governed by the South Carolina Freedom of Information Act.

(5) The institution shall update this report at least forty‑five calendar days before the start of the fall and spring academic semesters.

(6) An ongoing investigation of an unresolved incident of a violation that occurred within forty‑five calendar days after the last day of that academic semester clearly must be identified as ‘pending’ and included in the report that is due forty‑five calendar days before the start of the following semester required in item (4).

(7) The institution shall provide reports required under this section on its internet website in a prominent location. The webpage that contains this report must include a statement notifying the public:

(a) of the availability of additional information related to findings, sanctions, and organizational sanction completion;

(b) where a member of the public may obtain the additional information that is not protected under the Family Education Rights and Privacy Act (FERPA) upon request; and

(c) that the institution is required to provide this additional information pursuant to the South Carolina Freedom of Information Act.

(7) The institution shall furnish a printed notice of the nature and availability of this report and the website address where it can be found to attendees at student orientation.

(8) The institutional shall maintain reports as they are updated for seven years. Information that is seven years old may be removed from the record by the institution as it updates its records.

(B) A public institution of higher learning shall submit to the Commission on Higher Education a statement within fourteen calendar days that the reports have been updated as required in subsection (A)(4). The commission shall publish on their webpage a link to the institutions’ updated reports.

(C) A member of the public who believes that an institution is not complying with the information disclosure required under this section may seek relief as provided for under the South Carolina Freedom of Information Act.”

SECTION 3. Each public institution of higher learning shall compile an initial report and make it available to the public and online before the beginning of the 2016‑2017 academic year. This initial report must include the information outlined in Section 59‑101‑210 beginning with data after December 31, 2010. If a university cannot comply with this requirement by the 2016‑2017 academic year, they may apply for a one‑year waiver but all public institutions must be compliant by the 2017‑2018 academic year.

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

Renumber sections to conform.

Amend title to conform.

MERITA A. ALLISON for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill will increase general fund expenditures by $977,187 in FY 2016-17 and recurring expenditures by $917,695 in FY 2017-18 and each year thereafter. Federal funds and other funds will not be affected.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill requires public institutions of higher education to maintain a report detailing student misconduct investigations related to fraternity, sorority, and other social organizations. The report must be readily available to the public upon request and posted on the institutions’ websites. Members of a social organization that are not furnished with the report prior to beginning the official process of joining the social organization will have their membership voided. Before the beginning of the 2016-2017 academic year, all institutions must compile an initial report of the investigations begun after December 31, 2010. Additionally, the South Carolina Commission on Higher Education (CHE) is required to monitor institution compliance with the provisions of the bill. Compliance will be determined through at least one scheduled and one non-scheduled audit per year.

**Commission on Higher Education.** The commission indicates this bill will increase recurring general fund expenditures by $214,400 in FY 2016-17. These expenditures include the salary and fringe of 2.5 new FTEs ($204,200) and the cost of contracted legal staff ($10,200) to conduct the required audits. Additionally, CHE surveyed the public institutions on their expected additional expenditures for complying with the bill and their responses are summarized below.

The institutions reported this bill would increase recurring general fund expenditures by $703,295 in FY 2016-17. Clemson University estimates $125,000 in additional expenditures for two additional FTEs ($110,000) and information resource overhead ($15,000). The Medical University of South Carolina expects $75,000 in additional costs for the salary and fringe of one additional FTE. The University of South Carolina (USC) estimates $91,500 in additional costs for the salary and fringe of one FTE in student affairs and one FTE in law enforcement. USC Upstate and USC Aiken reported an additional part time FTE of .67 and .33, respectively, for a total cost of $55,660. Coastal Carolina University estimates its increased costs will be $105,600 and be used to hire two additional FTEs ($93,100) and Other Operating expenses ($12,500). The College of Charleston expects one additional FTE will be required at an additional cost of $75,000. Francis Marion indicated $52,999 in additional funds are required for the salary and fringe of one FTE. Lander University expects the additional man hours needed to comply with the bill will increase costs to the university by $7,536. Winthrop expects additional expenditures of $115,980 to hire two additional FTEs ($97,980) and increased overhead expenditures ($18,000).

The institutions also anticipate $59,492 in non-recurring costs in FY 2016-17. USC reported the Columbia campus would need $26,000 for the additional expenditures of a temporary position associated with researching historical data back to January 1, 2011 ($18,000) and $8,000 for reprogramming cost. Additionally, the Upstate campus and Aiken would each need $2,000 for office and computer setup cost. Francis Marion reported $29,492 in increased expenditures for coordination setup, additional campus police, and student affairs.

USC Beaufort, USC Lancaster, USC Salkehatchie, USC Sumter, USC Union, The Citadel, South Carolina State, and all of the technical colleges reported the bill would have no or minimal additional expenditures that could be absorbed within current funding levels.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “TUCKER HIPPS TRANSPARENCY ACT” BY ADDING SECTION 59‑101‑210 SO AS TO PROVIDE PUBLIC INSTITUTIONS OF HIGHER LEARNING SHALL MAINTAIN REPORTS OF INVESTIGATIONS AND RELATED INFORMATION OF MEMBERS OF FRATERNITIES, SORORITIES, AND OTHER SOCIAL ORGANIZATIONS, TO SPECIFY INFORMATION THAT MUST BE INCLUDED IN THE REPORTS, TO PROVIDE INSTITUTIONS SHALL MAKE THE REPORTS AVAILABLE TO THE PUBLIC AND ONLINE, AND SHALL FURNISH REPORTS TO STUDENTS AND THEIR PARENTS BEFORE THE STUDENTS MAY BEGIN THE FORMAL PROCESS OF JOINING A FRATERNITY OR SORORITY, TO PROVIDE OVERSIGHT AND ENFORCEMENT REQUIREMENTS OF THE COMMISSION ON HIGHER EDUCATION, AND TO PROVIDE PENALTIES FOR VIOLATIONS; AND TO PROVIDE FOR THE INITIAL COMPILATION OF THESE REPORTS BEFORE THE BEGINNING OF THE 2016‑2017 ACADEMIC YEAR.

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

SECTION 1. This act must be known and may be cited as the “Tucker Hipps Transparency Act”.

SECTION 2. Article 1, Chapter 101, Title 59 of the 1976 Code is amended by adding:

“Section 59‑101‑210. (A) Beginning with the 2016‑2017 academic year, a public institution of higher learning shall maintain a report of investigations of student misconduct, whether public or institution‑based, concerning citations, complaints, and investigations for each member or person formally associated with each fraternity, sorority, and other social organizations permitted at the institution. This report must include the dates on which the citation was issued, complaint was filed, or investigation was initiated, a general description of the alleged incident, the dates on which any related hearings were conducted, and the resolution of the allegations including any disciplinary measures taken. This report must be in chronological order. No personal identifying information of the parties to the investigation may be included in the report. The institution shall update each report at least weekly.

(B) The institution shall:

(1) make these investigation and resolution reports available to the public upon request;

(2) provide these reports on the Internet website of the institution; and

(3) furnish a printed notice of the nature and availability of this data and the website where it can be found to a student and to the parents of the student before the student may begin the official process of joining a fraternity, sorority, or other social organizations as a new member. If a student does not receive this information before beginning this process, his membership in the organization is void.

(C) The Commission on Higher Education shall monitor each institution for compliance with the provisions of this section and shall enforce the provisions of this section when a violation occurs. This compliance must include at least one random and at least one scheduled audit annually. A member of the public also may bring complaints of violations to the commission. The commission shall conduct a hearing on an alleged violation pursuant to the Administrative Procedures Act, and may award injunctive relief or impose fines pursuant to subsection (D). A party aggrieved by a decision of the commission may appeal the decision to the Administrative Law Court pursuant to the Administrative Procedures Act.

(D) An institution that violates the provisions of this section is subject to:

(1) a fine of five hundred dollars for a first violation;

(2) a fine of one thousand dollars for a second violation; and

(3) a fine of fifteen hundred dollars and an injunction restraining the institution from permitting fraternity, sorority, and other social organizations to operate in association with the institution for a third violation.”

SECTION 3. Each public institution of higher learning shall compile an initial report and make it available to the public and online before the beginning of the 2016‑2017 academic year. This initial report must include all information concerning each incident for which an investigation began after December 31, 2010.

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

‑‑‑‑XX‑‑‑‑