

ARTICLE 27.

TECHNICAL COLLEGE ENTERPRISE CAMPUS AUTHORITY

SECTION 59-53-2400. Definitions.

As used in this article:

- (1) "Authority" means a technical college Enterprise Campus Authority.
- (2) "Board" means the governing body of an authority.
- (3) "Commission" means an area commission as defined by Section 59-53-52.
- (4) "Enterprise campus" means the real and personal property subject to the management and control of an authority. The enterprise campus may consist of one or more tracts or parcels of real property and none of the tracts or parcels must be contiguous with other properties constituting the enterprise campus.

HISTORY: 2009 Act No. 71, Section 3, eff June 16, 2009.

SECTION 59-53-2410. Technical College Enterprise Campus Authorities created; purpose.

(A) There are created bodies politic and corporate known as the Aiken Technical College Enterprise Campus Authority, the Greenville Technical College Enterprise Campus Authority, the Orangeburg-Calhoun Technical College Enterprise Campus Authority, the Spartanburg Community College Enterprise Campus Authority, the Technical College of the Lowcountry Enterprise Campus Authority, the Horry-Georgetown Technical College Enterprise Campus Authority, and the York Technical College Enterprise Campus Authority. The authorities are public instrumentalities of the State and the exercise by them of a power conferred in this article is the performance of an essential public function. The authorities are governed by a board, which consists of members of the respective commissions. All members serve ex officio. Persons serving as chairman, vice chairman, treasurer, and secretary of the respective commissions shall serve in the same capacity on their respective board. Members of a board shall receive per diem as provided for members of boards, commissions, and committees and actual expenses incurred in the performance of their duties.

(B) A board shall exercise the powers of an authority.

(C) The purpose of an authority is to provide for the management, development, and operation of an enterprise campus.

HISTORY: 2009 Act No. 71, Section 3, eff June 16, 2009; 2010 Act No. 148, Section 1, eff April 20, 2010; 2010 Act No. 276, Section 1, eff June 16, 2010.

SECTION 59-53-2420. Powers of board.; contracts with public and private entities relating to facilities.

(A) In addition to the powers contained elsewhere in this article, a board has power necessary, useful, or appropriate to operate and administer an authority, to effectuate the purposes of an authority, and to perform its other functions including, but not limited to, the power to:

- (1) have perpetual succession;
- (2) sue and be sued in its own name;
- (3) adopt, promulgate, amend, and repeal bylaws, not inconsistent with provisions in this article for the administration of an authority's affairs and the implementation of its functions;
- (4) have a seal and alter it at its pleasure, although the failure to affix the seal does not affect the validity of an instrument executed on behalf of an authority;
- (5) make and execute contracts and all other instruments and agreements necessary or convenient for the performance of its duties and the exercise of its powers and functions;
- (6) buy, purchase, or otherwise acquire real and personal property and other assets and sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or part of its real and personal property and other assets, upon terms and conditions determined by the board;
- (7) employ agents, advisors, consultants, engineers, architects, attorneys, accountants, construction and financial experts, land planners, superintendents, managers, and other employees and agents as necessary in the board's judgment in connection with any aspect of the enterprise campus and determine their duties and to fix their compensation;
- (8) procure insurance against any loss in connection with its property, assets, or activities, including insurance against liability for its acts or the acts of its employees or agents;
- (9) procure insurance, guarantees, letters of credit, and other forms of collateral or security or credit support from public or private entities, including a department, agency, or instrumentality of the United States or the State of South Carolina, for the payment of any bonds issued by it, including the power to pay premiums or fees on any insurance, guarantees, letters of credit, and other forms of collateral or security or credit support;
- (10) receive, accept, and expend from any source including a federal, state, or other public agency or a private agency, person, or other entity appropriated funds, donations, loans, grants, aid, or contributions of money, property, labor, or other things of value;
- (11) invest or reinvest its funds as provided in Section 11-9-660;
- (12) make contracts and guarantees, incur liabilities, issue its notes, bonds, and other obligations, and secure its obligations by mortgage or pledge of its property, or income in a manner determined to be in the best interest of an authority. A guarantee or indebtedness of an authority does not create an obligation of the State or commission, nor must the guarantee or indebtedness be considered a debt against the general revenue of the State or commission;
- (13) fix and revise when necessary and charge and collect rates, fees, rents, and charges for the use of, and for the services furnished by it, for all or any portion of the enterprise campus;
- (14) determine the character of an enterprise campus, and acquire, develop, construct, and provide for an enterprise campus, and maintain, repair, and operate, and enter into contracts for the management, lease, use, or operation of all or any portion of an enterprise campus;
- (15) establish and enforce, and agree through a resolution or trust agreement authorizing or securing bonds, notes, other obligations, or indebtedness of an authority to make and enforce rules and regulations for the use of and services rendered by an authority for the enterprise campus;
- (16) appoint and provide for advisory committees;
- (17) establish nonprofit corporations in accordance with applicable corporate law and with the powers provided by the applicable corporate law; and
- (18) do all other things necessary or convenient to exercise the powers granted or reasonably implied by this article.

(B) The powers contained in this article include the power to enter into contracts and other agreements with public or private entities for the lease of authority property, the construction, occupancy, use, and ownership by the public or private entity of buildings or other facilities on authority property, and the conveyance of the public or private entity's property to an authority at the end of an applicable contract or agreement.

HISTORY: 2009 Act No. 71, Section 3, eff June 16, 2009.

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SECTION 59-53-2430. Lease and lease purchase agreements; State Budget and Control Board approval; compliance with Title 11, Chapter 35 and Section 1-11-65.

(A) An authority must comply with the provisions of Chapter 47, Title 2, but only State Budget and Control Board approval is required for leases and lease purchase agreements, including ground lease agreements, the 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 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.

(B) Notwithstanding another provision of this chapter, all powers granted to an authority must be exercised in a manner consistent with the provisions of Title 11, Chapter 35 and Section 1-11-65. Approval by the State Budget and Control Board is not a substitute for the requirements of Title 11, Chapter 35. An authority shall adhere to fire, life, and safety codes as required by the Office of State Engineer.

HISTORY: 2009 Act No. 71, Section 3, eff June 16, 2009.

SECTION 59-53-2440. Issuance of bonds, notes, other obligations, or indebtedness.

(A) An authority may issue bonds in the same manner and for the same purposes, including the purposes of an authority, pursuant to the provisions of the Higher Education Revenue Bond Act, as provided in Chapter 147, Title 59.

(B) The issuance by an authority of bonds, notes, other obligations, or indebtedness is subject to approval by resolution of the State Budget and Control Board.

(C) Bonds, notes, other obligations, or indebtedness of an authority do not constitute a debt or a pledge of the faith and credit of the State of South Carolina, the commission, or any of the state's political subdivisions other than an authority, but are payable only from the revenue, money, or property of an authority as provided in this article. The bonds, notes, other obligations, or indebtedness of an authority do not constitute an indebtedness of the State within the meaning of any state constitutional or statutory limitation. A member of the board or a person executing bonds, notes, other obligations, or indebtedness of an authority is not liable personally on the bonds, notes, other obligations, or indebtedness by reason of their issuance or execution. Each bond, note, other obligation, or indebtedness must contain on its face a statement to the effect that:

(1) the State, the commission, the State's political subdivisions, or an authority is not obligated to pay the principal of or interest on the bond or other costs incident to the bond except from the revenue, money, or property of an authority pledged;

(2) the full faith and credit, and the taxing power of the State and its political subdivisions, is not pledged to the payment of the principal of or interest on the bond, note, other obligation, or indebtedness; and

(3) an authority does not have taxing power.

HISTORY: 2009 Act No. 71, Section 3, eff June 16, 2009.

SECTION 59-53-2450. Annual report.

An authority shall submit an annual report on the development and use of the enterprise campus to the State Board for Technical and Comprehensive Education, the Governor, the State Budget and Control Board, the Chairman of the Ways and Means Committee of the House of Representatives, and the Chairman of the Finance Committee of the Senate. The report must be submitted not later than six months after the end of each fiscal year.

HISTORY: 2009 Act No. 71, Section 3, eff June 16, 2009.

SECTION 59-53-2460. Exemptions from taxes.

In performing an essential governmental function in the exercise of the powers conferred upon it, an authority is not required to pay taxes or assessments upon property or upon its activities or operations or the income from them, or taxes or assessments upon property acquired or used by an authority or upon the income from them. Bonds, notes, other obligations, or indebtedness issued by an authority and the income from them are free from taxation and assessment of every kind by the State and by the local governments and other political subdivisions of the State.

HISTORY: 2009 Act No. 71, Section 3, eff June 16, 2009.

SECTION 59-53-2470. Powers and duties of commission; designation of area and purpose of enterprise campus; management, development and operation; conveyance of real and personal property.

(A) A commission must designate with specificity the area or areas that comprise the enterprise campus and the purpose of the enterprise campus. This information must be submitted to the State Board for Technical and Comprehensive Education. The state board shall have final approval over the areas designated as part of a Technical College Enterprise Campus Authority and the projects to be undertaken.

(B) A commission may provide for the management, development, and operation of part or all of the enterprise campus property by an authority.

(C) An area commission is authorized to enter into contracts with the Enterprise Campus Authority for the provision of executive and administrative services to an authority.

(D) In the fulfillment of the power contained in this section, the commission is authorized to sell, convey, lease, exchange, transfer, or give all or part of its real and personal property and other assets constituting the enterprise campus to the Enterprise Campus Authority upon such terms and conditions as the commission determines. The commission may sell, convey, lease, exchange, transfer, or give all or part of its real and personal property and other assets constituting the enterprise campus, other than the property defined pursuant to paragraph (A), only upon approval by the State Board for Technical and Comprehensive Education. The commission may buy, purchase, or otherwise acquire and accept real and personal property and other assets from the Enterprise Campus Authority only in accordance with all regulations and general laws applicable to state-supported technical institutions in the acquisition and acceptance of real and personal property and other assets.

HISTORY: 2009 Act No. 71, Section 3, eff June 16, 2009.