**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 138 TO TITLE 59 SO AS TO ESTABLISH THE SOUTH CAROLINA COLLEGE AND UNIVERSITY BOARD OF REGENTS AND PROVIDE FOR ITS MEMBERSHIP, POWERS, DUTIES, AND RESPONSIBILITIES; TO PROVIDE FOR THE SERVICE OF TRUSTEES OR MEMBERS OF THE GOVERNING BODY OF “CONSTITUENT INSTITUTIONS”, DEFINED AS ALL TWO‑YEAR AND FOUR‑YEAR COLLEGES AND UNIVERSITIES IN THIS STATE INCLUDING TECHNICAL COLLEGES; TO PROVIDE THAT ON JULY 1, 2009, THE POWERS, DUTIES, AND RESPONSIBILITIES OF THE STATE COMMISSION ON HIGHER EDUCATION AND THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION NOT INCONSISTENT WITH CHAPTER 138 OF TITLE 59 ARE DEVOLVED UPON THE SOUTH CAROLINA COLLEGE AND UNIVERSITY BOARD OF REGENTS; AND TO REPEAL SECTION 59‑103‑10 RELATING TO THE STATE COMMISSION ON HIGHER EDUCATION AND SECTION 59‑53‑10 RELATING TO THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION.

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

SECTION 1. Title 59 of the 1976 Code is amended by adding:

“CHAPTER 138

South Carolina College and

University Board of Regents

Section 59‑138‑10. In order to foster the development of a coordinated system of higher education, to improve the quality of education, to extend its benefits, and to encourage an economical use of the state’s resources, the South Carolina system of higher education is redefined in accordance with the provisions of this chapter.

Section 59‑138‑20. As used in this chapter, unless the context clearly requires otherwise:

(1) ‘Board’ means the South Carolina College and University Board of Regents.

(2) ‘Board of Trustees’ means the board of trustees or governing board or commission of a constituent institution.

(3) ‘Constituent institution’ or ‘institution’ means those public institutions of higher learning defined by Section 59‑103‑5.

Section 59‑138‑30. There is created a South Carolina College and University Board of Regents, which is known as the ‘State Board of Regents’ and which is a body corporate and politic and which by that name has the power to:

(1) have perpetual succession;

(2) sue and be sued in the corporate name;

(3) have a common seal and to alter it at pleasure;

(4) make contracts and to have, to hold, to purchase, and to lease real estate and personal property for corporate purposes, and to sell and dispose of personal property and buildings that are considered by it as surplus property or not further needed and buildings that it may need to dispose of for the purpose of making room for other construction. However, the board does not have the power to sell or otherwise dispose of real estate, other than buildings, except with the consent of the General Assembly;

(5) elect from its membership for two‑year terms a chairman, vice chairman, and secretary of the board to serve until their successors have been elected and qualify. However, no person may serve as chairman for more than four years in succession;

(6) take, demand, receive, and possess monies, goods, and chattels that may be given for the use of a constituent institution and to apply the same according to the will of the donors;

(7) receive, possess, enjoy, and retain forever by gift, purchase, or devise real and personal estate and funds of any kind, nature, or quality in special trust and confidence that the same, or the profits from them, must be applied to and for the use and purpose of establishing and endowing the constituent institutions;

(8) do all things which usually are done by bodies corporate and politic or anything necessary for the promotion of learning and virtue.

Section 59‑138‑40. (A) The Board of Regents is composed of fifteen members. Two members must be elected by the General Assembly from each congressional district with no two members from a congressional district being from the same county. These members must be elected for terms of four years each and until their successors are elected and qualify, except that of those members first elected, one‑half must be elected for terms of two years each with the initial terms of all members to be designated by the General Assembly when conducting the elections.

Three members must be appointed by the Governor to serve for terms coterminous with his term of office. Vacancies in all seats must be filled by election or appointment in the same manner of original election or appointment for the remainder of the unexpired term.

(B) Neither a person elected or appointed to the board nor a member of his immediate family may be employed by or be a member of the governing body of a constituent institution for a period of five years immediately preceding his election or appointment to the Board of Regents.

Section 59‑138‑50. (A) A member of the board must be chosen for his interest in, and his ability to contribute to the fulfillment of, the purposes of the board. Each member is charged with the responsibility of serving the best interests of the State. In selecting members, the objective must be to obtain the services of the best qualified citizens of the State, taking into consideration the need for representation on the board by the different races, sexes, and political parties.

(B) Each member of the board shall receive mileage, subsistence, and per diem as is allowed for members of state boards, committees, and commissions.

Section 59‑138‑60. The board shall meet at stated times established by the board, but not less frequently than six times a year. A quorum for the conduct of business consists of a majority of the members.

Section 59‑138‑70. The board has the power to appoint from its membership committees which are clothed with any the board may confer which are consistent with law. No committee may reverse a decision concerning a policy taken by the board at a regular meeting.

Section 59‑138‑80. In performing its functions, duties, and responsibilities:

(1) The board shall plan and develop a coordinated system of higher education in South Carolina. The board shall govern the constituent institutions, subject to the powers, duties, and responsibilities granted in this chapter to the boards of trustees of the institutions, and the board shall maintain close liaison with the constituent institutions, the State Board of Education, and other committees, boards, commissions, or agencies which serve the purpose of fostering education in South Carolina. The board, in consultation with representatives of the private colleges and universities of this State, shall prepare and revise a long‑range plan for a coordinated system of higher education, supplying copies of the plan to the Governor, the members of the General Assembly, the members of the State Budget and Control Board, and the constituent institutions.

(2) The board is responsible for the general determination, control, supervision, management, and governance of all affairs of the constituent institutions. For this purpose, the board may adopt and promulgate policies and regulations it considers wise.

(3) The board shall determine the functions, educational activities, and academic programs of the constituent institutions. The board also shall determine the types of degrees to be awarded by the constituent institutions. The powers granted in this chapter to the board are not restricted by any provision of law assigning specific functions, duties, or responsibilities to designated institutions, and the powers granted in this chapter to the board are superior to the provision. After adequate notice and after giving the board of trustees or a governing body of a constituent institution an opportunity to be heard, the board is authorized to withdraw approval of an existing program if it appears that the program is unproductive, excessively costly, or unnecessarily duplicative.

(4) The board shall approve the establishment of a new publicly supported institution of higher education.

(5) The board shall set tuition and required fees at the institutions not inconsistent with any action of the General Assembly.

(6) The board shall set enrollment levels at the constituent institutions.

(7) The board shall develop, prepare, and present to the Governor, the General Assembly, and the State Budget and Control Board a budget for each constituent institution. In preparing this budget, the board shall consult specifically with the constituent institution involved.

(8) The board shall render advice and make recommendations concerning education to the Governor and General Assembly on an annual basis or more frequently if requested by the Governor or the General Assembly.

Section 59‑138‑90. Property, rights, and privileges held by the boards of trustees or governing bodies of the constituent institutions as the property, rights, and privileges may exist immediately before the effective date of this chapter are transferred to and assumed by the board. Property, real or personal or mixed, held immediately before the effective date of this chapter by a board of trustees of a constituent institution for the benefit of that institution must be kept separate and distinct from other properties held by the board, must continue to be held for the benefit of the institution that was previously the beneficiary, and must continue to be held subject to the provisions of the respective instruments, grants, or other means of process by which any property was acquired. Nothing contained in this chapter increases or diminishes the income, other revenue, or specific property which is pledged or otherwise hypothecated for the security or liquidation of an obligation. The board shall assume the obligations without either enlarging or diminishing the rights of the holders of the obligations.

Section 59‑138‑100. Pursuant to this chapter, each board of trustees or governing body of a constituent institution has the powers and duties to:

(1) promote the sound development of the institution within the functions prescribed for it, helping it to serve the State in a way that will complement the activities of the other constituent institutions and aiding it to perform at a high level of excellence in every area of endeavor;

(2) serve as advisor to the Board of Regents on matters pertaining to the institution;

(3) appoint a chairman of the board of trustees or governing body and other officers necessary to assist the members of the board of trustees or governing body in their duties;

(4) appoint, with the advice and consent of the Board of Regents, a college president, treasurer, and secretary and, with the advice and consent of the Board of Regents, to prescribe their duties and terms of office;

(5) make bylaws and regulations for the management of its institution’s affairs and operations not inconsistent with policies of the Board of Regents or with any provision of law. Bylaws and regulations must be approved by the Board of Regents before becoming effective;

(6) confer degrees upon students and other persons who meet the standards set by the Board of Regents;

(7) perform other functions delegated to it by the Board of Regents, which functions may not be inconsistent with law;

(8) perform functions enumerated in the statutes governing the board of trustees’ or governing body’s existence, as long as the function has not been granted to the Board of Regents by this chapter.

Section 59‑138‑110. To the extent that a regulation or other provision of law is inconsistent with this chapter or confers powers on other bodies inconsistent with the powers conferred on the Board of Regents, the provisions of this chapter prevail and apply.”

SECTION 2. Persons who, as of the effective date of Chapter 138, Title 59, are serving as trustees or members of the governing body of constituent institutions, as defined in that chapter, shall continue to serve as provided by the applicable provisions of law governing their institutions. Their successors must be elected in the manner and at the time prescribed by the provisions of law governing their institutions.

SECTION 3. Upon the effective date of this act, the duties, powers, and responsibilities of the State Commission on Higher Education and the State Board for Technical and Comprehensive Education not inconsistent with the duties, powers, and responsibilities conferred upon the South Carolina College and University Board of Regents under Chapter 138, Title 59, are devolved upon the South Carolina College and University Board of Regents.

SECTION 4. Sections 59‑53‑10 and 59‑103‑10 of the 1976 Code are repealed.

SECTION 5. This act takes effect July 1, 2009.

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