



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
 (803)734-0640 • RFA.SC.GOV/IMPACTS

Bill Number: S. 0542 Introduced on March 14, 2017
Author: Talley
Subject: State Institution of Higher Education Enterprise Act
Requestor: Senate Education
RFA Analyst(s): Powell
Impact Date: February 15, 2018

Estimate of Fiscal Impact

	FY 2018-19	FY 2019-20
State Expenditure		
General Fund	\$0	\$0
Other and Federal	Undetermined	\$0
Full-Time Equivalent Position(s)	Undetermined	0.00
State Revenue		
General Fund	\$0	\$0
Other and Federal	Undetermined	\$0
Local Expenditure	\$0	\$0
Local Revenue	\$0	\$0

Fiscal Impact Summary

This bill makes complex changes to the revenue bonding process, the permanent improvement process, the process for selling and leasing state property, and the procurement process for institutions that choose to create enterprise divisions. As it is unknown what enterprise divisions will be created and what projects will be undertaken, the Other Funds expenditure and revenue impacts of these provisions are undetermined. Any increases to General Fund expenditures would be minimal and could be absorbed by the agencies. This bill does not impact General Fund revenues or Federal Funds revenues or expenditures.

Explanation of Fiscal Impact

Introduced on March 14, 2017

State Expenditure

This bill allows the board of trustees of a college or university to create an enterprise division for its institution's enterprise activities. Enterprise activities are defined as athletic and auxiliary programs and functions funded solely by funds not received from the General Fund of the state or from undergraduate tuition, such as the programs or functions identified in Section 59-147-30, including, but not limited to, those primarily related to economic development, research, housing, food services, stores, and athletics.

Athletics may only be included as an enterprise activity if the college or university's athletics total revenues are equal to or exceed forty million dollars a year. Per the U.S. Department of Education's Equity in Athletics Disclosure Act data for 2016, only Clemson University and the University of South Carolina would qualify to include athletics as an enterprise activity.

Activities and transferrable items associated with the enterprise division will be transferred to that division, which will be managed by the board of trustees. While this will result in additional duties for the board of trustees, the functions being transferred are current university functions that already require oversight in the normal course of agency business. As a result, these activities are not expected to increase expenditures. Should this bill encourage a university to create new enterprise activities, an expenditure impact associated with the oversight of these activities could occur.

The board of trustees will have expanded authority with respect to the enterprise division. It is granted the following additional powers:

- purchase, lease as lessee, accept, and otherwise acquire any real and personal property and other assets;
- sell, convey, lease as lessor, exchange, and otherwise dispose of any real and personal property and other assets, with the proceeds to be used exclusively for the support of the enterprise division or the college or university, subject to certain requirements and limitations;
- review and approve permanent improvement projects and capital improvements, subject to the review and comment of the Joint Bond Review Committee, subject to certain requirements and limitations;
- finance capital improvement projects, subject to certain requirements and limitations;
- enter into relationships or transactions with not-for-profit entities established to support the college or university, subject to certain requirements and limitations;
- issue bonds, notes or other instruments of debt in the name of the university and on behalf of the enterprise division, including debt issued under the Higher Education Revenue Bond Act and the South Carolina Jobs-Economic Development Fund Act, subject to certain requirements and limitations and so long as they are not used to fund a capital improvement; and
- adopt a procurement policy for the enterprise division, subject to approval by the State Fiscal Accountability Authority, subject to certain requirements and limitations.

These types of activities are already considered by the board of trustees in the normal course of agency business. As to permanent improvements, the board of trustees must already review and approve permanent improvement projects as part of the state permanent improvement project process. This bill removes most additional layers of review after that approval. According to the Commission on Higher Education, some institutions have indicated that there may be cost savings associated with these powers; however, they were not able to quantify those savings. These oversight activities are not expected to increase expenditures beyond a level that can be managed within existing appropriations; however, if transactions are entered into as a result of these powers it may result in an increase in expenditures.

The board of trustees is also required to have an annual audit conducted by an independent certified public accountant and to provide various reports relating to its exercise of these powers to the Governor, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee. The reports will be produced in the normal course of agency business and are not expected to result in an increase in expenditures beyond a level that can be

managed within existing appropriations. The audit requirements could result in increased expenditures, but without knowing the exact number and parameters of such divisions, the expenditure impact of this is undetermined. It is likely that, as these divisions are created by the transfer of activities from existing departments within the colleges and universities, such activities are covered under the scope of current audits and additional expenditures resulting from a separate audit of these activities would be minimal.

The board of trustees must establish management controls and staffing of the enterprise division. The enterprise division's employees are eligible to participate in state retirement, health insurance, and other programs administered by the South Carolina Public Benefit Authority. The creation of an enterprise division involves the transfer of existing personnel, which would not result in an increase in expenditures for the college or university housing the enterprise division. However, if this bill results in an expansion of enterprise activities by colleges it may result in an increase in expenditures.

This is considered a pilot program and must be reauthorized by the General Assembly four years after the creation of the first enterprise division and every four years thereafter.

The Commission on Higher Education (CHE) surveyed the institutions and provided a summary of their responses. CHE indicated that responses had not been provided by Clemson University, The Citadel, Coastal Carolina University, or the College of Charleston.

State Fiscal Accountability Authority. The State Fiscal Accountability Authority is charged with approving the procurement policies for each enterprise division. Approving procurement policies and limitations is an activity that occurs in the normal course of agency business, and the State Fiscal Accountability Authority has indicated that it can manage a reasonable number of approvals per year within existing resources.

State Revenue

In general, the proceeds from the sale of surplus state property accrue to the General Fund. This bill exempts agencies the provisions of the South Carolina Code of Laws relating to the sale of surplus property and directs that the proceeds be retained by the Enterprise Division. However, Proviso 93.20 of the FY 2017-18 Appropriations Act currently exempts higher education institutions from remitting proceeds from the sale of property to the Department of Administration. Therefore, there will be no impact to the General Fund as a result of this change. The enterprise division may accrue additional revenue if property is sold, but as it is unknown what enterprise divisions will be created and what projects will be undertaken; therefore, the Other Funds revenue impacts of these provisions are undetermined.

The bill also allows enterprise divisions to lease property as a lessor and to issue bonds or other forms of indebtedness. As it is unknown how the institutions will take advantage of these provisions, the Other Funds revenue impacts of these provisions are undetermined.

Local Expenditure

N/A

Local Revenue

N/A

A handwritten signature in blue ink that reads "Frank A. Rainwater". The signature is fluid and cursive, with a long horizontal stroke at the end.

Frank A. Rainwater, Executive Director