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COMMITTEE REPORT

February 11, 2010

**H. 3365**

Introduced by Reps. Cooper, T.R. Young and J.R. Smith

S. Printed 2/11/10--S. [SEC 2/12/10 1:19 PM]

Read the first time April 14, 2009.

**THE COMMITTEE ON EDUCATION**

To whom was referred a Bill (H. 3365) to enact the South Carolina Higher Education Efficiency and Administrative Policies Act of 2009, including provisions to amend Chapter 101 of Title 59, relating to higher education, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ Part I

Citation

SECTION 1. This act is known and may be cited as the “South Carolina Higher Education Efficiency and Administrative Policies Act of 2010”.

Part II

Human Resource Reforms

SECTION 2. Chapter 101, Title 59 of the 1976 Code is amended by adding:

“Article 5

Human Resources at a Public Institution

of Higher Learning

Section 59‑101‑1010. As used in this article, ‘public institution of higher learning’, or ‘institution’ means a four‑year public institution of higher learning or graduate level public institution of higher learning, including two-year branch campuses of a graduate level public institution of higher learning in this State, not including technical colleges.

Section 59‑101‑1020. The Budget and Control Board’s State Office of Human Resources shall participate with five representatives selected by the respective presidents of the public institutions of higher learning to represent all of the public institutions of higher learning to study, develop, and recommend a separate, comprehensive human resources system for the public institutions of higher learning. The recommendation shall include, but not be limited to, prescription of a methodology to establish a uniform compensation and classification plan among the public institutions of higher learning. The recommendations must provide for necessary accountability to the Budget and Control Board, including a process for reporting human resources data. The recommendation must be submitted to the State Budget and Control Board for its review no later than July 1, 2011, and shall not be implemented until approved by the Budget and Control Board pursuant to Section 8‑11‑230.”

Part III

Facilities and Capital Expenditure Revisions

SECTION 3. Section 2‑47‑50 of the 1976 Code is amended to read:

“Section 2‑47‑50. The board 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 board 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 board, requests to establish permanent improvement projects shall be made in such form and at such times as the board may require.

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 board and reviewed by the committee shall be referred to the committee for review prior to approval by the board.

Any proposed revision of the scope or of the budget of an established permanent improvement project deemed by the board to be substantial shall be referred to the committee for its review prior to any final action by the board. In making their determinations regarding changes in project scope, the board 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 board 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 board which approve revisions in the scope of or the budget of any previously established permanent improvement project not deemed substantial by the board. However, with regard to institutions of higher learning as defined in Section 59‑101‑1010, a previously approved permanent improvement project, whose total costs increase not more than ten percent of the most recently approved total costs, not to exceed two million dollars in the aggregate for all the revisions made pursuant to this section, is not required to have that proposal reviewed by the committee, except that the proposal is subject to staff level review.

For purposes of this chapter, with regard to all institutions of higher learning, except institutions of higher learning as defined in Section 59‑101‑1010, permanent improvement project is defined as:

(1) acquisition of land, regardless of cost;

(2) acquisition, as opposed to the construction, of buildings or other structures, regardless of cost;

(3) construction of additional facilities and 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 five hundred thousand 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; and

(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.

For purposes of this chapter, with regard to all institutions of higher learning, as defined in Section 59‑101‑1010, ‘permanent improvement project’ is defined as:

(1) acquisition of land costing more than two hundred fifty thousand dollars. For the acquisition of land costing two hundred fifty thousand dollars or less, the proposal is subject to staff level review;

(2) acquisition, as opposed to the construction, of buildings or other structures costing more than two hundred fifty thousand dollars. For the acquisition, as opposed to construction, of building or other structures costing two hundred fifty thousand dollars or less, the proposal is subject to staff level review;

(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.

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 fund or state appropriated funds, or state infrastructure bond funds, or state institution bond funds by the General Assembly for capital improvements shall process a permanent improvement project, regardless of the amount.

For purposes of this chapter, Clemson University Public Service Activities (Clemson‑‑PSA) and South Carolina State University Public Service Activities (SC State‑PSA) shall be considered an institution of higher learning as defined in Section 59‑101‑1010.”

SECTION 4. Section 1‑11‑65 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( ) Any public institution of higher learning as defined in Section 59‑101‑1010 with approval of the Budget and Control Board may enter into one or more ground lease agreements with a private entity whereby the private entity will provide all services necessary for the creation and operation of on‑campus infrastructure including, but not limited to, financing which is subject to review and approval of state treasurer, designing, constructing, managing, operating, maintaining, and related services. Upon expiration of the ground lease agreement term, the private entity shall surrender to the institution such premises with the existing buildings, other structures, and improvements constructed and located thereon and therein, 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. The Budget and Control Board shall approve all ground lease agreement terms and conditions including the consideration involved. The full faith and credit of the State toward the lease obligations must not be pledged, and any statement to the contrary is deemed null and void as a matter of public policy. The private entity may be a nonprofit organization. Budget and Control Board approval required is instead of or a substitute for any other approval required by any other provision of law or regulation in connection with the undertaking of the private entity and the subject institution; however, the private entity and the subject institution shall adhere to fire, life, and safety codes as required by the Office of the State Engineer. This section and the approval required by this section does not exempt any transaction or entity from complying with Chapter 35, Title 11.”

Part IV

Procurement Code Revisions

SECTION 5. Section 11‑35‑1550(2) of the 1976 Code, as last amended by Act 376 of 2006, is further amended to read:

“(2) Competition and Price Reasonableness.

(a) Purchases not in excess of two thousand five hundred dollars. Except as provided in subitem (d) below, small purchases not exceeding two thousand five hundred dollars may be accomplished without securing competitive quotations if the prices are considered reasonable. The purchasing office must annotate the purchase requisition: ‘Price is fair and reasonable’ and sign. The purchases must be distributed equitably among qualified suppliers. When practical, a quotation must be solicited from other than the previous supplier before placing a repeat order. The administrative cost of verifying the reasonableness of the price of purchase ‘not in excess of’ may more than offset potential savings in detecting instances of overpricing. Action to verify the reasonableness of the price need be taken only when the procurement officer of the governmental body suspects that the price may not be reasonable, comparison to previous price paid, or personal knowledge of the item involved.

(b) Purchases over two thousand five hundred dollars to ten thousand dollars. Except as provided in subitem (d) below, solicitation of written quotes from a minimum of three qualified sources of supply must be made and documentation of the quotes attached to the purchase requisition for a small purchase over two thousand five hundred dollars but not in excess of ten thousand dollars. The award must be made to the lowest responsive and responsible sources.

(c) Purchases over ten thousand dollars up to fifty thousand dollars. Written solicitation of written quotes, bids, or proposals must be made for a small purchase over ten thousand dollars but not in excess of fifty thousand dollars. The procurement must be advertised at least once in the South Carolina Business Opportunities publication or through a means of central electronic advertising as approved by the designated board office. A copy of the written solicitation and written quotes must be attached to the purchase requisition. The award must be made to the lowest responsive and responsible source or, when a request for proposal process is used, the highest ranking offeror.

(d) For institutions of higher learning as defined in Section 59‑101‑1010, small purchase amounts to which the provisions of subitem (a) above shall apply are those purchases not exceeding ten thousand dollars, and for these purchases subitem (b) above shall not apply. In addition, purchasing cards of the institution for these purchases also may be used by officials or employees of the institution as the governing board thereof approves.”

SECTION 6. Section 11‑35‑3310 of the 1976 Code, as last amended by Act 174 of 2008, is further amended to read:

“Section 11‑35‑3310. (1) General Applicability. Indefinite delivery contracts may be awarded on an as‑needed basis for construction services pursuant to the procedures in Section 11‑35‑3015(2)(b) and for architectural‑engineering and land surveying services pursuant to Section 11‑35‑3220.

(a) Construction Services. When construction services contracts are awarded, each contract shall be limited to a total expenditure of seven hundred fifty thousand dollars for a two‑year period with individual project expenditures not to exceed one hundred fifty thousand dollars; provided, that these limits for institutions of higher learning as defined in Section 59‑101‑1010 in this item shall be one million dollars for total expenditures and two hundred fifty thousand dollars for individual expenditures within the time periods specified.

(b) Architectural‑Engineering and Land Surveying Services. When architectural‑engineering and land surveying services contracts are awarded, each contract shall be limited to a total expenditure of three hundred thousand dollars for a two‑year period with individual project expenditures not to exceed one hundred thousand dollars; provided, that these limits for institutions of higher learning as defined in Section 59‑101‑1010 in this item shall be five hundred thousand dollars for total expenditures and two hundred thousand dollars for individual expenditures within the time periods specified.

(2) Small Indefinite Delivery Contracts. Small indefinite delivery contracts for architectural‑engineering and land surveying services may be procured as provided in Section 11‑35‑3230. A contract established under this section shall be subject to Section 11‑35‑3230, and any regulations promulgated thereunder except that the individual and total contract limits shall be fifty and one hundred fifty thousand dollars, respectively, for institutions of higher learning as defined in Section 59‑101‑1010.”

SECTION 7. Section 11‑35‑4810 of the 1976 Code is amended to read:

“Section 11‑35‑4810. Any public procurement unit may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies, services, or construction with one or more public procurement units or external procurement activities in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multi‑party contracts between public procurement units and open‑ended state public procurement unit contracts which shall be made available to local public procurement units, except as provided in Section 11‑35‑4820 or except as may otherwise be limited by the board through regulations.

However, thirty days’ notice of a proposed multi‑state solicitation shall be provided through central advertising and such contracts may be only awarded to manufacturers who will be distributing the products to South Carolina governmental bodies through South Carolina vendors; provided, however, that the provisions of this paragraph do not apply to institutions of higher learning as defined in Section 59‑101‑1010, if the institution demonstrates a cost savings to the Office of State Procurement in regard to the multi‑state solicitation and procurement.”

Part V

Miscellaneous Provisions

SECTION 8. Section 1‑7‑170 of the 1976 Code, as added by Act 353 of 2008, is amended to read:

“Section 1‑7‑170. (A) A department or agency of state government may not engage on a fee basis an attorney at law except upon the written approval of the Attorney General and upon a fee as must be approved by him. This section does not apply to the employment of attorneys in special cases in inferior courts when the fee to be paid does not exceed two hundred fifty dollars or exceptions approved by the State Budget and Control Board. This section does not apply to an attorney hired by the General Assembly or the judicial department.

(B) Notwithstanding the provisions of subsection (A), when a public institution of higher learning, as defined in Section 59‑101‑1010, decides to employ outside counsel on a particular matter, except in matters involving public financing or related financing issues, for a series of similar matters, or on a retainer basis shall submit the names of three qualified law firms consisting of a single practitioner or a group of practitioners from which the Attorney General shall approve one or more which the institution is then authorized to employ or retain. Subject to approval by the Attorney General, the institution may pay legal fees to that firm at its usual and customary rates for engaging in that type of work. Attorneys employed in matters involving public financing or related financing issues must be assigned and approved by the Budget and Control Board according to policies and procedures adopted by the board.”

SECTION 9. Article 1, Chapter 101, Title 59 of the 1976 Code is amended by adding:

“Section 59‑101‑55. State appropriated funds shall not be used to provide out‑of‑state subsidies to students attending state‑supported institutions of higher learning.”

SECTION 10. Section 59‑101‑620 of the 1976 Code is amended to read:

“Section 59‑101‑620. (A) A public institution of higher learning may offer educational fee waivers to no more than four percent of the undergraduate student body; however, an institution of higher learning, as defined in Section 59‑101‑1010, may offer educational fee waivers to not more than eight percent of the undergraduate student body. Any fee waivers above four percent must be used for in‑state students. For the purposes of fee waivers, an in‑state student shall be defined by Section 59‑112‑20(A).

(B) State‑supported institutions of higher learning to which subsection (A) applies shall annually report to the Commission on Higher Education the amount of such waivers provided during that fiscal year and such other information as the commission may require in regard to these waivers.”

SECTION 11. Chapter 112, Title 59 of the 1976 Code is amended by adding:

“Section 59‑112‑115. Whenever the governing board of an institution of higher learning as defined in Section 59‑101‑1010, adopts a change to the tuition or fees imposed on students, the change may be implemented by the institution only after a public vote with the number of trustees voting for and against the change being counted. A majority vote shall be required to implement any change to the tuition or fees.”

Part VI

Severability and Time Effective

SECTION 12. If any section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 13. Unless otherwise provided, this act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

JOHN E. COURSON for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

See Below

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

See Below

**EXPLANATION OF IMPACT:**

Joint Bond Review Committee (JBRC)

Committee staff indicates there would be no impact if the current process whereby the Capital Budget Section of the Budget and Control Board provides the conduit for the project information and serves as liaison for JBRC to the institutions, the State Engineer and other entities as necessary.

State Budget and Control Board

The Procurement Services Division participates in several cooperative procurements on behalf of state agencies. Allowing access to contracts authored by any and all cooperatives has the potential to further dilute the volume currently held by state contractors.  This could indirectly impact future state contract bidding opportunities and competition. Any potential savings associated with changes in the bill dealing with procurement is not readily quantifiable. Other offices within the board indicated there would be little or no impact associated with this bill.

Other Agencies

The State Treasurer’s Office and the Commission on Higher Education each indicates this bill will have no direct impact on the General Fund of the State or on federal and/or other funds.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO ENACT THE SOUTH CAROLINA HIGHER EDUCATION EFFICIENCY AND ADMINISTRATIVE POLICIES ACT OF 2009, INCLUDING PROVISIONS TO AMEND CHAPTER 101 OF TITLE 59, RELATING TO HIGHER EDUCATION, BY ADDING ARTICLE 5 SO AS TO FURTHER PROVIDE FOR HUMAN RESOURCES POLICIES, PROCEDURES, AND REQUIREMENTS FOR PUBLIC INSTITUTIONS OF HIGHER LEARNING IN THIS STATE EXCEPT FOR TECHNICAL COLLEGES; TO AMEND SECTION 8‑11‑260, AS AMENDED, RELATING TO STATE PERSONNEL ADMINISTRATIVE REQUIREMENTS, SO AS TO EXEMPT EMPLOYEES OF THESE INSTITUTIONS WITH CERTAIN EXCEPTIONS; BY ADDING SECTION 2‑47‑53 SO AS TO PROVIDE FOR THE ESTABLISHMENT OF PERMANENT IMPROVEMENT PROJECTS FOR THE STATE’S INSTITUTIONS OF HIGHER LEARNING, EXCLUDING TECHNICAL COLLEGES, AND FOR THE APPROVAL OF THESE PROJECTS AND TO REDEFINE ‘PERMANENT IMPROVEMENT PROJECT’ FOR PURPOSES OF PROPOSALS BY INSTITUTIONS OF HIGHER LEARNING IN THIS STATE; TO AMEND SECTION 1‑11‑65, RELATING TO APPROVAL OF REAL PROPERTY TRANSACTIONS BY THE STATE BUDGET AND CONTROL BOARD AND ACCEPTANCE OF THE TRANSFER OF TANGIBLE PERSONAL PROPERTY BY A STATE ENTITY, SO AS TO EXEMPT CERTAIN REAL PROPERTY TRANSACTIONS MADE FOR OR BY THESE INSTITUTIONS OF HIGHER LEARNING; BY ADDING SECTION 2‑47‑54 SO AS TO PROVIDE THAT THE STATE’S INSTITUTIONS OF HIGHER LEARNING, EXCLUDING TECHNICAL COLLEGES, MAY ENTER INTO A GROUND LEASE AGREEMENT WITH A PRIVATE ENTITY FOR THE BUILDING OF ON‑CAMPUS INFRASTRUCTURE AND TO EXEMPT THE TRANSACTION AND ENTITY FROM THE CONSOLIDATED PROCUREMENT CODE; TO AMEND SECTIONS 2‑47‑30, 2‑47‑35, 2‑47‑40, AND 2‑47‑50, RELATING TO THE JOINT BOND REVIEW COMMITTEE, SO AS TO FURTHER PROVIDE FOR THE PROCESSES AND PROCEDURES OF THE COMMITTEE AND THE BUDGET AND CONTROL BOARD IN REGARD TO CERTAIN PROJECTS; BY ADDING SECTIONS 59-147-35 AND 59-147-36 AND TO AMEND SECTION 59‑147‑30, RELATING TO THE PROCEDURES FOR THE ISSUANCE OF REVENUE BONDS UNDER THE HIGHER EDUCATION REVENUE BOND ACT, SO AS TO REVISE THESE PROCEDURES AND THE PURPOSES FOR WHICH THE BONDS MAY BE USED; TO AMEND CHAPTER 101 OF TITLE 59, RELATING TO HIGHER EDUCATION, BY ADDING ARTICLE 7 SO AS TO PROVIDE FOR CERTAIN PROVISIONS APPLICABLE TO BOND ACTS FOR INSTITUTIONS OF HIGHER LEARNING; BY ADDING SECTION 6‑1‑135 SO AS TO PROVIDE THAT WHEN A COUNTY, MUNICIPALITY, OR SCHOOL DISTRICT ACTING THROUGH THE PROCUREMENT PROCESS APPLICABLE TO IT ENTERS INTO A CONTRACT WITH A VENDOR TO ACQUIRE GOODS OR SERVICES FROM THAT VENDOR, A FOUR-YEAR OR GRADUATE LEVEL PUBLIC INSTITUTION OF HIGHER LEARNING LOCATED IN THE COUNTY, MUNICIPALITY, OR SCHOOL DISTRICT, UPON THE CONSENT OF THE COUNTY, MUNICIPALITY OR SCHOOL DISTRICT, AND THE VENDOR, ALSO MAY BECOME A PARTY TO THE CONTRACT THEREBY MAKING THE GOODS OR SERVICES AVAILABLE TO THE INSTITUTION OF HIGHER LEARNING UNDER THE SAME TERMS AND CONDITIONS THEY ARE AVAILABLE TO THE COUNTY, MUNICIPALITY, OR SCHOOL DISTRICT WITHOUT THE NECESSITY OF COMPLYING WITH ANY OTHER PROCUREMENT REQUIREMENTS; TO AMEND SECTION 11‑35‑1550, AS AMENDED, RELATING TO SMALL PURCHASES UNDER THE CONSOLIDATED PROCUREMENT CODE AND BID PROCEDURES ON PROCUREMENTS UP TO FIFTY THOUSAND DOLLARS, SO AS TO INCREASE THE AMOUNT OF AUTHORIZED SMALL PURCHASES BY FOUR‑YEAR AND GRADUATE PUBLIC INSTITUTIONS OF HIGHER LEARNING AND TO AUTHORIZE THESE INSTITUTIONS TO USE PURCHASING CARDS FOR THESE PURCHASES IN THE AMOUNT AUTHORIZED; TO AMEND SECTION 11‑35‑3310, AS AMENDED, RELATING TO INDEFINITE DELIVERY CONTRACTS FOR CONSTRUCTION, ARCHITECTURAL‑ENGINEERING AND LAND SURVEYING SERVICES, SO AS TO RAISE THE PERMITTED AMOUNTS OF SUCH CONTRACTS; TO AMEND SECTION 11‑35‑4810, RELATING TO COOPERATIVE PURCHASES OF PUBLIC ENTITIES UNDER THE CONSOLIDATED PROCUREMENT CODE, SO AS TO ESTABLISH CERTAIN EXCEPTIONS FOR FOUR‑YEAR AND GRADUATE PUBLIC INSTITUTIONS OF HIGHER LEARNING IN REGARD TO NOTICE AND ELIGIBLE VENDORS; TO AMEND SECTION 1‑7‑170, RELATING TO THE REQUIRED APPROVAL OF THE ATTORNEY GENERAL BEFORE AN AGENCY OR DEPARTMENT OF THIS STATE MAY ENGAGE AN ATTORNEY AT LAW ON A FEE BASIS AND EXCEPTIONS TO THIS REQUIREMENT, SO AS TO ESTABLISH A SPECIAL APPROVAL PROCEDURE FOR FOUR‑YEAR AND GRADUATE PUBLIC INSTITUTIONS OF HIGHER LEARNING; BY ADDING SECTION 59‑101‑55 SO AS TO PROVIDE THAT STATE APPROPRIATED FUNDS SHALL NOT BE USED TO PROVIDE OUT-OF-STATE SUBSIDIES TO STUDENTS ATTENDING STATE-SUPPORTED INSTITUTIONS OF HIGHER LEARNING; TO AMEND SECTION 59-101-620, RELATING TO LIMITATIONS ON EDUCATIONAL FEE WAIVERS OFFERED BY PUBLIC INSTITUTIONS OF HIGHER LEARNING, SO AS TO REVISE THESE LIMITATIONS FOR CERTAIN INSTITUTIONS AND TO PROVIDE FOR ANNUAL REPORTING REQUIREMENTS TO THE COMMISSION OF HIGHER EDUCATION IN REGARD TO THESE WAIVERS; AND BY ADDING SECTION 59-112-115 SO AS TO PROVIDE THAT Whenever the governing board of a four-year and graduate level public institution of higher learning in this State not including a technical college adopts a change to the tuition or fees imposed on students, the change only may be implemented by the institution after a publically recorded roll call vote, and a majority vote shall be required to implement any change to the tuition or fees; AND TO PROVIDE THAT Within six months after the effective date of this act, each governing board of a four-year and graduate level public institution of higher learning in this State not including technical colleges shall adopt CERTAIN policies promoting financial disclosure.

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

Part I

Citation

SECTION 1. This act is known and may be cited as the “South Carolina Higher Education Efficiency and Administrative Policies Act of 2009”.

Part II

Human Resource Reforms

SECTION 2. Chapter 101, Title 59 of the 1976 Code is amended by adding:

“Article 5

Human Resources at a Public Institution

of Higher Learning

Section 59‑101‑1010. (A) As used in this article, ‘public institution of higher learning’, or ‘institution’ means a four-year and graduate level public institution of higher learning in this state not including technical colleges.

(B) As used in this article ‘institutional board’ means the governing body of an institution of higher learning as defined in Section 59-101-1010.

Section 59‑101‑1020. (A) Except as provided in subsection (B) of this section, the governing body of each public institution of higher learning has the sole responsibility of establishing and implementing human resource policies and procedures for those employees of the institution who, but for the provisions of Sections 8‑11‑260 and 8‑11‑270, would be subject to the provisions of Article 1 and Article 3, Chapter 11 of Title 8. These policies include, but are not limited to, promotion, hiring and termination, job descriptions, compensation, leave, hours and conditions of employment, furloughs, and reductions in force.

(B) Institution employees affected by the provisions of subsection (A) of this section, where not exempt pursuant to Section 8‑17‑370 are covered by the provisions of Article 5, Chapter 17, of Title 8, the State Employee Grievance Procedure Act.

(C) Institutions of higher learning implementing human resource policies and procedures as permitted in subsection (A) shall first provide them to the state Office of Human Resources for review and comment.

(D) Institutions must take all actions necessary to ensure compliance with subsection (9) of Section 8-11-230.

Section 59‑101‑1030. Nothing in this article may be construed as changing or restricting the access of an institution’s employees to coverage under the state health insurance plan and other insurance coverage provided through the Office of Insurance Services of the State Budget and Control Board when these employees meet the eligibility requirements or to membership or participation in the various state‑operated retirement systems operated by the Retirement Systems Division of the State Budget and Control Board.

Section 59‑101‑1040. For purposes of the distribution of appropriated funds for employee pay raises and employee benefits only, institutions are deemed to retain the FTE’s occupied by employees affected by the provisions of Section 59‑101‑1010(A).”

SECTION 3. Section 8‑11‑260 of the 1976 Code, as last amended by Act 353 of 2008, is further amended by adding a new item at the end to read:

“(l) employees of four-year and graduate level public institutions of higher learning in this state not including technical colleges. However, the provisions of this item do not exempt such employees from the requirements and provisions of Section 8-11-230(9) relating to a central personnel data system of all state employees.”

Part III

Facilities and Capital Expenditure Revisions

SECTION 4. A. Chapter 47, Title 2 of the 1976 Code is amended by adding:

“Section 2‑47‑53. (A) Except as otherwise provided in this subsection, as to all projects proposed by four-year and graduate level public institutions of higher learning in this state not including technical colleges referred to herein as institutions of higher learning, upon favorable review by the committee, the institutional board shall establish formally each permanent improvement project before actions which implement the project in any way may be undertaken and before expenditure of 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 institutional board to establish the project may be approved. However, these institutions of higher learning may advertise and interview for project architectural and engineering services for a pending project, and the architectural and engineering contract may be awarded before 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 the requests as proposed by the institution, requests for review of the permanent improvement projects may be made in such form and at such times as the committee may require.

(B) Except as provided in subsection (C)(2), a proposal to finance all or any part of any project using any funds not previously authorized specifically for the permanent improvement project by the General Assembly or using any funds not previously approved for the project by the institutional board must be referred to the committee for review prior to approval by the institutional board and the State Budget and Control Board, if required.

(C)(1) A proposed revision of the scope or of the budget of an established permanent improvement project deemed by the committee to be substantial must be reviewed prior to any final action by the institutional board. In making their determinations regarding changes in project scope, the committee shall utilize the permanent improvement project proposal and justification statements, together with supporting documentation, considered at the time the project was authorized or established originally. Except as provided in subsection (C)(2), any proposal to increase the budget of a previously approved project using any funds not previously approved for the project by the institutional board must in all cases be deemed to be a substantial revision of a project budget which must be referred to the committee for review.

(2) Notwithstanding subsection (C)(1), with regard to these institutions of higher learning, a previously approved permanent improvement project whose total costs increase not more than twenty percent of the initially approved total costs, but not to exceed two million dollars, is not required to have that proposal reviewed by the committee; except that the proposal is subject to staff level review.

(D)(1) For purposes of this chapter, and except as provided in item (2) below in regard to new construction, with regard to these institutions of higher learning, a permanent improvement project is defined as any of the following in which, after completion of architectural and engineering and other types of planning and design work, the total cost of the item is one million dollars or more:

(a) acquisition of land;

(b) acquisition, as opposed to the construction, of buildings or other structures;

(c) work on existing facilities including safety issues for any given project including their renovation, repair, maintenance, alteration, or demolition;

(d) capital lease purchase of a facility acquisition or construction; or

(e) 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.

(2) For purposes of this chapter, any project of these institutions which involves new construction of a facility that exceeds a total cost of five hundred thousand dollars, after completion of architectural and engineering and other types of planning and design work, must be considered a permanent improvement project.

(3) Any permanent improvement project that meets the above definitions 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, state institution 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.

(E) Notwithstanding subsection (D) of this section, acquisition of land under subsection (D)(1)(a) and acquisition of buildings and other structures under subsection (D)(1)(b) regardless of cost must have office of state budget staff approval including a Phase I environmental study and appraisal, and all permanent improvement projects costing one million dollars or more must have favorable review of the committee and approval by the institutional board.

(F) For purposes of this chapter, Clemson University Public Service Activities (Clemson‑‑PSA) and South Carolina State University Public Service Activities (SC State-PSA) are subject to subsection (D) of this section and Section 2-47-40(A) and (D).

(G) For projects submitted to the Joint Bond Review Committee for review, the committee may request the assistance of the State Treasurer’s Office to review the project’s feasibility and financing structure.

B. Section 1‑11‑65(A) of the 1976 Code is amended to read:

“(A) All transactions involving real property, made for or by any governmental bodies, excluding political subdivisions of the State and excluding a real property transaction made for or by a four-year and graduate level public institution of higher learning in this state not including technical colleges, must be approved by and recorded with the State Budget and Control Board. Upon approval of the transaction by the Budget and Control Board, there must be recorded simultaneously with the deed, a certificate of acceptance, which acknowledges the board’s approval of the transaction. The county recording authority cannot accept for recording any deed not accompanied by a certificate of acceptance. The board may exempt a governmental body from the provisions of this subsection.”

SECTION 5. Chapter 47, Title 2 of the 1976 Code is amended by adding:

“Section 2‑47‑54. The Boards of Trustees of four-year and graduate level public institutions of higher learning in this state not including technical colleges with the favorable review of the committee may enter into one or more ground lease agreements with a private entity whereby the private entity will provide all services necessary for the creation and operation of on‑campus infrastructure including, but not limited to, financing which is subject to review and approval of state treasurer, designing, constructing, managing, operating, maintaining, and related services. Upon expiration of the ground lease agreement term, the private entity shall surrender unto the Board of Trustees such premises with the existing buildings, other structures, and improvements constructed and located thereon and therein, 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. The committee must first favorably review and the institutional board approve all ground lease agreement terms and conditions including the consideration involved. The full faith and credit of the State toward the lease obligations must not be pledged, and any statement to the contrary is deemed null and void as a matter of public policy. The private entity may be a nonprofit organization. The committee favorable review and institutional board approval required is instead of or a substitute for any other approval required by any other provision of law or regulation in connection with the undertaking of the private entity and the subject institution; however, the private entity and the subject institution shall adhere to fire, life, and safety codes as required by the Office of the State Engineer. This section and the approval required by this section does not exempt any transaction or entity from complying with Chapter 35, Title 11.

SECTION 6. A. Section 2‑47‑30 of the 1976 Code is amended to read:

“Section 2‑47‑30. The committee is specifically charged with, but not limited to, the ~~following~~ responsibilities to:

(1) ~~To~~ review, prior to approval by the Budget and Control Board, if required, the establishment of any permanent improvement project and the source of funds for ~~any~~ such a project not previously authorized specifically by the General Assembly~~.~~;

(2) ~~To~~ study the amount and nature of existing general obligation and ~~institutional~~ institution 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 Budget and Control Board~~.~~; and

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

B. Section 2‑47‑35 of the 1976 Code is amended to read:

“Section 2‑47‑35. ~~No~~ A project authorized in whole or in part for capital improvement bond funding ~~under~~ pursuant to the provisions of Act 1377 of 1968, as amended, ~~may~~ must not be implemented until funds ~~can be~~ are made available and until the Joint Bond Review Committee, in consultation with the Budget and Control Board, if required, 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.”

C. Section 2‑47‑40 of the 1976 Code is amended to read:

“Section 2‑47‑40. (A) To assist the State Budget and Control Board (the Board), if required, and the Joint Bond Review Committee (the committee) in carrying out their respective responsibilities hereunder, ~~any~~ an agency or institution requesting or receiving funds from any source for use in the financing of ~~any~~ a permanent improvement project, as a minimum, shall provide to the board, pursuant to Section 2‑47‑50 and to the committee pursuant to Section 2‑47‑53, in such form and at such times as the board, ~~after review by~~ or the committee, may prescribe: (a) a complete description of the proposed project; (b) a statement of justification for the proposed project; (c) a statement of the purposes and intended uses of the proposed project; (d) the estimated total cost of the proposed project; (e) an estimate of the additional future annual operating costs associated with the proposed project; (f) a statement of the expected impact of the proposed project on the five‑year operating plan of the agency or institution proposing the project; (g) a proposed plan of financing the project, specifically identifying funds proposed from sources other than capital improvement bond authorizations; and (h) 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 ~~Board~~ committee pursuant to Section 2‑47‑53 through the Commission on Higher Education which shall forward all ~~such~~ statements and all supporting documentation received to the ~~Board~~ committee 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.

(C) The board shall forward a copy of each project proposal and justification statement and supporting documentation received pursuant to subsection (A) together with the board’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~~ must be forwarded to the committee ~~by the Board~~.

(D) ~~No provision in this section or elsewhere in this~~ This chapter~~, shall be construed to~~ does not 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~~ the projects may require.”

D. Section 2‑47‑50 of the 1976 Code is amended to read:

“Section 2‑47‑50. (A) This section applies to all proposed projects other than those proposed for four-year and graduate level public institutions of higher learning in this state not including technical colleges, the approval process for which shall be as provided in Section 2‑47‑53.

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

(C) ~~Any~~ A proposal to finance all or any part of ~~any~~ a 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 board and reviewed by the committee ~~shall~~ must be referred to the committee for review prior to approval by the board.

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

~~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;~~

~~(2)~~ ~~acquisition, as opposed to the construction, of buildings or other structures, regardless of cost;~~

~~(3)~~ ~~construction of additional facilities and 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 five hundred thousand 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; and~~

~~(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.~~

~~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 fund 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.~~”

Part IV

Financing and Administrative Improvements

SECTION 7. A. Section 59‑147‑30 of the 1976 Code is amended to read:

“Section 59‑147‑30. Subject to the ~~approval~~ favorable review of the ~~State Budget and Control Board~~ Joint Bond Review Committee ~~by resolution duly adopted~~, approval of the institutional board, and the provisions of Sections 59-147-35 and 59-147-36, the university may issue revenue bonds of the university for the purpose of financing or refinancing in whole or in part the cost of acquisition, construction, reconstruction, renovation and improvement of land, buildings, and other improvements to real property and equipment for the purpose of providing facilities serving the needs of the university including, but not limited to, dormitories, apartment buildings, dwelling houses, bookstore and other university operated stores, laundry, dining halls, cafeterias, parking facilities, student recreational, entertainment and fitness related facilities, inns, conference and other nondegree educational facilities and similar auxiliary facilities of the university and any other facilities which are auxiliary to any of the foregoing excluding, however, athletic department projects which primarily serve varsity athletic teams of the university.

Notwithstanding the provisions of Section 59-147-120, four-year and graduate level public institutions of higher learning in this State not including technical colleges may issue revenue bonds as authorized by this section for those academic facilities as may be authorized by joint resolution of the General Assembly.”

B. Chapter 147, Title 59 of the 1976 Code is amended by adding:

“Section 59-147-35. By resolution duly adopted making the findings required of it by Section 59-147-40, the institutional board shall transmit to the state treasurer a request for the issuance of revenue bonds, such request shall set forth:

(1) the name of the institution requesting issuance of revenue bonds, the amount of revenue bonds requested for issuance, and the annual principal and interest requirements on all then outstanding revenue bonds;

(2) a statement that the institutional board has made the findings required of it by Section 59-147-40;

(3) the proposed maturity schedule of the bonds;

(4) the anticipated aggregate annual principal and interest requirements for the bonds;

(5) the numbers and maturity dates of the bonds which shall be subject to redemption prior to their stated maturities;

(6) the proposed redemption premium schedule;

(7) the actual and projected revenues anticipated to be pledged by the institution supporting issuance of the bonds; and

(8) any other schedules, analyses, and documents prescribed by the state treasurer which, in his discretion, are necessary to support the request for issuance of revenue bonds pursuant to this chapter.”

C. Chapter 147, Title 59 of the 1976 Code is amended by adding:

“Section 59-147-36. The state treasurer shall examine the request provided for in Section 59-147-35, and if he shall approve it, and for himself, determine that the facts and circumstances support the request for issuance of revenue bonds pursuant to this chapter, he shall be empowered to provide for the issuance of revenue bonds in the amount approved by the institutional board.”

SECTION 8. Chapter 101, Title 59 of the 1976 Code is amended by adding:

“Article 7

Provisions Applicable to Bond Acts for

Institutions of Higher Learning

Section 59‑101‑1010. As used in this article:

(1) ‘Bond acts’ means the various revenue bond acts for public institutions, including those identified in this item and also including any others not identified in this item.

(a) University of South Carolina:

(i) Act 518 of 1980 ‑ Athletic Facilities Revenue Bonds;

(ii) Act 366 of 2008 ‑ Business School Revenue Bonds;

(iii) Article 3, Chapter 117, Title 59 ‑ Auxiliary Facilities Revenue Bonds;

(b) Clemson University:

(i) Article 5, Chapter 119, Title 59 ‑ Clemson Revenue Bonds;

(ii) Article 9, Chapter 119, Title 59 ‑ Athletic Facilities Revenue Bonds;

(iii) Article 7, Chapter 119, Title 59 ‑ Auxiliary Facilities Revenue Bonds;

(c) Medical University of South Carolina:

(i) Act 392 of 1982 ‑ Student and Faculty Housing Facilities;

(d) The Citadel:

(i) Article 3, Chapter 121, Title 59 ‑ Citadel Athletic Facilities Bonds;

(ii) Chapter 122, Title 59 ‑ The Citadel Housing Revenue Bonds;

(e) College of Charleston:

(i) Chapter 130, Title 59 ‑ Revenue Bonds;

(ii) Chapter 131, Title 59 ‑ Parking Facilities at the College of Charleston;

(iii) Act 1281 of 1970 ‑ Student and Faculty Housing Revenue Bonds and Plant Improvement Bonds;

(iv) Act 77 of 1975 ‑ Parking Facilities Revenue Bonds;

(v) Act 653 of 1978 ‑ Student and Housing Revenue Bonds;

(f) South Carolina State University:

(i) Article 3, Chapter 127, Title 59 ‑ Special Obligations Bonds;

(ii) Article 4, Chapter 127, Title 59 ‑ South Carolina State University Academics and Admissions Faculty Facilities Bonds;

(g) Winthrop University:

(i) Article 3, Chapter 125, Title 59 ‑ Winthrop University Facilities Revenue Bond Act;

(ii) Article 5, Chapter 125 ‑ Winthrop University Athletic Facilities Bonds;

(iii) Act 488 of 1965 ‑ Student and Faculty Housing Revenue Bonds;

(h) Coastal Carolina University:

(i) Article 3, Chapter 136, Title 59 ‑ Revenue Bonds;

(i) Lander University:

(i) Act 1305 of 1974 ‑ Student and Faculty Housing Revenue Bonds;

(j) Francis Marion University:

(i) Act 653 of 1978 ‑ Student and Faculty Housing Revenue Bonds;

(ii) Article 3, Chapter 133, Title 59 ‑ Athletic Facilities Revenue Bonds.

(2) ‘Public institution’ means a four-year and graduate level public institution of higher learning in this state not including technical colleges.

Section 59‑101‑1020. All authority and duties of the State Budget and Control Board with respect to bond acts is devolved upon the Joint Bond Revenue Committee established pursuant to Chapter 47, Title 2, for review and approval by the corresponding institutional board pursuant to this title.”

Part V

Procurement Code Revisions

SECTION 9. Article 1, Chapter 1, Title 6 of the 1976 Code is amended by adding:

“Section 6‑1‑135. When a county, municipality, or school district acting through the procurement process applicable to it enters into a contract with a vendor to acquire goods or services from that vendor, a four-year or graduate level institution of higher learning not including technical colleges located in the county, municipality, or school district, upon the consent of the county, municipality, or school district, and the vendor, also may become a party to the contract thereby making the goods or services available to the institution of higher learning under the same terms and conditions they are available to the county, municipality, or school district without the necessity of complying with any other procurement requirements.”

SECTION 10. Section 11‑35‑1550(2) of the 1976 Code, as last amended by Act 376 of 2006, is further amended to read:

“(2) Competition and Price Reasonableness.

(a) Purchases not in excess of two thousand five hundred dollars. Except as provided in subitem (d) below, small purchases not exceeding two thousand five hundred dollars may be accomplished without securing competitive quotations if the prices are considered reasonable. The purchasing office must annotate the purchase requisition: ‘Price is fair and reasonable’ and sign. The purchases must be distributed equitably among qualified suppliers. When practical, a quotation must be solicited from other than the previous supplier before placing a repeat order. The administrative cost of verifying the reasonableness of the price of purchase ‘not in excess of’ may more than offset potential savings in detecting instances of overpricing. Action to verify the reasonableness of the price need be taken only when the procurement officer of the governmental body suspects that the price may not be reasonable, comparison to previous price paid, or personal knowledge of the item involved.

(b) Purchases over two thousand five hundred dollars to ten thousand dollars. Except as provided in subitem (d) below, solicitation of written quotes from a minimum of three qualified sources of supply must be made and documentation of the quotes attached to the purchase requisition for a small purchase over two thousand five hundred dollars but not in excess of ten thousand dollars. The award must be made to the lowest responsive and responsible sources.

(c) Purchases over ten thousand dollars up to fifty thousand dollars. Written solicitation of written quotes, bids, or proposals must be made for a small purchase over ten thousand dollars but not in excess of fifty thousand dollars. The procurement must be advertised at least once in the South Carolina Business Opportunities publication or through a means of central electronic advertising as approved by the designated board office. A copy of the written solicitation and written quotes must be attached to the purchase requisition. The award must be made to the lowest responsive and responsible source or, when a request for proposal process is used, the highest ranking offeror.

(d) For four-year and graduate public institutions of higher learning in this State not including technical colleges, small purchase amounts to which the provisions of subitem (a) above shall apply are those purchases not exceeding ten thousand dollars, and for these purchases subitem (b) above shall not apply. In addition, purchasing cards of the institution for these purchases also may be used by officials or employees of the institution as the governing board thereof approves.”

SECTION 11. Section 11‑35‑3310 of the 1976 Code, as last amended by Act 174 of 2008, is further amended to read:

“Section 11‑35‑3310. (1) General Applicability. Indefinite delivery contracts may be awarded on an as‑needed basis for construction services pursuant to the procedures in Section 11‑35‑3015(2)(b) and for architectural‑engineering and land surveying services pursuant to Section 11‑35‑3220.

(a) Construction Services. When construction services contracts are awarded, each contract shall be limited to a total expenditure of seven hundred fifty thousand dollars for a two‑year period with individual project expenditures not to exceed one hundred fifty thousand dollars; provided, that these limits for four‑year and graduate public institutions of higher learning not including technical colleges in this item shall be one million dollars for total expenditures and two hundred fifty thousand dollars for individual expenditures within the time periods specified.

(b) Architectural‑Engineering and Land Surveying Services. When architectural‑engineering and land surveying services contracts are awarded, each contract shall be limited to a total expenditure of three hundred thousand dollars for a two‑year period with individual project expenditures not to exceed one hundred thousand dollars; provided, that these limits for four‑year and graduate public institutions of higher learning not including technical colleges in this item shall be five hundred thousand dollars for total expenditures and two hundred thousand dollars for individual expenditures within the time periods specified.

(2) Small Indefinite Delivery Contracts. Small indefinite delivery contracts for architectural‑engineering and land surveying services may be procured as provided in Section 11‑35‑3230. A contract established under this section shall be subject to Section 11‑35‑3230, and any regulations promulgated thereunder except that the individual and total contract limits shall be fifty and one hundred fifty thousand dollars respectively for four‑year and graduate public institutions of higher learning not including technical colleges.”

SECTION 12. Section 11‑35‑4810 of the 1976 Code is amended by adding at the end:

“Section 11‑35‑4810. Any public procurement unit may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies, services, or construction with one or more public procurement units or external procurement activities in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multi‑party contracts between public procurement units and open‑ended state public procurement unit contracts which shall be made available to local public procurement units, except as provided in Section 11‑35‑4820 or except as may otherwise be limited by the board through regulations.

However, thirty days notice of a proposed multi‑state solicitation shall be provided through central advertising and such contracts may be only awarded to manufacturers who will be distributing the products to South Carolina governmental bodies through South Carolina vendors; provided, however, that the provisions of this paragraph do not apply to four‑year and graduate public institutions of higher learning in this State not including technical colleges if the institution demonstrates a cost savings to the Office of State Procurement in regard to the multi-state solicitation and procurement.”

Part VI

Miscellaneous Provisions

SECTION 13. Section 1‑7‑170 of the 1976 Code, as added by Act 353 of 2008, is amended to read:

“Section 1‑7‑170. A department or agency of state government may not engage on a fee basis an attorney at law except upon the written approval of the Attorney General and upon a fee as must be approved by him. This section does not apply to the employment of attorneys in special cases in inferior courts when the fee to be paid does not exceed two hundred fifty dollars or exceptions approved by the State Budget and Control Board. This section does not apply to an attorney hired by the General Assembly or the judicial department.

(B) Notwithstanding the provisions of subsection (A), a four‑year and graduate public institution of higher learning not including technical colleges when it determines to employ outside counsel on a particular matter, for a series of similar matters, or on a retainer basis shall submit the names of three qualified law firms consisting of a single practitioner or a group of practitioners from which the Attorney General shall approve one or more which the institution is then authorized to employ or retain. Approval by the Attorney General of these law firms also authorizes the institution to pay legal fees to that firm at its usual and customary rates for engaging in that type of work.”

SECTION 14. (A) Article 1, Chapter 101, Title 59 of the 1976 Code is amended by adding:

“Section 59‑101‑55. State appropriated funds shall not be used to provide out-of-state subsidies to students attending state-supported institutions of higher learning.

(B) Section 59-101-620 of the 1976 Code is amended to read:

“Section 59-101-620. (A) A public institution of higher learning may offer educational fee waivers to no more than four percent of the undergraduate student body; provided that four-year and graduate level state-supported institutions of higher learning not including technical colleges may offer educational fee waivers to not more than eight percent of their student body. Any fee waivers above four percent must be used for in‑state students. For the purposes of fee waivers, an in‑state student shall be defined by Section 59‑112‑20(A).

(B) State‑supported institutions of higher learning to which subsection (A) applies shall annually report to the Commission on Higher Education the amount of such waivers provided during that fiscal year and such other information as the commission may require in regard to these waivers.

(C) Chapter 112, Title 59 of the 1976 Code is amended by adding:

“Section 59-112-115. Whenever the governing board of a four-year and graduate level public institution of higher learning in this State not including a technical college adopts a change to the tuition or fees imposed on students, the change only may be implemented by the institution after a publically recorded roll call vote, and a majority vote shall be required to implement any change to the tuition or fees.”

SECTION 15. Within six months after the effective date of this act, each governing board of a four-year and graduate level public institution of higher learning in this State not including technical colleges shall adopt a policy that promotes financial disclosure by the institution for the benefit of citizens, students, and their families regarding the institution’s spending practices, and that provides information on decisions that demonstrate the institution is a good steward of its financial resources. This policy and financial disclosure must be published in a timely manner on the institution’s website. The policy must also solicit feedback from the public, students and their families to identify information of greatest use and interest to them.

Part VII

Severability and Time Effective

SECTION 16. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 17. Unless otherwise provided, this act takes effect upon approval by the Governor.

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