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Indicates New Matter

AMENDED

May 29, 2014

**S. 535**

Introduced by Senators Peeler, Alexander, L. Martin, McGill, Coleman, Jackson, Campbell, Setzler, Cromer, O’Dell, Sheheen, Turner, Fair, Ford, Nicholson, Hayes and Pinckney

S. Printed 5/29/14--H. [SEC 5/30/14 2:28 PM]

Read the first time May 14, 2013.

**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:**

State Budget and Control Board

The board reports that the impact of this amendment would be minimal and would be absorbed by the agency.

Commission on Higher Education

Based on the colleges’ and universities’ individual responses to the Commission on Higher Education (CHE) survey, this bill will have no impact on the General Fund of the State or on federal and/or other funds. CHE has reported that there is a potential for monetary savings as a result of shortened timeframes, streamlined processes, and avoidance of increases in interest rates and construction costs inflation overtime. However, the agency indicated it does not have information readily available that would enable an accurate projection of the anticipated savings.

State Treasurer’s Office

The office reports that Senate Bill 535, as Amended, would have no direct impact on the General Fund of the State or federal and/or other funds.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 11 TO CHAPTER 119, TITLE 59, ENACTING THE “CLEMSON UNIVERSITY ENTERPRISE ACT”, SO AS TO ALLOW THE BOARD OF TRUSTEES OF CLEMSON UNIVERSITY BY RESOLUTION TO ESTABLISH AN ENTERPRISE DIVISION AS PART OF CLEMSON UNIVERSITY, TO PROVIDE THAT CERTAIN ASSETS, PROGRAMS, AND OPERATIONS OF CLEMSON UNIVERSITY MAY BE TRANSFERRED TO THE ENTERPRISE DIVISION, TO PROVIDE THAT THE ENTERPRISE DIVISION IS EXEMPT FROM VARIOUS STATE LAWS GOVERNING PROCUREMENT, HUMAN RESOURCES, PERSONNEL, AND DISPOSITION OF REAL AND PERSONAL PROPERTY WITH SOME SUCH EXEMPTIONS APPLYING AUTOMATICALLY AND OTHERS REQUIRING ADDITIONAL ACTIONS BY THE BOARD OF TRUSTEES, TO PROVIDE THAT BONDS, NOTES, OR OTHER EVIDENCE OF INDEBTEDNESS MAY BE ISSUED FOR THE ENTERPRISE DIVISION AND PROVIDE AUDIT AND REPORTING REQUIREMENTS; AND TO AMEND SECTIONS 8‑11‑260, 8‑17‑370, AND 11‑35‑710, ALL AS AMENDED, AND RELATING RESPECTIVELY TO EXEMPTIONS FROM STATE PERSONNEL ADMINISTRATIONS, THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT, AND THE SOUTH CAROLINA CONSOLIDATED PROCUREMENT CODE, SO AS TO ADD EXEMPTIONS CONFORMING TO THE CLEMSON UNIVERSITY ENTERPRISE ACT.

Amend Title To Conform

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

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

“Article 5

Permanent Improvement Project Review

Section 59‑101‑1310. The purpose of this article is to specify the manner and time in which Joint Bond Review Committee approval is necessary for a permanent improvement project of a public institution of higher learning. To the extent that the provisions of this article conflict with any other provisions of law, the provisions of this article shall govern.

Section 59‑101‑1320. As used in this article:

(1) ‘Committee’ means the Joint Bond Review Committee.

(2) ‘Authority’ means the State Budget and Control Board or its successor entity, the State Fiscal Accountability Authority.

(3) ‘Public institution of higher learning’ has the meaning provided in Section 59‑103‑5.

(4) ‘Phase one construction submittal’ or ‘POCS’ means a request to acquire professional services for predesign or design work, or both, through development of concept design and preparation of a project budget for complete project design and construction. The product of these services must be a statement of project scope and budget. Predesign and design services must include, but not be limited to, design objectives, site requirements, project schedule, human, vehicular, and material flow patterns, general space allocations, site measurements, environmental considerations/impacts, utility systems, deed and zoning analyses, and preliminary building plans and elevations.

(5) ‘Phase two construction submittal’ or ‘PTCS’ means a request to acquire and complete final design and construction documents and to execute construction documents to begin and complete construction.

(6) ‘Limited review’, with respect to new construction, renovations, or acquisitions, means that a permanent improvement project is exempt from receiving approval for a POCS from both the committee and the authority. However, projects are still required to receive PTCS approval from both the committee and the authority.

(7) ‘Modified review’, with respect to new construction, renovations or acquisitions, means that a permanent improvement project’s POCS is considered approved by the committee unless a member of the committee objects within fifteen days of being provided a copy of the POCS by committee staff. If no objection is noted and the POCS stands approved, approval from the authority is not required. However, projects are still required to receive PTCS approval from both the committee and the authority. With respect to leases, ‘modified review’ means the lease request is considered approved by the committee unless a member of the committee objects within fifteen days of being provided a copy of the submission by committee staff. If no objection is noted and the approval stands, approval from the authority is not required and the lease request is considered to have received final approval.

(8) ‘Full review’, with respect to new construction, renovations or acquisitions, means the permanent improvement project must receive both POCS and PTCS approval from both the committee and the authority.

(9) ‘Highly rated’ means a public institution of higher learning receiving AAA credit ratings from either Standard and Poor’s Ratings Services or Fitch Ratings or Aaa ratings from Moody’s Investors Service.

(10) ‘Well rated’ means a public institution of higher learning receiving AA+, AA, or AA‑ credit ratings from either Standard and Poor’s Ratings Services or Fitch Ratings or Aa1, Aa2, or Aa3 ratings from Moody’s Investors Service.

(11) ‘Medium Rated’ means a public institution of higher learning receiving A+, A, or A‑ credit ratings from either Standard and Poor’s Ratings Services or Fitch Ratings or A1, A2, or A3 ratings from Moody’s Investors Service.

(12) ‘Low or unrated’ means a public institution of higher learning receiving BBB+ or lower credit ratings from either Standard and Poor’s Ratings Services or Fitch Ratings or Baa1 or lower rating from Moody’s Investors Service or a public institution of higher learning that has not received a credit rating from Standard and Poor’s Ratings Services, Fitch Ratings or Moody’s Investors Service in the past two years.

Section 59‑101‑1330. For a public institution of higher learning, a permanent improvement project funded in whole or in part with the use of institutional bonds of a public institution of higher learning requires a full review by the committee and authority.

Section 59‑101‑1340. (A) For a highly rated public institution of higher learning, a permanent improvement project funded in whole or in part by revenue bonds of the institution requires a:

(1) limited review for a project for which the total cost is less than forty million dollars; and

(2) modified review for a project for which the total cost is equal to or greater than forty million dollars.

(B) For a well-rated public institution of higher learning, a permanent improvement project funded in whole or in part by revenue bonds of the institution requires a:

(1) limited review for a project for which the total cost is less than forty million dollars; and

(2) full review for a project for which the total cost is equal to or greater than forty million dollars.

(C) For a medium-rated public institution of higher learning, a permanent improvement project funded in whole or in part by revenue bonds of the institution requires a:

(1) modified review for a project for which the total cost is less than forty million dollars;

(2) full review for a project for which the total cost is equal to or greater than forty million dollars.

(D) For a low or unrated public institution of higher learning, a permanent improvement project funded in whole or in part by revenue bonds of the institution requires full review regardless of total cost.

Section 59‑101‑1350. (A) For a highly rated public institution of higher learning, a permanent improvement project involving new construction utilizing one hundred percent private funds or gifts requires a limited review for a project for which the total cost is greater than five hundred thousand dollars.

(B) For a well-rated public institution of higher learning, a permanent improvement project involving new construction utilizing one hundred percent private funds or gifts requires a:

(1) limited review for a project for which the total cost is greater than five hundred thousand dollars but less than ten million dollars; and

(2) modified review for a project for which the total cost is equal to or greater than ten million dollars.

(C) For a medium-rated public institution of higher learning, a permanent improvement project involving new construction utilizing one hundred percent private funds or gifts requires a:

(1) limited review for a project for which the total cost is greater than five hundred thousand dollars but less than five million dollars;

(2) modified review for a project for which the total cost is equal to or greater than five million dollars but less than ten million dollars; and

(3) full review for a project for which the total cost is equal to or greater than ten million dollars.

(D) For a low or unrated public institution of higher learning, a permanent improvement project involving new construction utilizing one hundred percent private funds or gifts requires a full review for a project for which the total cost is equal to or greater than five hundred thousand dollars.

Section 59‑101‑1360. (A) For a highly rated public institution of higher learning, a permanent improvement project involving renovations utilizing one hundred percent private funds or gifts requires a limited review for a project for which the total cost is greater than one million dollars.

(B) For a well-rated public institution of higher learning, a permanent improvement project involving renovations utilizing one hundred percent private funds or gifts requires a:

(1) limited review for a project for which the total cost is greater than one million dollars but less than ten million dollars; and

(2) modified review for a project for which the total cost is equal to or greater than ten million dollars.

(C) For a medium-rated public institution of higher learning, a permanent improvement project involving renovations utilizing one hundred percent private funds or gifts requires a:

(1) limited review for a project for which the total cost is greater than one million dollars but less than five million dollars;

(2) modified review for a project for which the total cost is equal to or greater than five million dollars but less than ten million dollars; and

(3) full review for a project for which the total cost is equal to or greater than ten million dollars.

(D) For a low or unrated public institution of higher learning, a permanent improvement project involving renovations utilizing one hundred percent private funds or gifts requires a full review for a project for which the total cost is equal to or greater than one million dollars.

Section 59‑101‑1370. (A) For a highly rated public institution of higher learning, a permanent improvement project involving new construction utilizing sources of funds that are not debt requires a:

(1) limited review for a project for which the total cost is greater than five hundred thousand dollars but less than seven million dollars; and

(2) modified review for a project for which the total cost is equal to or greater than seven million dollars.

(B) For a well-rated public institution of higher learning, a permanent improvement project involving new construction utilizing sources of funds that are not debt requires a:

(1) limited review for a project for which the total cost is greater than five hundred thousand dollars but less than five million dollars; and

(2) modified review for a project for which the total cost is equal to or greater than five million dollars.

(C) For a medium-rated public institution of higher learning, a permanent improvement project involving new construction utilizing sources of funds that are not debt requires a:

(1) limited review for a project for which the total cost is greater than five hundred thousand dollars but less than five million dollars;

(2) modified review for a project for which the total cost is equal to or greater than five million dollars but less than seven million dollars; and

(3) full review for a project for which the total cost is equal to or greater than seven million dollars.

(D) For a low or unrated public institution of higher learning, a permanent improvement project involving new construction utilizing sources of funds that are not debt requires a full review for a project for which the total cost is equal to or greater than five hundred thousand dollars.

Section 59‑101‑1380. (A) For a highly rated public institution of higher learning, a permanent improvement project involving renovations utilizing sources of funds that are not debt requires a:

(1) limited review for a project for which the total cost is equal to or greater than one million dollars but less than seven million dollars; and

(2) modified review for a project for which the total cost is equal to or greater than seven million dollars.

(B) For a well-rated public institution of higher learning, a permanent improvement project involving renovations utilizing sources of funds that are not debt requires a:

(1) limited review for a project for which the total cost is equal to or greater than one million dollars but less than five million dollars; and

(2) modified review for a project for which the total cost is equal to or greater than five million dollars.

(C) For a medium-rated public institution of higher learning, a permanent improvement project involving renovations utilizing sources of funds that are not debt requires a:

(1) limited review for a project for which the total cost is equal to or greater than one million dollars but less than five million dollars;

(2) modified review for a project for which the total cost is equal to or greater than five million dollars but less than seven million dollars; and

(3) full review for a project for which the total cost is more than seven million dollars.

(D) For a low or unrated public institution of higher learning, a permanent improvement project involving renovations utilizing sources of funds that are not debt requires a full review for a project for which the total cost is greater than one million dollars.

Section 59‑101‑1390. (A) For a highly rated public institution of higher learning, an acquisition utilizing any source of funds requires a:

(1) limited review for an acquisition for which the total cost is greater than two hundred fifty thousand dollars but less than one million dollars; and

(2) modified review for an acquisition for which the total cost is equal to or greater than one million dollars.

(B) For a well-rated public institution of higher learning, an acquisition utilizing any source of funds requires a modified review for an acquisition for which the total cost is greater than two hundred fifty thousand dollars.

(C) For a medium-rated public institution of higher learning, an acquisition utilizing any source of funds requires a:

(1) modified review for an acquisition for which the total cost is greater than two hundred fifty thousand dollars but less than one million dollars; and

(2) full review for an acquisition for which the total cost is equal to or greater than one million dollars.

(D) For a low or unrated public institution of higher learning, an acquisition utilizing any source of funds requires a full review for an acquisition for which the total cost is greater than two hundred fifty thousand dollars.

Section 59‑101‑1400. (A) For a highly rated and a well-rated public institution of higher learning, a lease utilizing any source of funds requires a:

(1) modified review for a lease for which the total cost is greater than one million dollars but less than three million dollars; and

(2) full review for a lease for which the total cost is equal to or greater than three million dollars.

(B) For a medium-rated and a low or unrated public institution of higher learning, a lease utilizing any source of funds requires a full review for a lease for which the total cost is greater than one million dollars.

Section 59‑101‑1410. Nothing in this article is intended to supercede committee or authority, or both committee and authority staff level approval for certain projects as provided in Title 2, Chapter 47.

Section 59‑101‑1420. Notwithstanding a credit rating to the contrary, a public institution of higher learning which is in deficit posture, has not completed its annual Comprehensive Annual Financial Report (CAFR) on time, received material findings in a procurement audit, state auditor’s report, or an Inspector General’s report, is deemed low or unrated for the purposes of this article. Upon completion of corrective action on any of these items, the public institution of higher learning shall operate subject to its stated credit rating.”

SECTION 2. A. Article 1, Chapter 103, Title 59 is amended by adding:

“Section 59‑103‑22. The University of Charleston, South Carolina, as provided for in this chapter is hereby designated a ‘research institution’ as provided in Section 59‑103‑15 (B)(1), and as such is eligible to participate in South Carolina Research Centers of Economic Excellence as provided in Title 2, Chapter 75. The University of Charleston, South Carolina, shall submit a mission statement corresponding with its designation as a research institution before January 1, 2015, and this mission statement must be approved by the Commission on Higher Education before April 1, 2015. The University of Charleston, South Carolina, shall not duplicate any degree programs offered in the Charleston region. The provisions of this section do not alter the designation of the College of Charleston as a four‑year liberal arts college. The University of Charleston, South Carolina, and the College of Charleston must each be established as separate budget sections in the annual appropriations bill.”

B. Section 2‑75‑5 of the 1976 Code is amended to read:

“Section 2‑75‑5. (A) This chapter is known and may be cited as the ‘South Carolina Research Centers of Economic Excellence Act’.

(B) The General Assembly finds that:

(1) it is in the public interest to create incentives for the senior research universities of South Carolina consisting of Clemson University, the Medical University of South Carolina, the University of Charleston, South Carolina, and the University of South Carolina to raise capital from the private sector to fund endowments for professorships in research areas targeted to create well‑paying jobs and enhanced economic opportunities for the people of South Carolina;

(2) these endowed professorships should be used to recruit and maintain leading scientists and engineers at the senior research universities of South Carolina for the purposes of developing and leveraging the research capabilities of the universities for the creation of well‑paying jobs and enhanced economic opportunities in knowledge‑based industries for all South Carolinians;

(3) in communities across the United States in which better paying jobs and enhanced economic development in knowledge‑based industries has flourished, the local or state government has created incentives and made a long‑term commitment to public and private funding for a significant number of endowments for professorships in targeted knowledge‑based industries;

(4) the South Carolina Education Lottery provides a source of funding and an incentive for the senior research universities to raise, in dollar‑for‑dollar matching amounts, sums from nonstate sources sufficient to create endowed professorships;

(5) these endowed professorships should be awarded to the senior research universities through a competitive application process, provided that the competitive process must encourage the senior research universities to submit cooperative applications with one another as well as in cooperation with other institutions of higher education; ~~and~~

(6) these endowed professorships, funded equally from the South Carolina Education Lottery and from other nonstate sources, provide a foundation for the creation of centers of economic excellence; and

(7) these endowed professorships and senior research universities shall seek collaboration and develop partnerships with similarly focused programs at the state’s technical colleges to meet the workforce demands of South Carolina’s growing economy.”

SECTION 3. This act takes effect July 1, 2014.

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