CHAPTER 51

South Carolina Research University Infrastructure Act

**SECTION 11‑51‑10.** Short title.

This chapter may be cited as the "South Carolina Research University Infrastructure Act".

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11‑51‑20.** Legislative findings and purpose.

The General Assembly finds:

(1) That by Section 4, Act 10 of 1985, the General Assembly ratified an amendment to Section 13(6)(c), Article X of the Constitution of this State, 1895. As amended, Section 13(6)(c), Article X limits the issuance of certain general obligation debt of the State such that the maximum annual debt service on general obligation bonds of the State, excluding highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, may not exceed five percent of the general revenues of the State for the fiscal year next preceding, excluding revenues that are authorized to be pledged for state highway bonds and state institution bonds.

(2) Section 13(6)(c), Article X, as amended, further provides that the percentage rate of general revenues of the State by which general obligation bond debt service is limited may be reduced to four or increased to seven percent by legislative enactment passed by two‑thirds vote of the total membership of the Senate and a two‑thirds vote of the total membership of the House of Representatives.

(3) That pursuant to Section 13(6)(c), Article X, the General Assembly, in Act 254 of 2002, increased to five and one‑half percent the percentage rate of the general revenues of the State by which general obligation bond debt service is limited with the additional debt service capacity available at any time as a consequence of the increase available only for the repayment of general obligation bonds issued to provide infrastructure for economic development within the State.

(4) Facility and infrastructure constraints prevent the advancement of research projects as well as restrict the ability of the research universities, as defined in Section 11‑51‑30, to retain faculty and generate research dollars. A dedicated source of funds to repay general obligation debt authorized pursuant to this chapter would provide a consistent funding stream for capital improvements at the research universities and allow for improved planning of capital expenditures to meet the mission of the research universities.

(5) In order to advance economic development and create a knowledge based economy, thereby increasing job opportunities, and to facilitate and increase research within the State at the research universities, it is in the interest of the State that, pursuant to Section 13(6)(c), Article X that the limitation on general obligation debt imposed by Section 13(6)(c), Article X be increased to six percent with the additional debt service capacity available at any time as a consequence of the increase available only for the repayment of general obligation debt issued pursuant to the provisions of this chapter.

(6) That Section 13(5), Article X of the Constitution of this State, 1895, authorizes the General Assembly to authorize general obligation debt by two‑thirds vote of the members of each House of the General Assembly, subject to such conditions or restrictions limiting the incurring of such indebtedness contained in the authorization to incur such indebtedness, and the provisions of Section 13(3), Article X of the Constitution of this State.

(7) That Section 13(5), Article X provides additional constitutional authority for the bonds authorized by this chapter and the designated principal amount of general obligation bonds to be issued pursuant to the debt limit as it existed prior to this chapter.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11‑51‑30.** Definitions.

As used in this chapter:

(1) "Facilities and administration costs" means depreciation and use allowances, interest on debt associated with buildings, equipment and capital improvements, operation and maintenance expenses, library expenses, general administration expenses, departmental administration, sponsored projects administration, and student administration and services.

(2) "General obligation debt" means any indebtedness of the State which must be secured in whole or in part by a pledge of the full faith, credit and taxing power of the State, including, but not limited to, bonds, notes, and other evidences of indebtedness, and issued pursuant to the provisions of this chapter.

(3) "Research Centers of Excellence Review Board" means the board created pursuant to Section 2‑75‑10.

(4) "Research infrastructure project" or " project" means a project that would advance economic development and create a knowledge based economy, thereby increasing job opportunities, or facilitate and increase externally funded research at the research universities, including, but not limited to, land acquisition, acquisition or construction of buildings, equipment, furnishings, site preparation, road and highway improvements, water and sewer infrastructure, and other things necessary or convenient to advance economic development or to facilitate and increase research at the research universities.

(5) "Research universities" means Clemson University, The Medical University of South Carolina, and the University of South Carolina—Columbia.

(6) "State board" means the governing board of the State Fiscal Accountability Authority.

HISTORY: 2004 Act No. 187, Section 9; 2014 Act No. 121 (S.22), Pt VII, Section 20.L.1, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 20.L.1, in subsection (6), substituted "governing board of the State Fiscal Accountability Authority" for "South Carolina State Budget and Control Board".

**SECTION 11‑51‑40.** Issuance of general obligation debt authorized; limitations.

To obtain funds for allocation to the research universities for the financing of research infrastructure projects, and for the other purposes set forth in Section 11‑51‑125, there may be issued general obligation debt pursuant to the conditions prescribed by this chapter; provided, however, that the amount of the general obligation debt issued pursuant to this chapter that may be outstanding at any one time shall not exceed two hundred fifty million dollars.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11‑51‑50.** Maximum annual debt service at time of issuance.

(A) Pursuant to the provisions of Section 13(6)(c), Article X of the Constitution of this State, 1895, as amended, and by enactment of this chapter, the General Assembly provides that general obligation debt may be issued pursuant to this chapter only at such times as the maximum annual debt service on all general obligation bonds of the State, including economic development bonds and bonds issued pursuant to this chapter, outstanding and being issued, but excluding highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, will not exceed six percent of the general revenues of the State for the fiscal year next preceding, excluding revenues that are authorized to be pledged for state highway bonds and state institution bonds. The State may not issue general obligation bonds, excluding economic development bonds and bonds authorized pursuant to this chapter, highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, if at the time of issuance the maximum annual debt service on these general obligation bonds, outstanding and being issued, exceeds five percent of the general revenues of the State for the fiscal year next preceding, excluding revenues that are authorized to be pledged for state highway bonds and state institution bonds.

(B) At the time of issuance of general obligation debt pursuant to this chapter, the maximum annual debt service on such general obligation debt outstanding or being issued must not exceed one‑half of one percent of the general revenues of this State for the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds.

(C) With respect to the first eight hundred fifty million dollars in principal amount of general obligation bonds issued after the effective date of this chapter within the debt service constraints set forth in subsections (A) and (B) of this section, the General Assembly provides additional constitutional authorization for such bonds pursuant to Section 13(5), Article X of the Constitution of this State, 1895.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11‑51‑60.** Research infrastructure project used for unapproved purpose; reimbursement of debt service to State.

In the event a research infrastructure project is used for a purpose other than as approved by the Research Centers of Excellence Review Board pursuant to Section 11‑51‑80(2), the research university for which the research infrastructure project was originally established shall reimburse the State a percentage of debt service on the general obligation debt issued to finance the debt, the percentage to be equal to the percentage of the research infrastructure project which is used for an unapproved purpose. Amounts reimbursed to the State pursuant to this section must be applied, as directed by the state board, to the debt service on the applicable general obligation debt, either currently or by way of defeasance, or to the general fund of the State.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11‑51‑70.** Certification of costs to State Budget and Control Board prior to issuance of general obligation debt.

As a condition precedent to the issuance of general obligation debt pursuant to the provisions of this chapter, the Research Centers of Excellence Review Board shall certify to the state board that at least fifty percent of the cost of each research infrastructure project is being provided by private, federal, municipal, county, or other local government sources. This portion of the cost, in the discretion of the Research Centers of Excellence Review Board, may be in the form of cash; cash equivalent; buildings including sale‑lease back; gifts in kind including, but not limited to, land, roads, water and sewer, and maintenance of infrastructure; facilities and administration costs; equipment; or furnishings.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11‑51‑80.** Information provided to Joint Bond Review Committee and State Budget and Control Board prior to issuance of general obligation debt.

Before the issuance of general obligation debt, the Research Centers of Excellence Review Board shall provide the Joint Bond Review Committee and the state board the following:

(1) a description of each research infrastructure project for which general obligation debt is requested to be issued;

(2) a certification by the Research Centers of Excellence Review Board that the provisions of Section 11‑51‑70 have been met, that the source of funding has been identified, and that each research infrastructure project complies with the provisions of this chapter;

(3) the total cost of each research infrastructure project and the principal amount of general obligation debt requested to be issued;

(4) a tentative time schedule setting forth the period of time during which the proceeds of the general obligation debt requested to be issued will be expended;

(5) a debt service schedule showing the annual principal and interest requirements, at a projected current rate of interest, on the requested general obligation debt;

(6) the total amount of the general obligation debt issued pursuant to this chapter; and

(7) a debt service schedule showing the principal and interest requirements for the general obligation debt outstanding and the proposed general obligation debt at a projected current rate of interest.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11‑51‑90.** Principal amount of general obligation debt provided on a competitive basis.

The principal amount of the general obligation debt allocated to research universities pursuant to Section 11‑51‑125 must be provided to each of the research universities on a competitive basis by the Research Centers of Excellence Review Board.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11‑51‑100.** Issuance of general obligation debt or anticipation notes.

Following the receipt of the information presented pursuant to Section 11‑51‑80, and after approval by the Joint Bond Review Committee, the state board, by resolution duly adopted, shall effect the issuance of general obligation debt, or pending the issuance of the general obligation debt, effect the issuance of general obligation debt anticipation notes pursuant to Chapter 17 of this title.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11‑51‑110.** Resolution by State Budget and Control Board authorizing issuance of general obligation debt.

To effect the issuance of general obligation debt, the state board shall adopt a resolution providing for the issuance of general obligation debt pursuant to the provisions of this chapter. The authorizing resolution must include:

(1) a schedule showing the aggregate principal amount of general obligation debt issued, the annual principal payments required to retire the general obligation debt, and the interest on the general obligation debt;

(2) the amount of general obligation debt proposed to be issued;

(3) a schedule showing future annual principal requirements and estimated annual interest requirements on the general obligation debt to be issued;

(4) a certificate evidencing that the provisions of Section 11‑51‑70 of this chapter have been or will be met; and

(5) a certificate of the State Auditor as to the general fund revenues of the State for the fiscal year next preceding, excluding revenues pledged to the payment of state highway bonds and state institution bonds.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11‑51‑120.** Maturity, payment, and interest rates.

The general obligation debt must bear the date and mature at the time that the state board resolution provides, except that the general obligation debt may not mature more than thirty years from its date of issue. The general obligation debt 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 state board before its issue. The general obligation debt may bear interest payable at the times and at the rates determined by the state board.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11‑51‑125.** Allocation and use of funds; authorization for additional bonds; project approval.

(A) Of the funds authorized pursuant to this act, public institutions of higher learning as defined in Section 59‑103‑5, not including research universities, are authorized twelve percent of the total amount authorized under Section 11‑51‑40. The eligible institutions may only use the funds authorized under this subsection for deferred maintenance projects. The twelve percent authorized for the institutions, not including research universities, must be allocated by the Commission of Higher Education to eligible institutions as follows:

(1) sixty‑five percent of the total twelve percent must be allocated based on a reported deferred maintenance needs list from each eligible institutions; and

(2) thirty‑five percent of the total twelve percent must be allocated by FTE student enrollment from the prior academic year at each eligible institution.

The Research Centers of Excellence Review Board has no jurisdiction over these projects and no matching requirement is imposed for these projects. The Joint Bond Review Committee must review and the State Fiscal Accountability Authority must approve all projects.

(B)(1) After the aggregate total of bonds issued pursuant to this chapter equals two hundred and fifty million dollars, all further proceeds of bonds authorized pursuant to this chapter must be authorized as follows:

(a) eighty‑eight percent for the research universities in the manner and for the purposes provided pursuant to this chapter;

(b) twelve percent to public institutions of higher learning as defined in Section 59‑103‑5, not including the research universities, for deferred maintenance projects allocated as follows:

(i) one‑half for the state's ten comprehensive teaching universities distributed among them as provided in item (2) of this subsection; and

(ii) one‑half for the state's two‑year and technical colleges distributed among them as provided in item (2) of this subsection.

(2) The Commission on Higher Education shall distribute amounts allocated pursuant to item (1)(b)(i) and (ii) of this subsection among the two categories of eligible institutions as follows:

(a) thirty‑five percent in equal shares to each eligible institution; and

(b) sixty‑five percent based on FTE student enrollment from the prior academic year at eligible institutions.

(3) The Research Centers of Excellence Review Board has no jurisdiction over projects funded by bonds issued pursuant to item (1)(b) of this subsection and no matching requirement is imposed for these projects. All projects must be approved by the Joint Bond Review Committee and the State Budget and Control Board.

HISTORY: 2004 Act No. 187, Section 9; 2014 Act No. 121 (S.22), Pt VII, Section 20.L.2, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 20.L.2, in the undesignated paragraph following subsection (A)(2), substituted "must review and the State Fiscal Accountability Authority" for "and the State Budget and Control Board".

**SECTION 11‑51‑130.** General obligation debt exempt from taxation.

General obligation debt issued pursuant to this chapter is exempt from taxation as provided in Section 12‑2‑50.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11‑51‑140.** Executive signature, attestation, and state seal requirements.

General obligation debt issued pursuant to this chapter must be signed by the Governor and the State Treasurer and attested by the Secretary of State. The Governor, State Treasurer, and Secretary of State may sign the general obligation debt by a facsimile of their signatures. The Great Seal of the State must be affixed to, impressed on, or reproduced upon the general obligation debt. The delivery of the general obligation debt executed and authenticated, as provided in the state board resolution, is valid notwithstanding changes in officers or seal occurring after the execution or authentication.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11‑51‑150.** Pledge of full faith, credit, and taxing power of State; allocation of tax revenues for payment of principal and interest.

For the payment of the principal of and interest on the general obligation debt issued and outstanding pursuant to this chapter there is pledged the full faith, credit, and taxing power of this State, and in accordance with the provisions of Section 13(4), Article X of the Constitution of this State, 1895, the General Assembly allocates on an annual basis sufficient tax revenues to provide for the punctual payment of the principal of and interest on the general obligation debt authorized by this chapter.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11‑51‑160.** Advertisement and sale requirements; right to reject bids; expenses incident to sale.

General obligation debt must be sold by the Governor and the State Treasurer upon sealed proposals, after publication of a summary 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 general obligation debt may be awarded upon the terms and in the manner as prescribed by the State Treasurer. The right is reserved to reject bids and to re‑advertise the general obligation debt for sale. For the purpose of bringing about successful sales of the general obligation debt, the State Treasurer may do all things ordinarily and customarily done in connection with the sale of state or municipal bonds. Expenses incident to the sale of the general obligation debt must be paid from the proceeds of the sale of the general obligation debt.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11‑51‑170.** Application of sale proceeds; liability of purchaser.

The proceeds of the sale of general obligation debt must be received by the State Treasurer and applied by him to the purposes for which issued, but the purchasers of the general obligation debt are in no way liable for the proper application of the proceeds to the purposes for which they are intended.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11‑51‑180.** Investment by executors, administrators, and other fiduciaries.

It is lawful for executors, administrators, guardians, and other fiduciaries to invest monies in their hands in general obligation debt issued pursuant to this chapter.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11‑51‑190.** Exemption from state procurement process; alternative procurement procedures.

The research universities while engaging in projects related to this act shall be exempt from the state procurement process, except that the research universities must work in conjunction with the State Fiscal Accountability Authority's Chief Procurement Officer to establish alternate procurement procedures, and must submit a procurement process to the State Commission on Higher Education to be forwarded to the State Fiscal Accountability Authority for approval. These processes shall include provisions for audit and recertification.

HISTORY: 2004 Act No. 187, Section 9; 2014 Act No. 121 (S.22), Pt VII, Section 20.L.3, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 20.L.3, substituted "State Fiscal Accountability Authority's" for "Budget and Control Board's", and substituted "Fiscal Accountability Authority" for "Budget and Control Board", and made other nonsubstantive changes.

**SECTION 11‑51‑200.** Construction of Chapter.

No provision of this act is intended nor shall any provision of this act be construed to appropriate funds. The intent of the General Assembly is authorizing bonds according to the terms pursuant to this act only.

HISTORY: 2004 Act No. 187, Section 9.