

**REPORT OF THE
ECONOMIC DEVELOPMENT,
CAPITAL IMPROVEMENT &
OTHER TAXES SUBCOMMITTEE**

(Loftis, Cobb-Hunter, J.R. Smith, Edge & Ott - Staff Contact: Daniel Boan)

SENATE BILL 1331

S. 1331 -- Senators Leatherman and Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 13-17-89 SO AS TO PROVIDE THAT NO PROVISION IN CHAPTER 17, TITLE 13 MAY BE CONSTRUED TO AUTHORIZE THE SOUTH CAROLINA RESEARCH AUTHORITY TO COMMIT THE CREDIT AND TAXING POWER OF THE STATE, TO PROVIDE A WRITTEN NOTICE REQUIREMENT WHEN THE AUTHORITY HAS CERTAIN RELATIONSHIPS WITH A NONPROFIT ENTITY THAT ESTABLISHES A FOR-PROFIT ENTITY, AND TO PROVIDE THAT A FAILURE TO PROVIDE THIS NOTICE MAY NOT BE CONSTRUED TO INDICATE THE AUTHORITY MAY PLEDGE THE CREDIT AND TAXING POWER OF THE STATE; TO AMEND SECTION 13-17-40, AS AMENDED, RELATING TO THE MEMBERSHIP AND TERMS OF THE BOARD OF TRUSTEES AND EXECUTIVE COMMITTEE OF THE AUTHORITY, SO AS TO PROVIDE FOR THE ELECTION OF TWO ADDITIONAL TRUSTEES, TO PERMIT A UNIVERSITY PRESIDENT WHO IS AN EX OFFICIO MEMBER OF THE BOARD TO DESIGNATE THE CHIEF RESEARCH OFFICER OF HIS UNIVERSITY TO PARTICIPATE AND VOTE IN NO MORE THAN TWO MEETINGS OF THE EXECUTIVE COMMITTEE EACH YEAR, TO PROVIDE FOR MEMBERS' TERMS, FILLING OF VACANCIES, AND REMOVAL OF EXECUTIVE COMMITTEE MEMBERS, AND TO ALLOW THE CHAIRMAN OF THE HOUSE WAYS AND MEANS COMMITTEE AND THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE, OR THEIR DESIGNEE, TO SERVE ON THE BOARD, AND TO DELETE ARCHAIC REFERENCES; TO AMEND SECTION 13-17-70, AS AMENDED, RELATING TO THE POWERS OF THE BOARD OF TRUSTEES OF THE AUTHORITY, SO AS TO PROVIDE THE BOARD MAY PROVIDE GUARANTEES AS SECURITY FOR CERTAIN OBLIGATIONS; TO AMEND SECTION 13-17-87, AS AMENDED, RELATING TO COSTS ASSOCIATED WITH INNOVATION CENTERS ESTABLISHED BY THE AUTHORITY, SO AS TO MAKE CERTAIN FINANCING OPTIONAL RATHER THAN MANDATORY, TO EXPAND THE SOURCES OF FUNDING AVAILABLE FOR FINANCING THESE COSTS, AND TO PROHIBIT THE USE OF A PLEDGE OF CREDIT AND TAXING POWER OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE TO FINANCE THESE COSTS; AND TO AMEND SECTION 8-13-770, AS AMENDED, RELATING TO MEMBERS OF THE GENERAL ASSEMBLY SERVING ON BOARDS, SO AS TO MAKE CONFORMING CHANGES.

Summary of Bill:

The bill makes limited changes to SCRA's governing board and clarifies in the code that SCRA cannot pledge the credit or taxing power of the state.

Introduced: 3/14/2012

Received by Ways and Means: 5/1/2012

Estimated Fiscal Impact:

Adding two executive committee members would cost \$380 per one-day meeting.

Subcommittee Recommendation:

Favorable

Full Committee Recommendation:

Pending

Other Notes/Comments:

FISCAL IMPACT STATEMENT ON BILL NO. **1331**
(Doc. No. 12072dg12.docx)

TO:	The Honorable Hugh K. Leatherman, Sr., Chairperson, Senate Finance Committee		
FROM:	State Budget Division, Budget and Control Board		
ANALYSTS:	Nicole Ford-Jennings, Beth Quick		
DATE:	April 18, 2012	SBD:	2012249

AUTHOR:	Senator Leatherman	PRIMARY CODE CITE:	13-17-89
SUBJECT:	Research Authority		

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:
See Below

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:
\$0 (No additional expenditures or savings are expected)

BILL SUMMARY:

Senate Bill 1331 amends Title 13, Chapter 17 of the Code of Laws, 1976, by adding Section 13-17-89 related to the South Carolina Research Authority (SCRA). If enacted, the Bill would make limited changes with regard to SCRA's authority and clarifies that the entity does not have the authority to pledge the credit or taxing power of the State or political subdivision of the State in connection with provisions of the chapter. It revises provisions for costs associated with innovation centers established by the authority. In addition, provisions revise the membership structure, terms, and procedures of the board of trustees of the SCRA.

EXPLANATION OF IMPACT:

Commission on Higher Education

The Commission on Higher Education indicates this Bill will have no impact on the General Fund of the State or on Federal and/or Other Funds.

The Senate and the House of Representatives

The Legislature indicates there will be an additional cost for the proposed Bill. This Bill will add two members to the executive committee of the board of trustees. The cost per non-legislator per one-day meeting is \$190. The additional cost for the two members will be \$380 per one-day meeting.


LOCAL GOVERNMENT IMPACT:

None.

SPECIAL NOTES:

None.

Approved by:



Brenda Hart
Assistant Director, State Budget Division

South Carolina General Assembly
119th Session, 2011-2012

S. 1331

STATUS INFORMATION

General Bill

Sponsors: Senators Leatherman and Ford

Document Path: I:\council\bills\nbd\12072dg12.docx

Introduced in the Senate on March 14, 2012

Introduced in the House on May 1, 2012

Currently residing in the House Committee on **Ways and Means**

Summary: Research Authority

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
3/14/2012	Senate	Introduced and read first time (Senate Journal-page 7)
3/14/2012	Senate	Referred to Committee on Finance (Senate Journal-page 7)
4/25/2012	Senate	Committee report: Favorable Finance (Senate Journal-page 14)
4/26/2012		Scrivener's error corrected
4/26/2012	Senate	Read second time (Senate Journal-page 63)
4/26/2012	Senate	Roll call Ayes-34 Nays-2 (Senate Journal-page 63)
4/26/2012	Senate	Unanimous consent for third reading on next legislative day (Senate Journal-page 63)
4/27/2012	Senate	Read third time and sent to House (Senate Journal-page 5)
5/1/2012	House	Introduced and read first time (House Journal-page 10)
5/1/2012	House	Referred to Committee on Ways and Means (House Journal-page 10)

View the latest [legislative information](#) at the LPITS web site

VERSIONS OF THIS BILL

[3/14/2012](#)

[4/25/2012](#)

[4/26/2012](#)

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

3

4 COMMITTEE REPORT

5 April 25, 2012

6

7

S. 1331

8

9 Introduced by Senator Leatherman

10

11 S. Printed 4/25/12--S. [SEC 4/26/12 3:37 PM]

12 Read the first time March 14, 2012.

13

14

15 THE COMMITTEE ON FINANCE

16 To whom was referred a Bill (S. 1331) to amend the Code of
17 Laws of South Carolina, 1976, by adding Section 13-17-89 so as to
18 provide that no provision in Chapter 17, Title 13 may be construed,
19 etc., respectfully

20 REPORT:

21 That they have duly and carefully considered the same and
22 recommend that the same do pass:

23

24 HUGH K. LEATHERMAN, SR. for Committee.

25

1
2
3
4
5
6
7
8
9
10

A BILL

11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, BY ADDING SECTION 13-17-89 SO AS TO PROVIDE
13 THAT NO PROVISION IN CHAPTER 17, TITLE 13 MAY BE
14 CONSTRUED TO AUTHORIZE THE SOUTH CAROLINA
15 RESEARCH AUTHORITY TO COMMIT THE CREDIT AND
16 TAXING POWER OF THE STATE, TO PROVIDE A WRITTEN
17 NOTICE REQUIREMENT WHEN THE AUTHORITY HAS
18 CERTAIN RELATIONSHIPS WITH A NONPROFIT ENTITY
19 THAT ESTABLISHES A FOR-PROFIT ENTITY, AND TO
20 PROVIDE THAT A FAILURE TO PROVIDE THIS NOTICE
21 MAY NOT BE CONSTRUED TO INDICATE THE
22 AUTHORITY MAY PLEDGE THE CREDIT AND TAXING
23 POWER OF THE STATE; TO AMEND SECTION 13-17-40, AS
24 AMENDED, RELATING TO THE MEMBERSHIP AND
25 TERMS OF THE BOARD OF TRUSTEES AND EXECUTIVE
26 COMMITTEE OF THE AUTHORITY, SO AS TO PROVIDE
27 FOR THE ELECTION OF TWO ADDITIONAL TRUSTEES, TO
28 PERMIT A UNIVERSITY PRESIDENT WHO IS AN EX
29 OFFICIO MEMBER OF THE BOARD TO DESIGNATE THE
30 CHIEF RESEARCH OFFICER OF HIS UNIVERSITY TO
31 PARTICIPATE AND VOTE IN NO MORE THAN TWO
32 MEETINGS OF THE EXECUTIVE COMMITTEE EACH
33 YEAR, TO PROVIDE FOR MEMBERS' TERMS, FILLING OF
34 VACANCIES, AND REMOVAL OF EXECUTIVE
35 COMMITTEE MEMBERS, AND TO ALLOW THE
36 CHAIRMAN OF THE HOUSE WAYS AND MEANS
37 COMMITTEE AND THE CHAIRMAN OF THE SENATE
38 FINANCE COMMITTEE, OR THEIR DESIGNEE, TO SERVE
39 ON THE BOARD, AND TO DELETE ARCHAIC
40 REFERENCES; TO AMEND SECTION 13-17-70, AS
41 AMENDED, RELATING TO THE POWERS OF THE BOARD
42 OF TRUSTEES OF THE AUTHORITY, SO AS TO PROVIDE

1 THE BOARD MAY PROVIDE GUARANTEES AS SECURITY
2 FOR CERTAIN OBLIGATIONS; TO AMEND SECTION
3 13-17-87, AS AMENDED, RELATING TO COSTS
4 ASSOCIATED WITH INNOVATION CENTERS
5 ESTABLISHED BY THE AUTHORITY, SO AS TO MAKE
6 CERTAIN FINANCING OPTIONAL RATHER THAN
7 MANDATORY, TO EXPAND THE SOURCES OF FUNDING
8 AVAILABLE FOR FINANCING THESE COSTS, AND TO
9 PROHIBIT THE USE OF A PLEDGE OF CREDIT AND
10 TAXING POWER OF THE STATE OR A POLITICAL
11 SUBDIVISION OF THE STATE TO FINANCE THESE COSTS;
12 AND TO AMEND SECTION 8-13-770, AS AMENDED,
13 RELATING TO MEMBERS OF THE GENERAL ASSEMBLY
14 SERVING ON BOARDS, SO AS TO MAKE CONFORMING
15 CHANGES.

16
17 Be it enacted by the General Assembly of the State of South
18 Carolina:

19
20 SECTION 1. Chapter 17, Title 13 of the 1976 Code is amended by
21 adding:

22
23 “Section 13-17-89. A provision of this chapter may not be
24 construed to authorize the SCRA to commit the credit and taxing
25 power of the State. Where the SCRA establishes, controls, funds,
26 supports, or is otherwise involved with a nonprofit entity or
27 appoints some or all of the directors of a nonprofit entity, and this
28 nonprofit entity has established or establishes a for-profit entity,
29 has acquired or acquires an ownership interest in a for-profit entity,
30 the SCRA shall provide written notice to both this nonprofit entity
31 and this for-profit entity that the SCRA may not pledge the credit
32 and taxing power of the State. A failure to provide this written
33 notice may not be construed to indicate the SCRA may pledge the
34 credit and taxing power of the State.”

35
36 SECTION 2. Section 13-17-40 of the 1976 Code, as last amended
37 by Act 83 of 2007, is further amended to read:

38
39 “Section 13-17-40. (A)(1) The SCRA shall consist of a board of
40 twenty-four trustees that includes the following ex officio
41 members: President of the Council of Private Colleges of South
42 Carolina, Chairman of the South Carolina Commission on Higher
43 Education, President of Clemson University, President of the

1 Medical University of South Carolina, President of South Carolina
2 State College, President of the University of South Carolina,
3 Director of Savannah River National Laboratory, President of
4 Francis Marion University, Chairman of the State Board for
5 Technical and Comprehensive Education, Governor of South
6 Carolina or his designee, Chairman of the House Ways and Means
7 ~~Committee's~~ Committee or his designee, Chairman of the Senate
8 Finance ~~Committee's~~ Committee or his designee, and the
9 Secretary of Commerce or his designee.

10 (2) The Governor shall name the chairman who must not be
11 a public official and who serves at the pleasure of the Governor.
12 The remaining ten trustees must be elected by the board of trustees
13 from a list of nominees submitted by an ad hoc committee named
14 by the chairman and composed of the members serving as elected
15 trustees. ~~The original elected trustees must be the same members~~
16 ~~serving as elected trustees on the board on January 1, 2005.~~ Each
17 of the Congressional Districts of South Carolina ~~has~~ must have at
18 least one of the ten trustees.

19 (3) Terms of elected trustees are for four years, and half
20 expire every two years. An elected trustee may not serve more
21 than two consecutive four-year elected terms. Vacancies must be
22 filled for the unexpired term in the manner of original
23 appointment. A vacancy occurs upon the expiration of the term of
24 service, death, resignation, disqualification, or removal of a trustee.

25 (B)(1) The President of Clemson University, President of the
26 Medical University of South Carolina, President of the University
27 of South Carolina at Columbia, the Governor or his designee, the
28 Chairman of the House Ways and Means ~~Committee's~~ Committee
29 or his designee, the Chairman of the Senate Finance ~~Committee's~~
30 Committee or his designee, and the chairman of the board of
31 trustees shall serve as on the executive committee of the board of
32 trustees. The executive committee shall elect two additional
33 members of the executive committee, who shall be trustees at the
34 time of their election, by the affirmative vote of a majority of the
35 members of the executive committee then serving. Each of the
36 three university presidents, with respect to no more than two
37 executive committee meetings each calendar year, may designate
38 in his place that university's chief research officer, as determined
39 in the sole discretion of the designating president, to participate in
40 and vote at executive committee meetings specified in the
41 designation. The executive committee has all powers and
42 authority of the board of trustees. The board shall have an

1 advisory role only and shall advise the executive committee of the
2 actions recommended by the board.

3 (2) Terms of elected executive committee members are for
4 four years, and half expire every two years. An elected executive
5 committee member may not serve more than two consecutive
6 four-year elected terms. A vacancy must be filled for the
7 unexpired term in the manner of original election, and occurs upon
8 the expiration of the term of service, death, resignation,
9 disqualification, or removal of an elected executive committee
10 member. An elected executive committee member need not
11 continue to be a trustee in order to complete his term as an
12 executive committee member. An elected executive committee
13 member may be removed from office by the affirmative vote of
14 two-thirds of the executive committee members serving.

15 (3) The executive committee shall appoint a business and
16 science advisory board to include representatives from each
17 research university, the venture capital industry, relevant industry
18 leaders, and the Department of Commerce. The purpose of the
19 advisory board is to advise the board of trustees when requested by
20 it. The advisory board shall ensure that the authority has the input
21 of the research and business communities in implementing its
22 programs and services.

23 (C) A trustee may not receive a salary for his services as a
24 trustee; however, a trustee must be reimbursed for actual expenses
25 incurred in service to the authority.

26 (D) The board annually shall submit a report to the General
27 Assembly including information on all acts of the board of trustees
28 together with a financial statement and full information as to the
29 work of the authority.

30 (E) The board shall hire an executive director of the SCRA
31 who has administrative responsibility for the SCRA. The
32 executive director shall maintain, through a designated agent,
33 accurate and complete books and records of account, custody, and
34 responsibility for the property and funds of the authority and
35 control over the authority bank account. The executive director,
36 with the approval of the board, has the power to appoint officers
37 and employees, to prescribe their duties, and to fix their
38 compensation. The board of trustees shall select a reputable
39 certified public accountant to audit the books of account at least
40 once each year.

41 (F) Regular meetings of the board of trustees must be held at a
42 time and place the chairman may determine. Special meetings of

1 the board of trustees may be called by the chairman when
2 reasonable notice is given.”

3

4 SECTION 3. Section 13-17-70(12) of the 1976 Code, as last
5 amended by Act 133 of 2005, is further amended to read:

6

7 “(12) to provide guarantees as security for notes, bonds,
8 evidences of indebtedness, or other obligations of affiliates as
9 defined in Section 35-2-201, or of other entities with respect to
10 which the authority has the right to appoint one or more board
11 members, and to mortgage, pledge, hypothecate, or otherwise
12 encumber the property, real, personal, or mixed, or facilities, or
13 revenues of the authority as security for or relating to these
14 guarantees, or for notes, bonds, evidences of indebtedness, or other
15 obligations of the authority; provided, the authority shall have no
16 authority to pledge the credit and the taxing power of the State or
17 any of its political subdivisions;”

18

19 SECTION 4. Section 13-17-87(E) of the 1976 Code, as added by
20 Act 133 of 2005, is amended to read:

21

22 “(E) Costs associated with the physical space for the innovation
23 centers including, but not limited to, the costs to acquire, lease, or
24 build the physical space and to ~~up-fit~~ up fit the physical space,
25 ~~must~~ may be financed through the issuance of general obligation
26 debt to the maximum extent allowed by Chapter 51 of, Title 11,
27 the South Carolina Research University Infrastructure Act, ~~or~~ by
28 private match funding, from the budget of the authority, or by
29 other means; provided, however, that in no event shall there be a
30 pledge of the credit and taxing power of the State or a political
31 subdivision of the State in connection with this financing. Other
32 ~~costs associated with the innovation centers must be funded from~~
33 ~~the budget of the authority, as specified elsewhere in this chapter.~~
34 The facilities and programs at each site may be tailored to the
35 predominant research focuses of that area. Each may contain wet
36 and dry laboratory space, office space, prototype production
37 facilities, pilot operations, clean rooms, and other specialized
38 facilities.”

39

40 SECTION 5. Section 8-13-770 of the 1976 Code, as last amended
41 by Act 103 of 2005, is further amended to read:

42

1 "Section 8-13-770. A member of the General Assembly may not
2 serve in any capacity as a member of a state board or commission,
3 except for the State Budget and Control Board, the Advisory
4 Commission on Intergovernmental Relations, the Legislative Audit
5 Council, the Legislative Council, the Legislative Information
6 Systems, the Judicial Council, the Commission on Prosecution
7 Coordination, the South Carolina Tobacco Community
8 Development Board, the Tobacco Settlement Revenue
9 Management Authority, the South Carolina Transportation
10 Infrastructure Bank, the Commission on Indigent Defense, the
11 South Carolina Research Authority, and the joint legislative
12 committees."

13

14 SECTION 6. This act takes effect upon approval by the Governor.

15

----XX----

16