COMMITTEE REPORT

April 10, 2013

**H. 3624**

Introduced by Reps. Herbkersman, Bingham, Merrill, Harrell, Newton and White

S. Printed 4/10/13--S.

Read the first time March 7, 2013.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (H. 3624) to amend the Code of Laws of South Carolina, 1976, by adding Section 9‑4‑15 so as to provide that the state shall defend members of the Board of Directors, etc., respectfully

**REPORT:**

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

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

PEBA indicates there is no fiscal impact with the adoption of this bill.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 9‑4‑15 SO AS TO PROVIDE THAT THE STATE SHALL DEFEND MEMBERS OF THE BOARD OF DIRECTORS OF THE SOUTH CAROLINA PUBLIC EMPLOYEE BENEFIT AUTHORITY (PEBA) AGAINST CLAIMS AND SUITS ARISING OUT OF THE PERFORMANCE OF THEIR OFFICIAL DUTIES, AND REQUIRE THAT THE STATE INDEMNIFY THESE DIRECTORS FOR ANY LOSS OR JUDGMENT INCURRED BY THEM WITH RESPECT TO SUCH A CLAIM OR SUIT, TO PROVIDE THAT THE STATE SHALL DEFEND PEBA OFFICERS AND MANAGEMENT EMPLOYEES AGAINST CLAIMS AND SUITS ARISING OUT OF THE PERFORMANCE OF THEIR OFFICIAL DUTIES UNLESS THE OFFICER OR MANAGEMENT EMPLOYEE WAS ACTING IN BAD FAITH, AND REQUIRE THAT THE STATE INDEMNIFY PEBA OFFICERS AND MANAGEMENT EMPLOYEES FOR ANY LOSS OR JUDGMENT INCURRED BY THEM WITH RESPECT TO SUCH A CLAIM OR SUIT, AND TO EXTEND THE REQUIREMENT TO DEFEND AND INDEMNIFY MEMBERS OF THE BOARD OF DIRECTORS, OFFICERS, AND MANAGEMENT EMPLOYEES OF PEBA TO SUCH PERSONS AFTER LEAVING OFFICE OR EMPLOYMENT WITH PEBA FOR OFFICIAL DUTIES UNDERTAKEN BY THEM WHILE SERVING AS A DIRECTOR, OFFICER, OR MANAGEMENT EMPLOYEE OF PEBA.

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

SECTION 1. Article 1, Chapter 4, Title 9 of the 1976 Code is amended by adding:

“Section 9-4-15. The State shall defend the members of the Board of Directors of the South Carolina Public Benefit Authority (PEBA) established pursuant to this article against a claim or suit that arises out of or by virtue of their performance of official duties on behalf of the authority and must indemnify these directors for a loss or judgment incurred by them as a result of the claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. The State shall defend officers and management employees of PEBA against a claim or suit that arises out of or by virtue of performance of official duties unless the officer or management employee was acting in bad faith and must indemnify these officers, and management employees for a loss or judgment incurred by them as a result of such claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. This commitment to defend and indemnify extends to PEBA directors, officers, and management employees after they have left their office or employment with PEBA, as applicable, if the claim or suit arises out of or by virtue of their performance of official duties on behalf of PEBA.”

SECTION 2. This act takes effect upon approval by the Governor and applies with respect to any official duties undertaken by directors, officers, and management employees of the South Carolina Public Employee Benefit Authority after June 30, 2012.

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