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CHAPTER 151.

 SOUTH CAROLINA LIGHTRAIL CONSORTIUM

**SECTION 59‑151‑100.** Purpose.

(A) The General Assembly declares that by this chapter it is establishing the South Carolina LightRail Consortium in response to growing demand for South Carolina academic institutions to expand their capacity for high speed, highly available bandwidth across the State, nation, and world in support of their missions, and to connect directly to national and regional networks for purposes directly related to their missions.

(B) For this purpose, the South Carolina LightRail shall provide facilities‑based advanced high performance communications infrastructure in support of the missions of the South Carolina academic institutions that are members of the South Carolina LightRail Consortium. The General Assembly declares its intent that this infrastructure must not compete with the commercial communications or information offerings of private sector participants.

(C) The goal of the South Carolina LightRail Consortium is to promote collaboration among participating clinical, research, and educational institutions throughout the State, region, and nation to accomplish the objectives stated above.

**SECTION 59‑151‑110.** Definition of LightRail; use by academic institutions; access by private organizations and entities.

(A) For purposes of this chapter, the South Carolina LightRail is defined as a communication grid network where the South Carolina academic institutions that are members of the South Carolina LightRail Consortium, and private organizations and entities as permitted by subsection (C) of this section tap into facilities‑based fiber optic including, the National Lambda Rail, Internet2, TeraGrid, and other regional and national networks which carry high volumes of data at high speed allowing faculty members at participating institutions in different locations to collaborate in real time.

(B) The South Carolina LightRail is to be used as an academic network for the use of the South Carolina academic institutions that are members of the South Carolina LightRail Consortium for the exchange of information directly related to their missions and must not carry commercial traffic, commercial internet traffic, or K‑12 traffic originated in South Carolina. Occasional and incidental use of the network by persons appropriately granted access to the network for purposes that are not directly related to the missions of the participating academic institutions is not considered a violation of this subsection.

(C) Private organizations and entities may be provided access to the network only through formal documented partnerships with one or more of the South Carolina academic institutions that are members of the South Carolina LightRail Consortium that are directly related to the missions of the partnering institutions. This access must be consistent with guidelines and procedures approved by the consortium board. These guidelines and procedures, at a minimum, shall comply with the provisions of Section 59‑151‑115.

**SECTION 59‑151‑115.** Guidelines and procedures.

(A) Prior to allowing any university employee or student access to the network, the board must adopt guidelines and procedures which, at a minimum, ensure that:

(1) access to the network is limited to specific university employees and specific university students who have direct involvement in one or more formal documented partnerships that meet the requirements of Section 59‑151‑110(C);

(2) these university employees and university students cease to have access to the network once they are no longer directly involved in such a formal documented partnership; and

(3) the access to the network does not compete with the commercial communications or information offerings of private sector participants.

(B) Prior to allowing any private organization or entity access to the network, the board must adopt guidelines and procedures which, at a minimum, ensure that:

(1) access to the network is limited to specified employees of these private organizations or entities who have direct involvement in one or more formal documented partnerships that meet the requirements of Section 59‑151‑110(C);

(2) these employees cease to have access to the network once they are no longer directly involved in such a formal documented partnership;

(3) the access to the network does not compete with the commercial communications or information offerings of private sector participants; and

(4) any South Carolina commercial entity has a separate commodity internet connection for its routine operations.

(C) For purposes of this section, occasional and incidental use of the network by persons appropriately granted such access to the network for purposes that are not directly related to the missions of the participating institutions is not considered as competing with the commercial communications or information offerings of private sector participants.

**SECTION 59‑151‑120.** Charter member institutions.

Clemson University, the Medical University of South Carolina, and the University of South Carolina in Columbia are designated as the three charter member institutions of the South Carolina LightRail Consortium and through the consortium are directed to plan, procure, administer, oversee, and manage all functions associated with the South Carolina LightRail.

**SECTION 59‑151‑130.** Board of directors; membership; executive committee.

(A) The South Carolina LightRail Consortium must be a joint venture exclusively among the three member universities, with administrative support to be provided by an appropriate department within one or more of the universities to include procurement, accounts payable, accounts receivable, web design and hosting, and similar administrative or technical support functions.

(B) The South Carolina LightRail Consortium must be governed by a board of directors consisting of six members. The board of directors consists of two representatives each from Clemson University, the Medical University of South Carolina, and the University of South Carolina, to be appointed by the respective university presidents and to serve at their pleasure. The consortium must be chaired by a member of the board of directors from each member institution on a rotating basis among all institutions for a term of two years.

(C) Membership on the board is not an office of honor or profit within the meaning of Section 3, Article VI of the Constitution of this State.

(D) The board shall establish rules of procedure governing its operations and also may establish an executive committee of the board to act in the board’s stead in the manner authorized by the full board.

**SECTION 59‑151‑140.** Powers and duties of board of directors.

(A) The South Carolina LightRail Consortium is declared to be an instrumentality of this State and as such its board of directors has all powers and authority conferred upon public boards generally including the power to contract in its own name, to own property, and to sue and be sued.

(B) The board shall ensure that the consortium functions in support of its mission and in the best interests of the State and the participating universities. In support of this task, the board shall:

(1) assist and advise the chairman of the consortium board in matters related to scientific and administrative performance, consortium directions and needs, and government and interinstitutional interactions;

(2) conduct an annual review of consortium status, activities, and plans to evaluate overall performance relative to its mission and strategic plan and to recommend possible changes to the strategic plan or South Carolina LightRail administration;

(3) review and approve an annual budget request for the consortium; and

(4) review the operations of the South Carolina LightRail annually to ensure relevance, to affirm the commitments of the participating institutions, and to confirm continued compliance with the provisions of Section 59‑151‑115.

(C) Results of the annual review and budget request must be documented in a letter submitted to the presidents of the three universities.

**SECTION 59‑151‑150.** Funding.

(A) The LightRail Consortium shall receive such funding as may be provided by the General Assembly in the annual general appropriations act, supplemental appropriations act, or in other provisions of law. This funding must be provided to its participating universities for purposes of the LightRail. Funds appropriated to Clemson University, the Medical University of South Carolina, and the University of South Carolina in the 2007‑2008 general appropriations act for the South Carolina LightRail Consortium shall continue to be used for those purposes consistent with the requirements of this chapter and other applicable provisions of law.

(B) The LightRail Consortium shall manage its own funding provided to it by the member institutions, based on a budget prepared and administered by the chairman of the board, and recommended by the board. The consortium funding appropriated to a particular member institution must be administered individually by that institution, except in those instances when consortium actions, services, or activities require joint budget action. Sufficient annual funding to meet the strategic and operational needs of South Carolina LightRail Consortium is the joint and co‑equal responsibility of the member institutions, and the responsibility of each member institution to provide such funding must be determined annually by the board upon agreement of the institutions concerned.

**SECTION 59‑151‑160.** Administration of value of gifts, in‑kind services, grants, appropriations, or other financial considerations.

The value of gifts, in‑kind services, grants, appropriations, or other financial considerations directed to a single university for the primary purpose of support for South Carolina LightRail Consortium must be administered and accounted for in accordance with the policies of the recipient university. The value of gifts, in‑kind services, grants, appropriations, or other financial considerations directed jointly to the three universities through the consortium must be divided into three equal shares, unless otherwise specified by a donor, and must be administered and accounted for by each recipient university in accordance with the policies of that university.

**SECTION 59‑151‑180.** Applicability of state law.

The South Carolina LightRail Consortium is considered a public body and as such is subject to all provisions of state law, including the Freedom of Information Act and state procurement requirements but is exempt from the planning, oversight, and project management regulations of the State Chief Information Officer. The board of the LightRail Consortium each year by February first shall submit to the chairman of the House Ways and Means Committee and the chairman of the Senate Finance Committee a report specifically identifying each entity with access to the network, the number of persons within each such entity with access to the network, and a brief description of the formal documented partnership in which the persons are involved, and any payment, including without limitations, in‑kind payment, that each such organization and entity is making for access to the network.