**South Carolina General Assembly**

125th Session, 2023-2024

**A214, R239, S314**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Talley

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Introduced in the Senate on January 10, 2023

Introduced in the House on May 11, 2023

Last Amended on June 26, 2024

Currently residing in the Senate

Governor's Action: July 2, 2024, Signed

Summary: Higher Education Permanent Improvement Projects

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/7/2022 Senate Prefiled

 12/7/2022 Senate Referred to Committee on **Education**

 1/10/2023 Senate Introduced and read first time (Senate Journal‑page 191)

 1/10/2023 Senate Referred to Committee on **Education** (Senate Journal‑page 191)

 2/9/2023 Scrivener's error corrected

 2/14/2023 Senate Committee report: Favorable with amendment **Education** (Senate Journal‑page 6)

 2/15/2023 Scrivener's error corrected

 5/9/2023 Senate Amended (Senate Journal‑page 48)

 5/9/2023 Senate Read second time (Senate Journal‑page 48)

 5/9/2023 Senate Roll call Ayes-44 Nays-0 (Senate Journal‑page 48)

 5/10/2023 Senate Read third time and sent to House (Senate Journal‑page 13)

 5/11/2023 Scrivener's error corrected

 5/11/2023 House Introduced and read first time (House Journal‑page 11)

 5/11/2023 House Referred to Committee on **Ways and Means** (House Journal‑page 11)

 4/25/2024 House Committee report: Favorable with amendment **Ways and Means** (House Journal‑page 21)

 4/30/2024 Scrivener's error corrected

 5/2/2024 House Amended (House Journal‑page 22)

 5/2/2024 House Read second time (House Journal‑page 22)

 5/2/2024 House Roll call Yeas-104 Nays-0 (House Journal‑page 29)

 5/2/2024 House Unanimous consent for third reading on next legislative day (House Journal‑page 31)

 5/3/2024 House Read third time and returned to Senate with amendments (House Journal‑page 2)

 5/8/2024 Senate House amendment amended (Senate Journal‑page 181)

 5/8/2024 Senate Returned to House with amendments (Senate Journal‑page 181)

 5/9/2024 House Non-concurrence in Senate amendment (House Journal‑page 68)

 5/9/2024 House Roll call Yeas-0 Nays-106 (House Journal‑page 69)

 5/9/2024 Senate Senate insists upon amendment and conference committee appointed Talley, Peeler, Setzler (Senate Journal‑page 17)

 5/9/2024 House Conference committee appointed Ballentine, Cobb-Hunter, Taylor (House Journal‑page 138)

 6/26/2024 Senate Conference report received and adopted (Senate Journal‑page 31)

 6/26/2024 Senate Roll call Ayes-42 Nays-0 (Senate Journal‑page 31)

 6/26/2024 House Conference report received and adopted

 6/26/2024 House Roll call Yeas-106 Nays-0

 6/26/2024 House Ordered enrolled for ratification

 6/27/2024 Ratified R 239

 7/2/2024 Signed By Governor

 7/17/2024 Effective date 07/02/24

 7/17/2024 Act No. 214

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**VERSIONS OF THIS BILL**

[12/07/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/314_20221207.docx)

[02/09/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/314_20230209.docx)

[02/14/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/314_20230214.docx)

[02/15/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/314_20230215.docx)

[05/09/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/314_20230509.docx)

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[04/25/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/314_20240425.docx)

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[05/02/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/314_20240502.docx)

[05/02/2024-A](https://www.scstatehouse.gov/sess125_2023-2024/prever/314_20240502a.docx)

[05/08/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/314_20240508.docx)

[06/26/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/314_20240626.docx)

(A214, R239, S314)

AN ACT TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 2‑47‑40, RELATING TO INFORMATION PROVIDED TO THE JOINT BOND REVIEW COMMITTEE, SO AS TO DELETE THE REQUIREMENT THAT THE COMMISSION ON HIGHER EDUCATION FORWARD AND COMMENT ON THE SUBMISSION OF INSTITUTIONS OF HIGHER LEARNING; TO AMEND SECTION 2-47-50, RELATING TO PERMANENT IMPROVEMENT PROJECTS, SO AS TO REVISE THE DEFINITION OF PERMANENT IMPROVEMENT PROJECT; BY ADDING SECTION 2‑47‑52 SO AS TO EXEMPT CERTAIN PROJECTS FROM BEING CONSIDERED A PERMANENT IMPROVEMENT PROJECT; BY AMENDING SECTION 2‑47‑55, RELATING TO THE COMPREHENSIVE PERMANENT IMPROVEMENT PLAN, SO AS TO DELETE A REPORTING PROVISION; BY AMENDING SECTION 2‑47‑56, RELATING TO GIFTS IN KIND FOR ARCHITECTURAL AND ENGINEERING SERVICES, SO AS TO DEFINE “SOURCE OF FUNDS”; BY AMENDING SECTION 59‑119‑940 AND ACT 518 OF 1980, BOTH RELATING TO BORROWING LIMITATIONS AT CERTAIN INSTITUTIONS, SO AS TO INCREASE THE LIMIT; BY AMENDING SECTION 1‑11‑55, RELATING TO LEASE AGREEMENTS, SO AS TO INCREASE THE LIMIT OF LEASE AGREEMENTS FOR CERTAIN INSTITUTIONS; AND BY REPEALING SECTION 59‑103‑110 RELATING TO THE APPROVAL OF NEW CONSTRUCTION AT CERTAIN INSTITUTIONS.

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

Direct reporting on permanent improvement project

SECTION 1. Section 2‑47‑40 of the S.C. Code is amended to read:

 Section 2‑47‑40. (A) To assist the authority and the Joint Bond Review Committee in carrying out their respective responsibilities, any agency or institution requesting or receiving funds from any source for use in the financing of any permanent improvement project, as a minimum, shall provide to the authority, in such form and at such times as the authority, after review by the committee, may prescribe:

 (1) a complete description of the proposed project;

 (2) a statement of justification for the proposed project;

 (3) a statement of the purposes and intended uses of the proposed project;

 (4) the estimated total cost of the proposed project;

 (5) an estimate of the additional future annual operating costs associated with the proposed project;

 (6) a statement of the expected impact of the proposed project on the five‑year operating plan of the agency or institution proposing the project;

 (7) a proposed plan of funding for the project, specifically identifying funds proposed from sources other than capital improvement bond authorizations; and

 (8) the specification of the priority of each project among those proposed.

 (B) The authority shall forward a copy of each project proposal and justification statement and supporting documentation received together with the authority’s recommendations on such projects to the committee for its review and action.

 (C) No provision in this section or elsewhere in this chapter, shall be construed to limit in any manner the prerogatives of the committee and the General Assembly with regard to recommending or authorizing permanent improvement projects and the funding such projects may require.

Permanent improvement project

SECTION 2. Section 2‑47‑50 of the S.C. Code is amended to read:

 Section 2‑47‑50. (A) The authority shall establish formally each permanent improvement project before actions of any sort which implement the project in any way may be undertaken and no expenditure of any funds for any services or for any other project purpose contracted for, delivered, or otherwise provided prior to the date of the formal action of the authority to establish the project shall be approved. State agencies and institutions may advertise and interview for project architectural and engineering services for a pending project so long as the architectural and engineering contract is not awarded until after a state project number is assigned. After the committee has reviewed the form to be used to request the establishment of permanent improvement projects and has reviewed the time schedule for considering such requests as proposed by the authority, requests to establish permanent improvement projects shall be made in such form and at such times as the authority may require.

 (B) Any proposal to finance all or any part of any project using any funds not previously authorized specifically for the project by the General Assembly or using any funds not previously approved for the project by the authority and reviewed by the committee shall be referred to the committee for review prior to approval by the authority.

 (C) Any proposed revision of the scope or of the budget of an established permanent improvement project deemed by the authority to be substantial shall be referred to the committee for its review prior to any final action by the authority. In making their determinations regarding changes in project scope, the authority, and the committee shall utilize the permanent improvement project proposal and justification statements, together with any supporting documentation, considered at the time the project was authorized or established originally. Any proposal to increase the budget of a previously approved project using any funds not previously approved for the project by the authority and reviewed by the committee shall in all cases be deemed to be a substantial revision of a project budget which shall be referred to the committee for review. The committee shall be advised promptly of all actions taken by the authority which approve revisions in the scope of or the budget of any previously established permanent improvement project not deemed substantial by the authority.

 (D) For purposes of this chapter, a permanent improvement or a permanent improvement project is any improvement meeting the definition of a capital improvement under generally accepted accounting principles including, without limitation:

 (1) acquisition of land;

 (2) acquisition, as opposed to the construction, of buildings or other structures;

 (3) capital lease purchase of any facility acquisition or construction;

 (4) new construction;

 (5) work on existing facilities including their renovation, repair, maintenance, alteration, or demolition;

 (6) architectural and engineering and other types of planning and design work that is intended to result in a permanent improvement project; excluding, however, master plans and feasibility studies;

 (7) equipment that either becomes a permanent fixture of a facility or does not become permanent but is included in the construction contract; and

 (8) any project authorized by the General Assembly including, without limitation, any project funded by appropriated capital improvement bond funds, capital reserve funds, state appropriated funds, or state infrastructure bond funds.

 (E) Any capital improvement that meets the above definition must be established as a permanent improvement project in accordance with the provisions of this chapter, regardless of the source of funds.

Permanent improvement project limits

SECTION 3. Chapter 47, Title 2 of the S.C. Code is amended by adding:

 Section 2‑47‑52. (A) For purposes of this chapter, except as provided in subsection (B), permanent improvement projects are subject to review by the committee and approval by the authority where the costs of the permanent improvements exceed two hundred fifty thousand dollars; provided, however, that acquisitions of land, buildings or other structures, and capital lease purchases of facility acquisitions or construction as defined in items (1), (2), and (3) of Section 2‑47‑50(D) are subject to review by the committee regardless of cost.

 (B) For purposes of this chapter, permanent improvement projects proposed by public institutions of higher learning as defined in Section 59‑103‑5, including their related public service activities, are exempt from the requirements of Section 2‑47‑50 where the costs of the permanent improvements do not exceed ten million dollars for research universities as identified in Section 11‑51‑30(5) or two million five hundred thousand dollars for all other public institutions of higher learning so long as the institution’s governing board votes to approve the project in a public session; provided, however, that acquisitions of land, buildings or other structures, and capital lease purchases of facility acquisitions or construction as defined in items (1), (2), and (3) of Section 2‑47‑50(D) are subject to review by the committee regardless of cost. Institutions shall provide a report of projects approved by their governing boards pursuant to this subsection, and work on existing facilities including their renovation, repair, maintenance, alteration, or demolition, to the Joint Bond Review Committee and the State Fiscal Accountability Authority of the previous fiscal year's approved projects that meet the same criteria of this subsection by November fifteenth of each year.

 (C) State agencies and institutions may advertise, interview, and engage the services of professional firms for architectural, engineering, planning, and design work as set forth in Section 2‑47‑50(D)(6) to inform the project estimate prior to the review of the committee; provided, however, that the costs of such engagements do not exceed ten million dollars for research universities as identified in Section 11‑51‑30(5), two million five hundred thousand dollars for all other public institutions of higher learning, or two hundred fifty thousand dollars for all other agencies subject to the provisions of this chapter.

 (D) Notwithstanding any other provision of this section, the committee may establish reporting and other requirements.

 (E) Where the funding for a proposed permanent improvement project includes proceeds from the issuance of bonds or other indebtedness, including any obligation for an agency or institution to make payments pursuant to a lease or other agreement securing indebtedness in connection with or on behalf of the permanent improvement project, approval of the permanent improvement project is the responsibility of the Department of Administration, and approval of the issuance of bonds, where required pursuant to the applicable bond enabling act, or other indebtedness in accordance with the provisions of this subsection, is the responsibility of the State Fiscal Accountability Authority.

Comprehensive permanent improvement project, definition

SECTION 4. Section 2‑47‑55 and Section 2‑47‑56 are amended to read:

 Section 2‑47‑55. All state agencies and institutions of higher learning responsible for providing and maintaining physical facilities are required to maintain a Comprehensive Permanent Improvement Plan (CPIP). The CPIP must include all of the agency’s or institution’s permanent improvement projects anticipated and proposed over the five succeeding years after submission. Agencies and institutions of higher learning must submit a CPIP to the Department of Administration by September first of each year. The department must compile the plans and submit a comprehensive statewide permanent improvement plan to the committee and the authority by January first of each year. The authority and the committee must approve the comprehensive statewide permanent improvement plan after submission and may develop policies and procedures to implement and accomplish the purposes of this section.

 Section 2‑47‑56. For purposes of this chapter, the term “source of funds” includes, without limitation, gifts, gifts‑in‑kind, and donations; and when used as a financial resource to defray any cost of a permanent improvement project, the amount of the source of funds from such gifts, gifts‑in‑kind, and donations is the value of the gift, gift‑in‑kind, or donation. Each state agency and institution may accept gifts‑in‑kind for architectural and engineering services and construction following review by the committee or its designated staff in accordance with the provisions of Section 2‑47‑52. Such gifts are exempt from the provisions of Section 11‑35‑10.

Bonds for athletic facilities

SECTION 5.A. Section 59‑119‑940 of the S.C. Code is amended to read:

 Section 59‑119‑940. Upon receiving the approval of the State Fiscal Accountability Authority or the Department of Administration, as appropriate, and upon review by the Joint Bond Review Committee, the trustees may from time to time borrow such sums as necessary to accomplish the purpose of this article and to evidence such borrowings by bonds issued pursuant to this article in the aggregate principal amount as they determine, except that other provisions of this article to the contrary notwithstanding, there must not be outstanding at any time bonds issued pursuant to this article in the aggregate principal amount as they determine, except that other provisions of this article to the contrary notwithstanding, there must not be outstanding at any time bonds issued pursuant to this article in excess of five hundred million dollars.

B. SECTION 9D. of Act 518 of 1980, as last amended by Act 17 of 2007, is further amended to read:

D. May Issue Bonds.

Subject to obtaining the approval of the state board expressed by resolution duly adopted, the trustees are authorized to issue from time to time not exceeding five hundred million dollars of bonds for the purpose of acquiring, constructing, reconstructing, renovating, or equipping athletic facilities and for the purpose of refunding any previous series of bonds authorized by this section. If the trustees, in authorizing the issuance of bonds pursuant to this section, prescribe by resolution that there must be on deposit in the Bond Reserve Fund certain sums at the time of the delivery of the bonds, the trustees are empowered to utilize a portion of the proceeds of any series of bonds issued pursuant to this section in order to meet the requirement.

Lease agreement

SECTION 6. Section 1‑11‑55(2) of the S.C. Code is amended to read:

 (2) The Division of General Services of the Department of Administration is hereby designated as the single central broker for the leasing of real property for governmental bodies. No governmental body shall enter into any lease agreement or renew any existing lease except in accordance with the provisions of this section. However, a technical college, with the approval by the State Board for Technical and Comprehensive Education, and a public institution of higher learning, may enter into any lease agreement or renew any lease agreement up to two hundred thousand dollars annually for each property or facility.

Repeal

SECTION 7. Section 59‑103‑110 of the S.C. Code is repealed.

Savings

SECTION 8. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide.  After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

Time effective

SECTION 9. This act takes effect upon approval by the Governor.

Ratified the 27th day of June, 2024.

Approved the 2nd day of July, 2024.

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