**A** **BILL**

TO AMEND TITLE 59 OF THE 1976 CODE, RELATING TO EDUCATION, BY ADDING CHAPTER 138, TO ESTABLISH THE SOUTH CAROLINA COLLEGE AND UNIVERSITY BOARD OF REGENTS AND PROVIDE FOR ITS MEMBERSHIP, POWERS, DUTIES, AND RESPONSIBILITIES, TO PROVIDE FOR THE SERVICE OF TRUSTEES OR MEMBERS OF THE GOVERNING BODY OF CONSTITUENT INSTITUTIONS, AND TO PROVIDE THAT THE POWERS, DUTIES, AND RESPONSIBILITIES OF THE STATE COMMISSION ON HIGHER EDUCATION AND THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION, NOT INCONSISTENT WITH CHAPTER 138, TITLE 59, ARE DEVOLVED UPON THE SOUTH CAROLINA COLLEGE AND UNIVERSITY BOARD OF REGENTS; TO REPEAL SECTION 59-53-10, RELATING TO THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION, AND SECTION 59-103-10, RELATING TO THE STATE COMMISSION ON HIGHER EDUCATION; AND TO DEFINE NECESSARY TERMS.

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

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

“CHAPTER 138

South Carolina College and

University Board of Regents

Section 59‑138‑10. In order to foster the development of a coordinated system of higher education, to improve the quality of education, to extend its benefits, and to encourage an economical use of the State’s resources, the South Carolina system of higher education is redefined in accordance with the provisions of this chapter.

Section 59‑138‑20. As used in this chapter, unless the context clearly requires otherwise:

(1) ‘Board of regents’ means the South Carolina College and University Board of Regents.

(2) ‘Board of trustees’ means the board of trustees or governing board or commission of a constituent institution.

(3) ‘Constituent institution’ or ‘institution’ means those public institutions of higher learning defined by Section 59‑103‑5.

Section 59‑138‑30. There is created a South Carolina College and University Board of Regents, which is known as the ‘State Board of Regents’, and which is a body corporate and politic and which by that name has the power to:

(1) have perpetual succession;

(2) sue and be sued in the corporate name;

(3) have a common seal and alter it at its pleasure;

(4) make contracts; have, hold, purchase, and lease real and personal property for corporate purposes; and sell or dispose of personal property and buildings that are considered by it as surplus property or not further needed and of buildings that it may need to dispose of for the purpose of making room for other construction. However, the board of regents does not have the power to sell or otherwise dispose of real estate, other than buildings, except with the consent of the General Assembly;

(5) elect from its membership for two‑year terms a chairman, vice-chairman, and secretary to serve until their successors have been elected and qualify. However, no person may serve as chairman for more than four years in succession;

(6) take, demand, receive, and possess monies, goods, and chattels that may be given for the use of a constituent institution and apply the same according to the will of the donors;

(7) receive, possess, enjoy, and retain forever by gift, purchase, or devise real and personal estate and funds of any kind, nature, or quality in special trust and confidence that the same, or the profits from them, must be applied to and for the use and purpose of establishing and endowing the constituent institutions; and

(8) perform all functions that usually are performed by bodies corporate and politic and do anything necessary for the promotion of learning and virtue.

Section 59‑138‑40. (A)(1) The board of regents is composed of seventeen members. Vacancies in all seats must be filled by election or appointment in the same manner of original election or appointment for the remainder of the unexpired term.

(2) Two members must be elected by the General Assembly from each congressional district, with no two members from a congressional district being from the same county. These members must be elected for terms of four years each and until their successors are elected and qualify, except that of those members first elected, one‑half must be elected for terms of two years each, with the initial terms of all members to be designated by the General Assembly when conducting the elections.

(3) Three members must be appointed by the Governor to serve for terms coterminous with his term of office.

(B) Neither a person elected nor appointed to the board of regents nor a member of his immediate family may be employed by or be a member of a board of trustees for a period of five years immediately preceding his election or appointment to the board of regents.

Section 59‑138‑50. (A) A member of the board of regents must be chosen for his interest in, and his ability to contribute to the fulfillment of, the purposes of the board of regents. Each member is charged with the responsibility of serving the best interests of the State. In selecting members, the objective must be to obtain the services of the best qualified residents of the State, taking into consideration the need for representation on the board of regents by different races, sexes, and political parties.

(B) Each member of the board of regents must receive mileage, subsistence, and per diem as is allowed for members of state boards, committees, and commissions.

Section 59‑138‑60. The board of regents shall meet at stated times established by the board of regents but not less frequently than six times a year. A quorum for the conduct of business consists of a majority of the members.

Section 59‑138‑70. The board of regents has the power to appoint from its membership committees, which are clothed with any power the board of regents may confer that is consistent with law. No committee may reverse a decision concerning a policy taken by the board of regents at a regular meeting.

Section 59‑138‑80. In performing its functions, duties, and responsibilities:

(1) The board of regents shall plan and develop a coordinated system of higher education in South Carolina. The board of regents shall govern the constituent institutions, subject to the powers, duties, and responsibilities granted in this chapter, and the board of regents shall maintain close liaison with the constituent institutions, the State Board of Education, and other committees, boards, commissions, or agencies that serve the purpose of fostering education in South Carolina. The board of regents, in consultation with representatives of the private colleges and universities of this State, shall prepare and revise a long‑range plan for a coordinated system of higher education, supplying copies of the plan to the Governor, the members of the General Assembly, and the constituent institutions.

(2) The board of regents is responsible for the general determination, control, supervision, management, and governance of all affairs of the constituent institutions. For this purpose, the board of regents may adopt policies and promulgate appropriate regulations.

(3) The board of regents shall determine the functions, educational activities, and academic programs of the constituent institutions. The board of regents shall also determine the types of degrees to be awarded by the constituent institutions. The powers granted in this chapter to the board of regents are not restricted by any provision of law assigning specific functions, duties, or responsibilities to designated institutions, and the powers granted in this chapter to the board of regents supersede any provision. After adequate notice and after giving a board of trustees an opportunity to be heard, the board of regents is authorized to withdraw approval of an existing program if it appears that the program is unproductive, excessively costly, or unnecessarily duplicative.

(4) The board of regents may approve the establishment of any new, publicly supported institution of higher education.

(5) The board of regents shall set tuition and required fees at the institutions not inconsistent with any action of the General Assembly.

(6) The board of regents shall set enrollment levels at the constituent institutions.

(7) The board of regents shall develop, prepare, and present to the Governor and the General Assembly a budget for each constituent institution. In preparing this budget, the board of regents shall consult specifically with the constituent institution involved.

(8) The board of regents shall render advice and make recommendations concerning education to the Governor and General Assembly on an annual basis or more frequently if requested by the Governor or the General Assembly.

Section 59‑138‑90. Property, whether real, personal, or mixed, held immediately before the establishment of the board of regents by a board of trustees for the benefit of a constituent institution must be kept separate and distinct from other properties held by the board of regents, must continue to be held for the benefit of the institution that was previously the beneficiary, and must continue to be held subject to the provisions of the respective instruments, grants, or other means of process by which any property was acquired. Nothing contained in this chapter increases or diminishes the income, other revenue, or specific property that is pledged or otherwise hypothecated for the security or liquidation of an obligation. The board of regents shall assume the obligations without either enlarging or diminishing the rights of the holders of the obligations.

Section 59‑138‑100. Pursuant to this chapter, a board of trustees has the powers and duties to:

(1) promote the sound development of its constituent institution within the functions prescribed for it, helping it to serve the State in a way that will complement the activities of the other constituent institutions and aiding it to perform at a high level of excellence in every area of endeavor;

(2) serve as advisor to the board of regents on matters pertaining to its institution;

(3) appoint a chairman of the board of trustees and other officers necessary to assist the members of the board of trustees in their duties;

(4) appoint, with the advice and consent of the board of regents, a college president, treasurer, and secretary and, with the advice and consent of the board of regents, prescribe their duties and terms of office;

(5) make bylaws and regulations for the management of its institution’s affairs and operations not inconsistent with policies of the board of regents or with any provision of law. Bylaws and regulations must be approved by the board of regents before becoming effective;

(6) confer degrees upon students and other persons who meet the standards set by the board of regents;

(7) perform other functions delegated to it by the board of regents, which functions may not be inconsistent with law; and

(8) perform functions enumerated in the statutes governing the board of trustees’ existence, as long as the function has not been granted to the board of regents by this chapter.

Section 59‑138‑110. The provisions contained in this chapter supersede regulations or other provisions of law that are inconsistent with this chapter or that confer powers on other bodies inconsistent with the powers conferred on the board of regents.”

SECTION 2. Persons who, as of the effective date of this act, are serving as trustees or members of the governing body of a constituent institution shall continue to serve as provided by the applicable provisions of law governing their institution. Their successors must be elected in the manner and at the time prescribed by the provisions of law governing their institutions.

SECTION 3. Upon the effective date of this act, the duties, powers, and responsibilities of the State Commission on Higher Education and the State Board for Technical and Comprehensive Education not inconsistent with the duties, powers, and responsibilities conferred upon the South Carolina College and University Board of Regents under Chapter 138, Title 59, are devolved upon the South Carolina College and University Board of Regents. The property, rights, and privileges, held by the boards of trustees or governing bodies of the constituent institutions, that exist immediately before the effective date of this act are transferred to and assumed by the South Carolina College and University Board of Regents.

SECTION 4. The Code Commissioner is directed to change or correct all appropriate references regarding the State Commission on Higher Education and the State Board for Technical and Comprehensive Education to reflect the devolution of their powers upon the South Carolina College and University Board of Regents.

SECTION 5. Sections 59-53-10 and 59-103-10 of the 1976 Code are repealed.

SECTION 6. This act takes effect upon approval by the Governor.

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