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Indicates New Matter

AMENDED

March 9, 2011

**H. 3410**

Introduced by Reps. Owens, Cooper, Harrell, Branham, Limehouse, Atwater, Bikas, Govan, Loftis, Skelton, Taylor, Young, Williams, Daning, Quinn, Brannon, J.M. Neal, Bowen, Patrick, Norman, Whitmire, Willis, Thayer, Erickson, Weeks, Munnerlyn, McEachern, Vick, Sandifer, Viers, Hixon, Huggins, Clemmons, Henderson and Lucas

S. Printed 3/9/11--H.

Read the first time January 25, 2011.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ENACTING THE “SOUTH CAROLINA HIGHER EDUCATION EFFICIENCY AND ADMINISTRATIVE POLICIES ACT OF 2011”; TO AMEND SECTIONS 2‑47‑30, 2‑47‑35, 2‑47‑40, AND 2‑47‑50, AS AMENDED, RELATING THE JOINT BOND REVIEW COMMITTEE, SO AS TO PROVIDE FOR THE ESTABLISHMENT OF PERMANENT IMPROVEMENT PROJECTS BY STATE AGENCIES AND FOR THE APPROVAL OF THESE PROJECTS; BY ADDING SECTION 2‑47‑53 SO AS TO PROVIDE FOR THE ESTABLISHMENT OF PERMANENT IMPROVEMENT PROJECTS BY PUBLIC INSTITUTIONS OF HIGHER LEARNING, TO DEFINE PERMANENT IMPROVEMENT PROJECTS WITH RESPECT TO THOSE INSTITUTIONS, TO ALLOW THE COMMITTEE TO REQUEST ASSISTANCE WITH THE REVIEW OF PROJECTS, AND TO DEFINE PERMANENT IMPROVEMENT PROJECTS WITH RESPECT TO THOSE INSTITUTIONS; BY ADDING SECTION 2‑47‑54 SO AS TO ALLOW PUBLIC INSTITUTIONS OF HIGHER LEARNING TO ENTER INTO GROUND LEASE AGREEMENTS WITH A PRIVATE ENTITY AND TO PROVIDE REQUIREMENTS FOR THOSE AGREEMENTS; BY ADDING SECTION 59‑53‑168 SO AS TO REQUIRE THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION TO ESTABLISH A TIERED SYSTEM FOR CATEGORIZING TECHNICAL COLLEGES WITH RESPECT TO FINANCIAL STRENGTH AND OTHER FACTORS BY WHICH TECHNICAL COLLEGES MAY APPLY FOR CERTAIN EFFICIENCY POLICIES GRANTED BY THE BOARD AND TO REQUIRE THE BOARD TO ESTABLISH AN ADVISORY BOARD AND REPORT TO THE GENERAL ASSEMBLY; TO AMEND SECTIONS 59‑53‑290, 59‑53‑630, 59‑53‑740, 59‑53‑1784, AND 59‑53‑2430, ALL RELATING TO LEASE AGREEMENTS OF TECHNICAL COLLEGES, SO AS TO PROVIDE FOR THE FAVORABLE REVIEW OF THE AGREEMENT BY THE JOINT BOND REVIEW COMMITTEE AND ITS APPROVAL BY THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION; 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 SECTIONS 59‑147‑42 AND 59‑147‑43 AND TO AMEND SECTION 59‑147‑30, AS AMENDED, RELATING TO THE PROCEDURES FOR THE ISSUANCE OF REVENUE BONDS UNDER THE HIGHER EDUCATION REVENUE BOND ACT, ALL SO AS TO REVISE THESE PROCEDURES AND THE PURPOSES FOR WHICH THE BONDS MAY BE USED; BY ADDING ARTICLE 7 TO CHAPTER 101, TITLE 59 SO AS TO PROVIDE FOR CERTAIN PROVISIONS APPLICABLE TO BOND ACTS FOR INSTITUTIONS OF HIGHER LEARNING; TO AMEND SECTION 11‑35‑1210, AS AMENDED, RELATING TO CERTIFICATION OF THE BUDGET AND CONTROL BOARD TO ALLOW GOVERNMENTAL BODIES TO MAKE DIRECT PROCUREMENTS, SO AS TO PROVIDE FOR APPROVAL OF PROCUREMENT AUTHORITY BY THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION; 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 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 THESE CONTRACTS; TO AMEND SECTION 11‑35‑4810, AS AMENDED, RELATING TO COOPERATIVE PURCHASES OF PUBLIC ENTITIES UNDER THE CONSOLIDATED PROCUREMENT CODE, SO AS TO ESTABLISH CERTAIN EXCEPTIONS FOR 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 PUBLIC INSTITUTIONS OF HIGHER LEARNING; BY ADDING SECTION 59‑101‑55 SO AS TO PROVIDE THAT STATE APPROPRIATED FUNDS MAY 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 ON HIGHER EDUCATION IN REGARD TO THESE WAIVERS; BY ADDING SECTION 59‑112‑115 SO AS TO PROVIDE THAT WHEN THE GOVERNING BOARD OF A FOUR‑YEAR AND GRADUATE LEVEL PUBLIC INSTITUTION OF HIGHER LEARNING IN THIS STATE 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 REPORTING REQUIREMENTS; AND TO AMEND SECTION 1‑11‑55, RELATING TO LEASING OF REAL PROPERTY FOR GOVERNMENTAL BODIES, SO AS TO ALLOW PUBLIC INSTITUTIONS OF HIGHER LEARNING TO ENTER INTO LEASE AGREEMENTS UP TO ONE HUNDRED THOUSAND DOLLARS ANNUALLY UPON APPROVAL BY THE INSTITUTIONAL BOARDS.

Amend Title To Conform

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 2011”.

Part II

Facilities and Capital Expenditure Revisions

SECTION 2.A. Article 2, Chapter 101, of the 1976 Code is amended by adding:

“Section 59‑101‑670. (A) Project Proposals. Notwithstanding another provision of law, a public institution of higher learning that intends to establish a permanent improvement project shall submit a preliminary request to the Joint Bond Review Committee and receive favorable review from the Joint Bond Review Committee before any funds may be expended for architectural and engineering services for the project. In addition, the public institution of higher learning shall submit the permanent improvement project proposal to the Commission on Higher Education for information purposes only. The commission may make nonbinding recommendations concerning the proposal to the Joint Bond Review Committee and the public institution of higher learning. A preliminary request shall include:

(1) a complete description of the proposed project;

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

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

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

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

(6) a statement on the expected impact of the proposed project on the five‑year operating plan of the public institution proposing the project;

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

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

(B) Project Establishment. Upon completion of the architectural and engineering plans, including an estimated total cost of the project, a public institution of higher learning concurrently shall submit to the Joint Bond Review Committee and the Budget and Control Board the project proposal for review by both bodies. In addition, the public institution of higher learning shall submit the permanent improvement project proposal to the Commission on Higher Education for information purposes only. The commission may make nonbinding recommendations concerning the proposal to the Joint Bond Review Committee, the Budget and Control Board, and the public institution of higher learning. In making its proposal, the public institution of higher learning shall include:

(1) a complete description of the proposed project;

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

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

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

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

(6) a statement on the expected impact of the proposed project on the five‑year operating plan of the public institution proposing the project;

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

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

(C) The Joint Bond Review Committee and the Budget and Control Board shall notify the institution of their favorable review or approval of the permanent improvement project, as per their authority, within forty‑five days of receipt of the proposal. The review of the Joint Bond Review committee must be rendered by the collective body. The Budget and Control Board only is required to meet to discuss the project if the Governor with an additional two of the five members of the board express opposition or concerns of the project in writing. This letter must be sent by the Governor’s office to all Budget and Control Board members and the public institution of higher learning Board of Trustees within the forty‑five day time period. A permanent improvement project proposal is deemed to be favorably reviewed by the Joint Bond Review Committee and approved by the Budget and Control Board if either fails to notify the public institution of higher learning of its finding within forty‑five days of receipt of the proposal.

(D) Except as provided in subsection (E)(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 must be referred to the Joint Bond Review Committee for its review and the Budget and Control Board for its approval prior to implementation by the public institution of higher learning.

(E)(1) A proposed revision of the scope that exceeds the total cost of subsection (E)(2) is deemed substantial and must be reviewed by the Joint Bond Review Committee and approved by the Budget and Control Board prior to any final action by the public institution of higher learning. In making their determinations regarding changes in project scope, the committee and board 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 (E)(2), a proposal to increase the budget of a previously approved project by the institution of higher learning must be deemed in all cases to be a substantial revision of a project budget which must be referred to the committee for review and to the board for its approval.

(2) Notwithstanding subsection (E)(1), a previously approved improvement project undertaken by a public institution of higher learning, whose total costs increase not more than ten percent of the most recently approved total costs, not to exceed two million dollars, is not required to have that proposal reviewed by the Joint Bond Review Committee and the Budget and Control Board. The proposal, however, is subject to staff level review of the Joint Bond Review Committee.

(F)(1) For purposes of this section, with regard to public institutions of higher learning, a permanent improvement project is defined as:

(a) 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;

(b) 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;

(c) 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;

(d) capital lease purchase of a facility acquisition or construction in which the total cost is one million dollars or more;

(e) equipment that either becomes a permanent fixture of a facility or does not become permanent but is included in the construction contract must be included as a part of a project in which the total cost is one million dollars or more; and

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

(2) A permanent improvement project that meets the definition provided in subsection (F)(1) must become a project, regardless of the source of funds.

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

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

B. The general effective date otherwise provided in this act does not apply the provisions of this section. The provisions of this section become effective upon approval by the Governor and apply to proposals offered by a public institution of higher learning offered after the effective date of this act.

SECTION 3. Article 2, Chapter 53, Title 59 of the 1976 Code is amended by adding:

“Section 59‑53‑168. (A) The State Board for Technical and Comprehensive Education (state board) is granted the authority to employ and administer certain administrative efficiency provisions provided in Sections 2‑47‑53, 2‑47‑54, 59‑147‑30, 11‑35‑1210, 11‑35‑1550(2), 11‑35‑3310, 11‑35‑4810, 1‑7‑170, 59‑101‑620, and 1‑11‑55(2) of the 1976 Code. The state board shall establish a tiered system for categorizing technical colleges with respect to their financial strength and ability to manage day‑to‑day operations. Technical colleges, by way of application from their area commissions, may request the state board apply these administrative efficiency provisions to their respective institutions. The state board shall review the technical college’s request and determine the proper category for the technical college.

(B) The state board shall establish an advisory board to provide oversight and review of the provisions of this chapter. The state board shall submit an annual report on oversight to the Governor, the Chairman of the House Ways and Means Committee, and the Chairman of the Senate Finance Committee by November fifteenth of each year and shall submit a report every two years to include how changes have benefitted the agency to the Governor and the Chairmen of the House Ways and Means Committee, the Senate Finance Committee, the House Education and Public Works Committee, and the Senate Education Committee.”

Part III

Financing and Administrative Improvements

SECTION 4. Section 59‑147‑30 of the 1976 Code, as last amended by Act 2 of 2009, is further amended to read:

“Section 59‑147‑30. Subject to the ~~approval~~ favorable review of the ~~State Budget and Control Board by resolution duly adopted,~~ Joint Bond Review Committee, approval of the institutional board, as defined by Section 2‑47‑53(G), and the provisions of Sections 59‑147‑42 and 59‑147‑43, 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:

(1) dormitories, apartment buildings, dwelling houses, bookstores and other university operated stores, laundries, 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; and

(2) those academic facilities as may be authorized by joint resolution of the General Assembly.”

SECTION 5. Chapter 147, Title 59 of the 1976 Code is amended by adding:

“Section 59‑147‑42. By resolution duly adopted pursuant to the requirements of Section 59‑147‑40, the institutional board shall transmit to the State Treasurer a request for the issuance of revenue bonds. The request must include:

(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 are 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.”

SECTION 6. Chapter 147, Title 59 of the 1976 Code is amended by adding:

“Section 59‑147‑43. The State Treasurer shall examine the request provided pursuant to Section 59‑147‑42, and if he determines that the facts and circumstances support the request for issuance of revenue bonds pursuant to this chapter, he shall provide for the issuance of revenue bonds in the amount approved by the institutional board.”

SECTION 7. 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 of higher learning’ is defined by Section 59‑103‑5.

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 IV

Procurement Code Revisions

SECTION 8. Section 11‑35‑1210 of the 1976 Code, as last amended by Act 376 of 2006, is further amended by adding an appropriately numbered item at the end to read:

“( ) Subject to item (1), the State Board for Technical and Comprehensive Education, in coordination with the appropriate Chief Procurement Officer, may approve a cumulative total of up to fifty thousand dollars in additional procurement authority for technical colleges, provided that the designated board office makes no material audit findings concerning procurement. As provided by regulation, any authority granted pursuant to this paragraph is effective when certified in writing by the designated board office.”

SECTION 9. 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), 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), 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 public institutions of higher learning in this State excluding technical colleges, small purchase amounts to which the provisions of subitem (a) apply are those purchases not exceeding ten thousand dollars, and for these purchases subitem (b) above does 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 approves.

(e) For technical colleges as authorized by the State Board for Technical and Comprehensive Education, small purchase amounts to which the provisions of item (2)(a) apply are those purchases that do not exceed ten thousand dollars. The State Board for Technical and Comprehensive Education shall approve this authority for technical colleges. In addition, if authority is approved, technical colleges may use purchasing cards for these purchases.”

SECTION 10. 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~~ must 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 public institutions of higher learning, as defined by Section 59‑103‑5, in this subitem are 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 public institutions of higher learning, as defined by Section 59‑103‑5, in this subitem are 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~~ is subject to and included in the limitations for individual and total contract amounts provided in Section 11‑35‑3230, and any regulations promulgated thereunder except that the individual and total contract limits are fifty and one hundred fifty thousand dollars respectively for public institutions of higher learning, as defined by Section 59‑103‑5.”

SECTION 11. Section 11‑35‑4810 of the 1976 Code, as last amended by Act 153 of 1997, is further amended to read:

“Section 11‑35‑4810. ~~Any~~ A 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~~ This cooperative purchasing may include, but ~~is~~ may not be limited to, joint or ~~multi‑party~~ multiparty contracts between public procurement units and open‑ended state public procurement unit contracts which ~~shall~~ may be made available to local public procurement units, except as provided in Section 11‑35‑4820 or except as ~~may~~ otherwise may be limited by the board through regulations.

However, thirty days notice of a proposed multi‑state solicitation ~~shall~~ must 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 public institutions of higher learning if the institution demonstrates a cost savings to the Office of State Procurement in regard to the multistate solicitation and procurement.”

Part V

Miscellaneous Provisions

SECTION 12. 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) A public institution of higher learning shall engage and compensate outside counsel in accordance with policies and procedures adopted by the State Budget and Control Board for matters of bonded indebtedness, public finance, borrowing, and related financial matters.”

SECTION 13. Article 1, Chapter 101, Title 59 of the 1976 Code, as added by Act 143 of 2005, is amended by adding:

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

SECTION 14. Chapter 112, Title 59 of the 1976 Code is amended by adding:

“Section 59‑112‑115. When the governing board of a public institution of higher learning, excluding technical colleges, 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 is required to implement any change to the tuition or fees. For technical colleges, when the local area commission of a technical college adopts a change to the tuition or fees imposed on students, the change may be implemented by the technical college only after a public vote with the number of local area commissioners voting for and against the change being counted. A majority vote is required to implement any change to the tuition or fees. A change to tuition or fees adopted by the local area commission must be reported to the State Board for Technical and Comprehensive Education within five business days.”

SECTION 15. Section 1‑11‑55(2) of the 1976 Code is amended to read:

“(2) The State Budget and Control Board is hereby designated as the single central broker for the leasing of real property for governmental bodies. ~~No~~ A governmental body shall enter into any lease agreement or renew any existing lease ~~except~~ only in accordance with the provisions of this section, except that institutional boards shall approve for public institutions of higher learning to enter into any lease agreement or renew any lease up to one‑hundred thousand dollars annually for each property or facility.”

Part VI

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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