**A** **BILL**

TO ENACT THE SOUTH CAROLINA EDUCATION BANK ACT; TO AMEND TITLE 11 OF THE 1976 CODE, RELATING TO PUBLIC FINANCE, BY ADDING CHAPTER 58, TO CREATE THE SOUTH CAROLINA EDUCATION BANK, TO ESTABLISH A GOVERNING BOARD, TO PROVIDE FOR THE POWERS OF THE BANK, TO FUND THE BANK, TO PROVIDE LIABILITY PROTECTIONS, TO PROVIDE FOR DEPOSITS, TO PROVIDE FOR ANNUAL REPORTING REQUIREMENTS, TO PROVIDE FOR LOCAL SCHOOL BOARD FUNDING REQUEST REQUIREMENTS, AND TO DEFINE NECESSARY TERMS.

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

SECTION 1. This act must be known and may be cited as the “South Carolina Education Bank Act”.

SECTION 2. Title 11 of the 1976 Code is amended by adding:

“CHAPTER 58

South Carolina Education Bank

Section 11‑58‑100. (A) There is created a body corporate and politic and an instrumentality of the State to be known as the South Carolina Education Bank.

(B) The bank is governed by a board as provided in this chapter.

(C) The corporate purpose of the bank is to select and assist in financing qualified projects by distributing funds collected by the bank to government units and private entities for constructing and improving education‑related facilities necessary for public education purposes. The exercise by the bank of a power conferred in this chapter is an essential public function.

(D) The bank shall establish and maintain an interest‑bearing state education account.

Section 11‑58‑110. As used in this chapter unless the context clearly indicates otherwise:

(1) ‘Bank’ means the South Carolina Education Bank.

(2) ‘Board’ means the board of directors of the bank.

(3) ‘Department’ or ‘state department’ means the State Department of Education.

(4) ‘Eligible cost’ means the costs for a qualified project that are permitted under applicable laws, requirements, procedures, and guidelines in regard to establishing, operating, and providing assistance from the bank, including the costs of preliminary engineering, environmental studies, legal and financial services associated with the development of the qualified project, construction, construction management, facilities, and other costs necessary for the qualified project.

(5) ‘Eligible project’ means a capital development or improvement made to school‑related infrastructure in a county. An eligible project does not include infrastructure maintenance or the construction of recreational facilities.

(6) ‘Government unit’ means a local school district board, municipal corporation, or county in this State, including combinations of two or more of these entities acting jointly to construct, own, or operate a qualified project, or any other state or local authority, board, commission, agency, or department created by the General Assembly or pursuant to the Constitution and laws of this State that may construct, own, or operate a qualified project.

(7) ‘Private entity’ means a private person or entity that has entered into a contract with a government unit to design, finance, or construct an eligible project that is within the jurisdiction of the government unit that is responsible for complying with applicable statutory requirements.

(8) ‘Qualified project’ means an eligible project that has been selected by the bank to receive a disbursement from the bank.

Section 11‑58‑120. (A) The board is the governing board of the bank and consists of seven voting members as follows:

(1) the secretary of the department;

(2) one member appointed by the Governor who shall serve as chairman;

(3) one member appointed by the Governor;

(4) one member appointed by the Speaker of the House of Representatives;

(5) one member who is a member of the House of Representatives appointed by the Speaker of the House of Representatives;

(6) one member appointed by the President of the Senate; and

(7) one member who is a Senator appointed by the President of the Senate.

(B) Members appointed by the Governor, the Speaker of the House of Representatives, and the President of the Senate shall serve terms coterminous with those of their appointing authority. The terms for the legislative members are coterminous with their terms of office. Any person appointed to fill a vacancy must be appointed in the same manner as the original appointment for the remainder of the unexpired term.

(C) The board must elect a vice-chairman.

Section 11‑58‑130. (A) The bank has all power necessary, useful, or appropriate to fund, operate, and administer the bank and to perform its other functions, including, but not limited to, the power to:

(1) have perpetual succession;

(2) adopt, promulgate, amend, and repeal bylaws, not inconsistent with provisions in this chapter for the administration of the bank’s affairs and the implementation of its functions, including the right of the board to select qualifying projects and distribute funds;

(3) sue and be sued in its own name;

(4) have a seal and alter it at its pleasure, although the failure to affix a seal does not affect the validity of an instrument executed on behalf of the bank;

(5) establish policies and procedures for distributing funds and fiscal controls and establish accounting procedures to ensure proper accounting and reporting by the bank, government units, and private entities;

(6) expend funds credited to the bank as the board determines necessary for the costs of administering the operations of the bank; and

(7) do all other things necessary or convenient to exercise powers granted or reasonably implied by this chapter.

(B) The bank is not authorized or empowered to be or to constitute a bank or trust company within the jurisdiction or under the control of the State or an agency of it or the Comptroller of the Currency or the Treasury Department of the United States, or a bank, banker, or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange, or securities dealers’ law of the United States or this State.

(C) The bank is subject to the provisions of Article 1, Chapter 23, Title 1, the Administrative Procedures Act.

Section 11‑58‑140. The bank shall be funded by ten percent of fees collected annually from any fees in lieu of taxes collected under state law. The bank may also receive contributions and donations from government units, private entities, and any other source as may become available to the bank, including, but not limited to, appropriations from the General Assembly. Funds shall be distributed in a pro‑rata share to qualified projects in areas in which funds are collected but may not exceed an amount equal to the initial investment. In distributing these funds, the bank must give priority to projects located in Tier III and IV counties.

Section 11‑58‑150. The board is not subject to any liability resulting from carrying out any of the powers given in this chapter while acting within the scope of its authority.

Section 11‑58‑160. All money of the bank must be deposited with and invested by the State Treasurer. Funds of the bank not needed for immediate use or disbursement may be invested by the State Treasurer in obligations or securities that are declared to be legal obligations by the provisions of Section 11‑9‑660.

Section 11‑58‑170. Following the close of each fiscal year, the bank shall submit an annual report of its activities for the preceding year to the Governor and the General Assembly. An independent certified public accountant shall perform an audit of the books and accounts of the bank at least once in each fiscal year.

Section 11‑58‑180. If a local school district board is submitting a request for funds from the bank for a project, then the local school district board must include justification for the project and projected costs and timelines and must provide a copy of the request to the local legislative delegation.”

SECTION 3. This act takes effect upon approval by the Governor, and Section 11-58-140, as added by this act, applies to all fees in lieu of taxes that are collected after the effective date of this act.

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