CHAPTER 47

Joint Bond Review Committee

CROSS REFERENCES

Additional powers of the Department of Administration, permanent improvement projects, regulations, goods and services to promote efficient and economical operations, see Section 1‑11‑185.

**SECTION 2‑47‑10.** Declaration of legislative findings.

 The General Assembly finds that a need exists for careful planning of permanent improvements and of the utilization of state general obligation and institutional bond authority in order to ensure the continued favorable bond credit rating our State has historically enjoyed. It further finds that the responsibility for management of these matters is properly placed upon the legislative and executive branches of government. It is the purpose of this chapter to further ensure the proper legislative and executive response in the fulfillment of this responsibility.

HISTORY: 1976 Act No. 761, Section 1; 1979 Act No. 194, Part I, Section 10; 2014 Act No. 121 (S.22), Pt VII, Section 18.B, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 18.B, in the second sentence, substituted “legislative and executive branches of government” for “General Assembly by our State Constitution”; in the third sentence, substituted “chapter” for “resolution”, and inserted “and executive” following “proper legislative”; and made other nonsubstantive changes.

LIBRARY REFERENCES

Westlaw Key Number Searches: 360k34; 360k146.

States 34, 146.

C.J.S. States Sections 55 to 58, 252.

**SECTION 2‑47‑20.** Joint Bond Review Committee created; membership; expenses and assistance.

 There is hereby created a six member joint committee of the General Assembly to be known as the Joint Bond Review Committee to study and monitor policies and procedures relating to the approval of permanent improvement projects and to the issuance of state general obligation and institutional bonds; to evaluate the effect of current and past policies on the bond credit rating of the State; and provide advisory assistance in the establishment of future capital management policies. Three members shall be appointed from the Senate Finance Committee by the chairman thereof and three from the Ways and Means Committee of the House of Representatives by the chairman of that committee corresponding to the terms for which they are elected to the General Assembly. The committee shall elect officers of the committee, but any person so elected may succeed himself if elected to do so.

 The expenses of the committee shall be paid from approved accounts of both houses. The Legislative Council and all other legislative staff organizations shall provide such assistance as the joint committee may request.

HISTORY: 1976 Act No. 761, Section 2; 1979 Act No. 194, Part I, Section 10; 2014 Act No. 121 (S.22), Pt VII, Section 18.B, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 18.B, in the first undesignated paragraph, substituted “corresponding” for “Terms of members of the committee shall correspond”; and made other nonsubstantive changes.

CROSS REFERENCES

Authority of the trustees of the Medical University of South Carolina to issue bonds after review by the Bond Review Committee, see Section 59‑123‑220.

Issuance of revenue bonds by trustees of Medical University of South Carolina for student and faculty housing facilities, see Sections 59‑123‑210 et seq.

Review of agreements regarding parking facilities for the College of Charleston, see Section 59‑131‑10.

LIBRARY REFERENCES

Westlaw Key Number Searches: 360k34; 360k146.

States 34, 146.

C.J.S. States Sections 55 to 58, 252.

**SECTION 2‑47‑25.** Additional committee members to be appointed.

 In addition to the members provided for by Section 2‑47‑20, two additional members shall be appointed by the Chairman of the Ways and Means Committee of the House of Representatives from the membership of that body. Two additional members shall be appointed by the Chairman of the Finance Committee of the Senate from the membership of the Senate. Members shall serve the same terms as the members of the committee provided for in Section 2‑47‑20.

HISTORY: 1981 Act No. 179, Section 14; 2014 Act No. 121 (S.22), Pt VII, Section 18.B, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 18.B, made nonsubstantive changes.

LIBRARY REFERENCES

Westlaw Key Number Search: 360k34.

States 34.

C.J.S. States Sections 55 to 58.

**SECTION 2‑47‑30.** Powers and duties.

 The committee is specifically charged with, but not limited to, the following responsibilities:

 (1) to review, prior to approval by the State Fiscal Accountability Authority, the establishment of any permanent improvement project and the source of funds for any such 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 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 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 assigned responsibilities in consultation and cooperation with the executive branch of government and the authority;

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

HISTORY: 1976 Act No. 761, Section 3; 1979 Act No. 194, Part I, Section 10; 2014 Act No. 121 (S.22), Pt VII, Section 18.B, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 18.B, in subsection (1), substituted “State Fiscal Accountability Authority” for “Budget and Control Board”; in subsection (6), substituted “authority” for “Budget and Control Board”; and made other nonsubstantive changes.

CROSS REFERENCES

Responsibilities provided in this section applicable to Joint Bond Review Committee with respect to the South Carolina Infrastructure Facilities Authority Act, see Section 11‑40‑90.

LIBRARY REFERENCES

Westlaw Key Number Search: 360k34.

States 34.

C.J.S. States Sections 55 to 58.

**SECTION 2‑47‑35.** Establishment of funding priorities.

 No project authorized in whole or in part for capital improvement bond funding under the provisions of Act 1377 of 1968, as amended, may be implemented until funds can be made available and until the Joint Bond Review Committee, in consultation with the authority, 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.

HISTORY: 1986 Act No. 547, Section 3; 2014 Act No. 121 (S.22), Pt VII, Section 18.B, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 18.B, substituted “authority” for “Budget and Control Board”.

LIBRARY REFERENCES

Westlaw Key Number Searches: 360k34; 360k146.

States 34, 146.

C.J.S. States Sections 55 to 58, 252.

**SECTION 2‑47‑40.** Information to be furnished by agencies and institutions.

 (A) To assist the authority and the Joint Bond Review Committee in carrying out their respective responsibilities, any agency or institution requesting or receiving funds from any source for use in the financing of any permanent improvement project, as a minimum, shall provide to the authority, in such form and at such times as the authority, after review by the committee, may prescribe:

 (1) a complete description of the proposed project;

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

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

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

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

 (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;

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

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

 (B) All institutions of higher learning shall submit permanent improvement project proposal and justification statements to the authority, through the Commission on Higher Education, which shall forward all such statements and all supporting documentation received to the authority together with its comments and recommendations. The recommendations of the Commission on Higher Education, among other things, shall 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.

 The authority shall forward a copy of each project proposal and justification statement and supporting documentation received together with the authority’s recommendations on such projects to the committee for its review and action. The recommendations of the Commission on Higher Education shall be included in the materials forwarded to the committee by the authority.

 (C) No provision in this section or elsewhere in this chapter, shall be construed to 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 projects may require.

HISTORY: 1980 Act No. 518, Section 11; 2014 Act No. 121 (S.22), Pt VII, Section 18.B, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 18.B, added the subsection designators; in subsection (A), substituted “authority” for “State Budget and Control Board (the Board)”, deleted “(the Committee)” following “Joint Bond Review Committee”, twice substituted “authority” for “Board”, and set out the subparagraphs (1) through (8), which formerly were not set out as separate paragraphs; in subsection (B) and the following undesignated paragraph, substituted “authority” for “Board” throughout; and made other nonsubstantive changes.

CROSS REFERENCES

Midlands Technical College Enterprise Campus Authority, lease agreements for construction and use of campus facilities, see Section 59‑53‑1784.

LIBRARY REFERENCES

Westlaw Key Number Search: 360k34.

States 34.

C.J.S. States Sections 55 to 58.

**SECTION 2‑47‑50.** Establishment of permanent improvement projects by authority; review of proposed revisions; “permanent improvement project” defined.

 (A) The authority shall establish formally each permanent improvement project before actions of any sort which implement the project in any way may be undertaken and no 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 authority to establish the project shall 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 requests as proposed by the authority, requests to establish permanent improvement projects shall be made in such form and at such times as the authority may require.

 (B) Any proposal to finance all or any part of any 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 authority and reviewed by the committee shall be referred to the committee for review prior to approval by the authority.

 (C) Any proposed revision of the scope or of the budget of an established permanent improvement project deemed by the authority to be substantial shall be referred to the committee for its review prior to any final action by the authority. In making their determinations regarding changes in project scope, the authority, 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 proposal to increase the budget of a previously approved project using any funds not previously approved for the project by the authority and reviewed by the committee shall in all cases be deemed to be a substantial revision of a project budget which shall be referred to the committee for review. The committee shall be advised promptly of all actions taken by the authority which approve revisions in the scope of or the budget of any previously established permanent improvement project not deemed substantial by the authority.

 (D) 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, with staff level review of the committee and the State Fiscal Accountability Authority, up to two hundred fifty thousand dollars;

 (2) acquisition, as opposed to the construction, of buildings or other structures, regardless of cost, with staff level review of the committee and the State Fiscal Accountability Authority, up to two hundred fifty thousand dollars;

 (3) 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;

 (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 in which the total cost is one million dollars or more;

 (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 in which the total cost is one million dollars or more; and

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

 (E) 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 funds 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.

 (F) For purposes of establishing permanent improvement projects, Clemson University Public Service Activities (Clemson‑PSA) and South Carolina State University Public Service Activities (SC State‑PSA) are subject to the provisions of this chapter.

HISTORY: 1980 Act No. 518, Section 11; 1993 Act No. 178, Section 4; 2004 Act No. 187, Section 10, eff March 17, 2004; 2005 Act No. 143, Section 3, eff June 7, 2005; 2011 Act No. 74, Pt IV, Section 4, eff August 1, 2011; 2014 Act No. 121 (S.22), Pt VII, Section 18.B, eff July 1, 2015.

Effect of Amendment

The 2004 amendment added the fourth undesignated paragraph containing items (1) through (6) and the fifth undesignated paragraph relating to the status of projects that meet the definition of permanent improvement project.

The 2005 amendment reprinted the fourth and fifth undesignated paragraphs no apparent change.

The 2011 amendment, in the fourth undesignated paragraph, in subparagraph (1), inserted “, with staff level review of the committee and the Budget and Control Board, Capital Budget Office, up to two hundred fifty thousand dollars”, in subparagraph (2), inserted “, with staff level review of the committee and the Budget and Control Board, Capital Budget Office, up to two hundred fifty thousand dollars”, in subparagraph (3), deleted “construction of additional facilities and” from the beginning, and substituted “one million” for “five hundred thousand”, in subparagraph (5), substituted “in which the total cost is one million dollars or more;” for “and”, in subparagraph (6), added “in which the total cost is one million dollars or more; and”, and added subparagraph (7); and added the last undesignated paragraph relating to Clemson‑PSA and SC State‑PSA.

2014 Act No. 121, Section 18.B, added the subsection designators; substituted “authority” for “board” throughout; and in subsections (D)(1) and (D)(2), substituted “State Fiscal Accountability Authority” for “Budget and Control Board, Capital Budget Office”.

LIBRARY REFERENCES

Westlaw Key Number Search: 360k146.

Westlaw Key Number Search: 360k34.

States 34, 146.

C.J.S. States Sections 55 to 58, 252.

Attorney General’s Opinions

Capital improvement bond proceeds may be used to abate asbestos in or to remove asbestos from any dormitory facilities of any State institution of higher learning, provided that appropriate financial arrangements are made with that State institution receiving the funds as mandated by the current proviso. 1987 Op Atty Gen, No. 87‑18, p 59.

NOTES OF DECISIONS

Validity 1

1. Validity

Section of legislation commonly referred to as the “Life Sciences Act” requiring the State Budget and Control Board to formally establish each permanent improvement project before any actions could be taken to implement such a project, although conceivably related to Act, was too remote to be deemed part of the one subject expressed in Act and, thus, would be stricken. Sloan v. Wilkins (S.C. 2005) 362 S.C. 430, 608 S.E.2d 579. States 121; Statutes 1617(12)

**SECTION 2‑47‑55.** Comprehensive Permanent Improvement Plan.

 (A) All state agencies responsible for providing and maintaining physical facilities are required to submit a Comprehensive Permanent Improvement Plan (CPIP) to the Joint Bond Review Committee and the authority. The CPIP must include all of the agency’s permanent improvement projects anticipated and proposed over the next five years beginning with the fiscal year starting July first after submission. The purpose of the CPIP process is to provide the authority and the committee with an outline of each agency’s permanent improvement activities for the next five years. Agencies must submit a CPIP to the committee and the authority on or before a date to be determined by the committee and the authority. The CPIP for each higher education agency, including the technical colleges, must be submitted through the Commission on Higher Education which must review the CPIP and provide its recommendations to the authority and the committee. The authority and the committee must approve the CPIP after submission and may develop policies and procedures to implement and accomplish the purposes of this section.

 (B) The State shall define a permanent improvement only in terms of capital improvements, as defined by generally accepted accounting principles, for reporting purposes to the State.

HISTORY: 1993 Act No. 178, Section 5, eff July 1, 1993; 2003 Act No. 5, Section 1; 2014 Act No. 121 (S.22), Pt VII, Section 18.B, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 18.B, in subsection (A), substituted “authority” for “Budget and Control Board”, substituted “authority” for “board” throughout, and made other nonsubstantive changes.

LIBRARY REFERENCES

Westlaw Key Number Search: 360k146.

States 146.

C.J.S. States Section 252.

**SECTION 2‑47‑56.** Acceptance of gifts‑in‑kind for architectural and engineering services.

 Each state agency and institution may accept gifts‑in‑kind for architectural and engineering services and construction of a value less than two hundred fifty thousand dollars with the approval of the Commission of Higher Education or its designated staff, the director of the department, and the Joint Bond Review Committee or its designated staff. No other approvals or procedural requirements, including the provisions of Section 11‑35‑10, may be imposed on the acceptance of such gifts.

HISTORY: 1993 Act No. 178, Section 6; 2014 Act No. 121 (S.22), Pt VII, Section 18.B, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 18.B, substituted “director of the department” for “Director of the Division of General Services”.

**SECTION 2‑47‑60.** Joint Bond Review Committee to regulate starting date of certain highway projects.

 The Joint Bond Review Committee is hereby authorized and directed to regulate the starting date of the various projects approved for funding through the issuance of state highway bonds so as to ensure that the sources of revenue for debt service on such bonds shall be sufficient during the current fiscal year.

HISTORY: 1993 Act No. 181, Section 32; 2014 Act No. 121 (S.22), Pt VII, Section 18.B, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 18.B, reenacted the section with no apparent changes.

LIBRARY REFERENCES

Westlaw Key Number Searches: 360k34; 360k146.

States 34, 146.

C.J.S. States Sections 55 to 58, 252.