

**EXTRACTS FROM THE 1976 SOUTH CAROLINA CODE OF LAWS  
WITH AMENDMENTS THROUGH THE 2016 SESSION OF THE GENERAL ASSEMBLY**

<http://www.scstatehouse.gov/code/statmast.php>

(May not be all-inclusive)

(COMPILED ON APRIL 20, 2017)

Code Commissioner's Note

At the direction of the Code Commissioner, references [throughout this document, unless otherwise specified] to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 1-1-540.** Written employment applications required.

State, county and municipal officers, departments, boards and commissions, and all school districts in this State, shall require applications in writing for employment by them, upon such application forms as they may severally prescribe, which shall include information as to active or honorary membership in or affiliation with all membership associations and organizations. The provisions of this section shall not apply to any office or position which by law is filled by the vote of the qualified electors in any general or special election.

HISTORY: 1962 Code Section 1-36; 1956 (49) 1747; (50) 234.

**SECTION 1-1-550.** Honorably discharged veterans shall have preference for public employment.

Honorably discharged members of the United States Armed Forces who are given employment preference by the United States Government, now and hereafter, shall be given preference for appointment and employment in every public department and upon all public works in this State insofar as such preference may be practicable; age, loss of limb or other physical impairment which does not in fact incapacitate shall not be deemed to disqualify them, provided they possess the capacity of skill and knowledge necessary to discharge the duties of the position involved. Provided, that any public department operating on a merit system shall give preferences similar to those given by the United States Government to eligible members discharged from the Armed Forces insofar as such preferences may be practicable.

HISTORY: 1962 Code Section 1-37; 1968 (55) 2541.

**SECTION 1-1-810.** Annual accountability reports by agencies and departments of state government.

Each agency and department of state government shall submit an annual accountability report to the Governor and the General Assembly covering a period from July first to June thirtieth, unless otherwise directed by the specific statute governing the department or institution.

HISTORY: 1962 Code Section 1-44; 1952 Code Section 1-44; 1942 Code Section 2096; 1932 Code Section 2096; 1929 (36) 225; 1931 (37) 278; 1933 (38) 490; 1960 (51) 1746; 1995 Act No. 145, Part II, Section 43A.

**SECTION 1-1-820.** Contents of annual accountability reports.

The annual accountability report required by Section 1-1-810 must contain the agency's or department's mission, objectives to accomplish the mission, and performance measures that show the degree to which objectives are being met.

HISTORY: 1962 Code Section 1-45; 1952 Code Section 1-45; 1942 Code Section 2097; 1932 Code Section 2097; Civ. C. '22 Section 58; Civ. C. '12 Section 48; Civ. C. '02 Section 45; 1896 (22) 202; 1960 (51) 1779; 1995 Act No. 145, Part II, Section 43B.

**SECTION 1-1-830.** One report shall not be embraced in another.

No State officer shall embrace in his report the report of another State officer which is required to be published by law, but he may make such reference thereto as may be necessary, including a brief recapitulation thereof, when necessary to the proper understanding of such report.

HISTORY: 1962 Code Section 1-46; 1952 Code Section 1-46; 1942 Code Section 2102; 1932 Code Section 2102; Civ. C. '22 Section 63; Civ. C. '12 Section 53; Civ. C. '02 Section 50; R. S. 50; 1886 (19) 310.

**SECTION 1-1-840.** Special reports.

The Governor or the General Assembly, or either branch thereof by resolution, may call upon any department or institution at any time for such special reports as may be deemed in the interest of the public welfare.

HISTORY: 1962 Code Section 1-47; 1952 Code Section 1-47; 1942 Code Section 2096; 1932 Code Section 2096; 1929 (36) 225; 1931 (37) 278; 1933 (38) 490.

**SECTION 1-1-970.** Personnel data required to be furnished quarterly.

All agencies, departments and institutions of state government shall furnish to the State Personnel Division not later than fifteen days following the close of the second quarter of each even-numbered year a current personnel organization chart in a form prescribed by the division showing all authorized positions, the personnel grade and compensation of each and indications as to whether such positions are filled or vacant.

All agencies, departments and institutions of state government shall furnish to the State Personnel Division not later than fifteen days following the close of each quarter except the second quarter of each even-numbered year any and all changes or alterations to the

personnel organization chart in a form prescribed by the division.

The State Personnel Division shall ensure that all reports submitted to the division by agencies, departments and institutions of state government are accurate and up-to-date and, based on that information, shall furnish to the Legislative Audit Council organizational charts and alterations to existing charts for each such agency, department and institution in such form as the division and Audit Council shall determine.

The charts prepared by the division shall be furnished to the Audit Council not later than thirty days following the end of each quarter.

HISTORY: 1976 Act No. 561, Section 7; 1977 Act No. 101, Section 3.

**SECTION 1-1-980.** Penalties for failure to cooperate with implementation of reporting procedures.

All service agencies of the State shall cooperate with individual agencies, departments and institutions of State government in the implementation of this article. Any person who falsifies any report, statement or document required under this article shall be subject to punishment pursuant to Section 16-9-30 of the Code. Wilful failure to comply with the reporting requirements of this article shall be deemed misfeasance in office and subject the chief executive authority of the offending agency, department or institution to the penalties therefor.

HISTORY: 1976 Act No. 561, Section 8.

**SECTION 1-1-990.** Reports and information deemed public records; dissemination of copies.

All reports and information assembled pursuant to the provisions of this article are considered "public records" as defined in the Freedom of Information Act of 1972. Commencing on July 1, 1985, and thereafter, the Comptroller General shall furnish copies of the information when requested by authorized parties. The provisions of subsection (2) of Section 11-35-1230 of the 1976 Code of Laws govern fiscal reporting.

HISTORY: 1976 Act No. 561, Section 9; 1985 Act No. 201, Part II, Section 2A.

**SECTION 1-1-1000.** Partial exemption granted law enforcement agencies.

The provisions of this article shall not be construed to require any law enforcement agency to report in detail expenditures which would jeopardize the necessary confidentiality of its operations, but all such agencies shall report the total amount of funds expended for payments to informants and for purchases of illegal substances in connection with criminal investigations.

HISTORY: 1976 Act No. 561, Section 10.

**SECTION 1-1-1020.** Purchase of equipment by Office of State Treasurer for lease or resale to entities of state government; funding.

(A) The Office of State Treasurer is authorized to provide financing arrangements under the master lease program on behalf of boards, commissions, institutions, and agencies of state government for the purpose of renting, leasing, or purchasing office equipment, telecommunications equipment, energy conservation equipment, medical equipment, data processing equipment, and related software in accordance with procurement statutes and regulations.

(B) The Office of State Treasurer shall negotiate the terms of any financing arrangement and prescribe the procedures necessary to administer this program.

(C) When providing financing as described in subsection (A) of this section, the Office of State Treasurer shall ensure that repayment schedules provide sufficient funds to defray the cost of administering this program. The Office of State Treasurer shall retain such funds as are necessary to defray administrative costs. Any excess funds at year-end must be deposited to the credit of the general fund of the State.

HISTORY: 1981 Act No. 178 Part II, Section 19; 1982 Act No. 466 Part II, Section 27; 1990 Act No. 612, Part II, Section 12; 1994 Act No. 497, Section 10B; 2002 Act No. 286, Section 1.

**SECTION 1-1-1025.** Insurance on state data processing and telecommunications facilities.

The State Fiscal Accountability Authority, through its Insurance Reserve Fund, shall provide insurance against the accidental or deliberate destruction of data processing and telecommunications facilities operated by the State. The insurance shall specifically include replacement cost of hardware and software systems and specialized environmental systems and shall also provide for an alternate processing location should replacement or repair of the original processing location exceed ten calendar days.

HISTORY: 1982 Act No. 466, Part II, Section 25.

**SECTION 1-1-1030.** Governmental or quasi-governmental entity not to pay contingency fee or bonus to private counsel without prior written agreement.

Notwithstanding any other provision of law, effective July 1, 1993, no governmental agency or quasi-governmental entity or agency shall pay a contingency fee or bonus to private counsel retained by such agency or entity for legal representation, unless such contingency fee or bonus arrangement has been reduced to writing setting forth the parameters of the employment and the terms of payment prior to the initiation of such representation.

HISTORY: 1993 Act No. 164, Part II, Section 107.

**SECTION 1-1-1035.** Expenditure of state or Medicaid funds to perform abortions.

No state funds or Medicaid funds shall be expended to perform abortions, except for those abortions authorized by federal law under the Medicaid program.

HISTORY: 2000 Act No. 387, Part II, Section 35.

**SECTION 1-1-1040.** Links to websites posting department's monthly state procurement card statements or information; redaction.

All agencies, departments, and institutions of state government must be responsible for providing on their Internet websites a link to the Internet website of any agency, other than the individual agency, department, or institution, that posts on its Internet website that agency's, department's, or institution's monthly state procurement card statements or monthly reports containing all or substantially all the same information contained in the monthly state procurement card statements. The link must be to the specific webpage or section on the website of the agency where the state procurement card information for the state agency, department, or institution can be found. The information posted may not contain the state procurement card number. Any information that is expressly prohibited from public disclosure by federal or state law or regulation must be redacted from any posting required by this section.

HISTORY: 2011 Act No. 74, Pt II, Section 2.B, eff August 1, 2011.

Editor's Note

2011 Act No. 74, Pt. II, Section 2.C, provides as follows:

"This SECTION takes effect upon approval by the Governor, and public institutions of higher learning to which this SECTION applies shall have one year from the effective date of this act to comply with its requirements."

**SECTION 1-1-1410.** Development and implementation of workplace domestic violence policy; zero tolerance policy statement.

Every state agency, based upon guidelines developed by the Office of Human Resources, Department of Administration, shall develop and implement an agency workplace domestic violence policy which must include, but is not limited to, a zero tolerance policy statement regarding acts or threats of domestic violence in the workplace and safety and security procedures.

HISTORY: 2003 Act No. 92, Section 7.

**SECTION 1-5-40.** Duty to monitor state boards and commissions; certification of dates of terms of office.

(A) The office of Secretary of State is designated as the state office whose responsibility it is to monitor positions on the state boards and commissions specified in this subsection and any elected or appointed state boards and commissions established after the effective date of this section. The dates of the terms of office for appointments to boards and commissions made with the advice and consent of the Senate are the dates as certified to the Secretary of State by the Senate. The dates of the terms of office for all other elected or appointed boards and commissions are the dates certified to the Secretary of State by the Governor for his direct appointments and the dates for the terms of office for members of boards and commissions elected by the General Assembly shall be the dates as certified to the Secretary of State by the clerks of the two houses. The specified boards and commissions referred to in this subsection are... (63) Medical University of South Carolina Board of Trustees...

(B) The Secretary must keep in a public record available for inspection an up-to-date compilation of the membership of the boards and commissions listed in subsection (A) and information about the memberships received from state boards and commissions pursuant to Section 1-1-1310 so that members of the General Assembly and interested citizens may be informed of the current composition of these boards and commissions. This compilation must include:

- (1) length of term for each office;
- (2) the month and year in which terms have expired or will expire;
- (3) terms which have expired;
- (4) vacancies;
- (5) the body or authority which elects or appoints, as appropriate;
- (6) any qualifications including, but not limited to, residency requirements or limitations required for a particular vacancy; and
- (7) any additional information received from state boards or commissions as required by Section 1-1-1310.

(C) The Secretary must publicize vacancies, expired terms, and those terms expiring within one year on a semiannual basis statewide.

HISTORY: 1998 Act No. 368, Section 1; 2002 Act No. 182, Section 2; 2014 Act No. 287 (H.3428), Section 22, eff June 18, 2014.

Code Commissioner's Note

Pursuant to the directive to the Code Commissioner in 2010 Act No. 146, Section 122, "Department of Employment and Workforce" was substituted for all references to "Employment Security Commission", and "Executive Director of the Department of Employment and Workforce" or "executive director" was substituted for all references to the "Chairman of the Employment Security Commission" or "chairman" that refer to the Chairman of the Employment Security Commission, as appropriate.

Effect of Amendment

2014 Act No. 287, Section 22, added subsection (A)(107), related to the South Carolina First Steps to School Readiness Board of Trustees.

**SECTION 1-6-20.** Office of State Inspector General established; duties; appointment and removal; information and documents.

(A) There is hereby established the Office of the State Inspector General that consists of the State Inspector General, who is the director of the office, and a staff of deputy inspectors general, investigators, auditors, and clerical employees employed by the State Inspector General as necessary to carry out the duties of the State Inspector General and as are authorized by law. The State Inspector General shall fix the salaries of all staff subject to the funds authorized in the annual general appropriation act.

(B) The State Inspector General is responsible for investigating and addressing allegations of fraud, waste, abuse, mismanagement, misconduct, violations of state or federal law, and wrongdoing in agencies.

(C) The Governor shall appoint the State Inspector General with the advice and consent of the Senate for a term of four years. A Governor may reappoint the State Inspector General for additional terms. The State Inspector General's compensation must not be reduced during the State Inspector General's uninterrupted continued tenure in office.

(D) The State Inspector General:

(1) may be removed from office only by the Governor as provided in Section 1-3-240(C);

(2) must be selected without regard to political affiliation and on the basis of integrity, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, investigation, or criminal justice administration or other closely related fields;

(3) is entitled to receive compensation set by the Governor and approved by the State Fiscal Accountability Authority.

(E) Upon request of the State Inspector General for information or assistance, all agencies are directed to fully cooperate with and furnish the State Inspector General with all documents, reports, answers, records, accounts, papers, and other necessary data and documentary information to perform the mission of the State Inspector General.

(F) Except for information declared confidential under this chapter, records of the Office of the State Inspector General are subject to public inspection under Chapter 4, Title 30.

HISTORY: 2012 Act No. 105, Section 2, eff January 1, 2012.

Code Commissioner's Note

At the direction of the Code Commissioner, the reference in subsection (F) to "Chapter 4 of this title" was changed to "Chapter 4, Title 30".

**SECTION 1-7-160.** Hiring of attorneys.

A department or agency of state government may not hire a classified or temporary attorney as an employee except upon the written approval of the Attorney General and at compensation approved by him. All of these attorneys at all times are under the supervision and control of the Attorney General except as otherwise provided by law unless prior approval by the State Budget and Control Board is obtained. This section does not apply to an attorney hired by the General Assembly or the Judicial department.

HISTORY: 2008 Act No. 353, Section 2, Pt 10A, eff July 1, 2009.

Code Commissioner's Note

At the direction of the Code Commissioner, reference in this section to the former Budget and Control Board has not been changed pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), until further action by the General Assembly.

**SECTION 1-7-170.** Engaging attorney on fee basis.

(A) A department or agency of state government may not engage on a fee basis an attorney at law except upon the written approval of the Attorney General and upon a fee as must be approved by him. This section does not apply to the employment of attorneys in special cases in inferior courts when the fee to be paid does not exceed two hundred fifty dollars or exceptions approved by the State Budget and Control Board. This section does not apply to an attorney hired by the General Assembly or the judicial department.

(B) A public institution of higher learning shall engage and compensate outside counsel in accordance with policies and procedures adopted by the State Fiscal Accountability Authority for matters of bonded indebtedness, public finance, borrowing, and related financial matters.

HISTORY: 2008 Act No. 353, Section 2, Pt 10B, eff July 1, 2009; 2011 Act No. 74, Pt VI, Section 9, eff August 1, 2011.

Code Commissioner's Note

At the direction of the Code Commissioner, reference in (A) to the former Budget and Control Board has not been changed pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), until further action by the General Assembly. Reference in (B) to the former Budget and Control Board was changed to the State Fiscal Accountability Authority pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Effect of Amendment

The 2011 amendment inserted subsection identifier (A) in the first paragraph and added subsection (B) relating to outside counsel.

**SECTION 1-7-350.** Representation of State institutions, departments and agencies; assignment to criminal matters outside circuit. The several solicitors of the State shall, within their respective circuits, in cooperation with, and as assigned by the Attorney General, represent in all matters, both civil and criminal, all institutions, departments, and agencies of the State. Likewise in criminal matters outside their circuits, and in extradition proceedings in other states, they shall be subject to the call of the Attorney General, who shall have the exclusive right, in his discretion, to so assign them in case of the incapacity of the local solicitor or otherwise.

HISTORY: 1962 Code Section 1-252.2; 1954 (48) 1566.

**SECTION 2-13-240.** Distribution of the Code of Laws of South Carolina, 1976.

(a) Sets of the Code of Laws of South Carolina, 1976, shall be distributed by the Legislative Council as follows:... (30) Medical University of South Carolina, two;...

**SECTION 2-47-40.** Information to be furnished by agencies and institutions.

(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 financing 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) All institutions of higher learning shall submit permanent improvement project proposal and justification statements to the authority, through the Commission on Higher Education, which shall forward all such statements and all supporting documentation received to the authority together with its comments and recommendations. The recommendations of the Commission on Higher Education, among other things, shall include all of the permanent improvement projects requested by the several institutions listed in the order of priority deemed appropriate by the Commission on Higher Education without regard to the sources of funds proposed for the financing of the projects requested.

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. The recommendations of the Commission on Higher Education shall be included in the materials forwarded to the committee by the authority.

(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.

HISTORY: 1980 Act No. 518, Section 11; 2014 Act No. 121 (S.22), Pt VII, Section 18.B, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 18.B, added the subsection designators; in subsection (A), substituted "authority" for "State Budget and Control Board (the Board)", deleted "(the Committee)" following "Joint Bond Review Committee", twice substituted "authority" for "Board", and set out the subparagraphs (1) through (8), which formerly were not set out as separate paragraphs; in subsection (B) and the following undesignated paragraph, substituted "authority" for "Board" throughout; and made other nonsubstantive changes.

**SECTION 2-47-50.** Establishment of permanent improvement projects by authority; review of proposed revisions; "permanent improvement project" defined.

(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, with regard to all institutions of higher learning, permanent improvement project is defined as:

- (1) acquisition of land, regardless of cost, with staff level review of the committee and the State Fiscal Accountability Authority, up to two hundred fifty thousand dollars;
- (2) acquisition, as opposed to the construction, of buildings or other structures, regardless of cost, with staff level review of the committee and the State Fiscal Accountability Authority, up to two hundred fifty thousand dollars;
- (3) work on existing facilities for any given project including their renovation, repair, maintenance, alteration, or demolition in those instances in which the total cost of all work involved is one million dollars or more;
- (4) architectural and engineering and other types of planning and design work, regardless of cost, which is intended to result in a permanent improvement project. Master plans and feasibility studies are not permanent improvement projects and are not to be included;
- (5) capital lease purchase of a facility acquisition or construction in which the total cost is one million dollars or more;
- (6) equipment that either becomes a permanent fixture of a facility or does not become permanent but is included in the construction contract shall be included as a part of a project in which the total cost is one million dollars or more; and
- (7) new construction of a facility that exceeds a total cost of five hundred thousand dollars.

(E) Any permanent improvement project that meets the above definition must become a project, regardless of the source of funds. However, an institution of higher learning that has been authorized or appropriated capital improvement bond funds, capital reserve funds or state appropriated funds, or state infrastructure bond funds by the General Assembly for capital improvements shall process a permanent improvement project, regardless of the amount.

(F) For purposes of establishing permanent improvement projects, Clemson University Public Service Activities (Clemson-PSA) and South Carolina State University Public Service Activities (SC State-PSA) are subject to the provisions of this chapter.

HISTORY: 1980 Act No. 518, Section 11; 1993 Act No. 178, Section 4; 2004 Act No. 187, Section 10, eff March 17, 2004; 2005 Act No. 143, Section 3, eff June 7, 2005; 2011 Act No. 74, Pt IV, Section 4, eff August 1, 2011; 2014 Act No. 121 (S.22), Pt VII, Section 18.B, eff July 1, 2015.

#### Effect of Amendment

The 2004 amendment added the fourth undesignated paragraph containing items (1) through (6) and the fifth undesignated paragraph relating to the status of projects that meet the definition of permanent improvement project.

The 2005 amendment reprinted the fourth and fifth undesignated paragraphs no apparent change.

The 2011 amendment, in the fourth undesignated paragraph, in subparagraph (1), inserted ", with staff level review of the committee and the Budget and Control Board, Capital Budget Office, up to two hundred fifty thousand dollars", in subparagraph (2), inserted ", with staff level review of the committee and the Budget and Control Board, Capital Budget Office, up to two hundred fifty thousand dollars", in subparagraph (3), deleted "construction of additional facilities and" from the beginning, and substituted "one million" for "five hundred thousand", in subparagraph (5), substituted "in which the total cost is one million dollars or more;" for "and", in subparagraph (6), added "in which the total cost is one million dollars or more; and", and added subparagraph (7); and added the last undesignated paragraph relating to Clemson-PSA and SC State-PSA.

2014 Act No. 121, Section 18.B, added the subsection designators; substituted "authority" for "board" throughout; and in subsections (D)(1) and (D)(2), substituted "State Fiscal Accountability Authority" for "Budget and Control Board, Capital Budget Office".

#### **SECTION 2-47-55. Comprehensive Permanent Improvement Plan.**

(A) All state agencies responsible for providing and maintaining physical facilities are required to submit a Comprehensive Permanent Improvement Plan (CPIP) to the Joint Bond Review Committee and the authority. The CPIP must include all of the agency's permanent improvement projects anticipated and proposed over the next five years beginning with the fiscal year starting July first after submission. The purpose of the CPIP process is to provide the authority and the committee with an outline of each agency's permanent improvement activities for the next five years. Agencies must submit a CPIP to the committee and the authority on or before a date to be determined by the committee and the authority. The CPIP for each higher education agency, including the technical colleges, must be submitted through the Commission on Higher Education which must review the CPIP and provide its recommendations to the authority and the committee. The authority and the committee must approve the CPIP after submission and may develop policies and procedures to implement and accomplish the purposes of this section.

(B) The State shall define a permanent improvement only in terms of capital improvements, as defined by generally accepted accounting principles, for reporting purposes to the State.

HISTORY: 1993 Act No. 178, Section 5, eff July 1, 1993; 2003 Act No. 5, Section 1; 2014 Act No. 121 (S.22), Pt VII, Section 18.B, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 18.B, in subsection (A), substituted "authority" for "Budget and Control Board", substituted "authority" for "board" throughout, and made other nonsubstantive changes.

**SECTION 2-47-56.** Acceptance of gifts-in-kind for architectural and engineering services.

Each state agency and institution may accept gifts-in-kind for architectural and engineering services and construction of a value less than two hundred fifty thousand dollars with the approval of the Commission of Higher Education or its designated staff, the director of the department, and the Joint Bond Review Committee or its designated staff. No other approvals or procedural requirements, including the provisions of Section 11-35-10, may be imposed on the acceptance of such gifts.

HISTORY: 1993 Act No. 178, Section 6; 2014 Act No. 121 (S.22), Pt VII, Section 18.B, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 18.B, substituted "director of the department" for "Director of the Division of General Services".

**SECTION 2-75-5.** Short title; legislative intent.

(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, 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.

HISTORY: 2002 Act No. 356, Section 3C; 2008 Act No. 355, Section 1, eff June 25, 2008.

Effect of Amendment

The 2008 amendment, in paragraphs (B)(4) and (B)(6), substituted "nonstate sources" for "private sources".

**SECTION 2-75-10.** Research Centers of Excellence Review Board; appointment of members; terms; responsibilities and duties.

There is created the Research Centers of Excellence Review Board. The review board shall consist of eleven members. Of the eleven members, three must be appointed by the Governor, three must be appointed by the President Pro Tempore of the Senate, three must be appointed by the Speaker of the House of Representatives, one by the Chairman of the Senate Finance Committee, and one by the Chairman of the House Ways and Means Committee. The terms of members are three years and members are eligible to be appointed for no more than two additional terms. Of the members initially appointed by the Governor, the President Pro Tempore, and the Speaker of the House, one shall be appointed for a term of one year, one for a term of two years, and one for a term of three years, the initial term of each member to be designated by the Governor, President Pro Tempore, and Speaker of the House when making the appointments. The Governor, the President Pro Tempore, and the Speaker of the House shall appoint persons with substantial experience in business, law, accounting, technology, manufacturing, engineering, or other professions and experience which provide an understanding of the purposes of this chapter. The review board shall be responsible for providing annually to the Commission on Higher Education a schedule by which applications for funding are received and awarded on a competitive basis, the awarding of matching funds as provided in Section 2-75-60, and for oversight and operation of the fund created by Section 2-75-30. Members of the review board shall serve without compensation and must provide an annual report by November thirtieth of each calendar year to the General Assembly as well as the State Fiscal Accountability Authority, Revenue and Fiscal Affairs Office, and Executive Budget Office, which shall include an audit performed by an independent auditor. This annual report must include, but not be limited to, a complete accounting for total state appropriations to the endowment and total proposals awarded up to the previous fiscal year.

HISTORY: 2002 Act No. 356, Section 3C; 2008 Act No. 355, Section 2, eff June 25, 2008; 2010 Act No. 290, Section 31, eff January 1, 2011.

Effect of Amendment

The 2008 amendment in the first and second sentences substituted "eleven" for "nine" members, in the third sentence added ", one by the chairman of the Senate Finance Committee, and one by the chairman of the House Ways and Means Committee", in the eighth sentence added the requirements that the members serve without compensation and that they provide the annual report by October 1 of each calendar year to the General Assembly as well as the State Budget and Control Board, and added the ninth sentence relating to the contents of the annual report.

The 2010 amendment substituted "November thirtieth" for "October 1".

**SECTION 2-75-20.** Ex officio members.

The presidents of the senior research universities shall serve as ex officio nonvoting members of the board.

HISTORY: 2002 Act No. 356, Section 3C.

**SECTION 2-75-30.** Centers of Excellence Matching Endowment; funding source and management; allocation and award of endowments.

(A) There is created the Centers of Excellence Matching Endowment. The endowment must be funded annually by appropriations from the South Carolina Education Lottery Account in an amount equal to thirty million dollars annually, except that endowment appropriations may not be funded until all state-supported scholarships are fully funded and only if eighty percent of the total state appropriations have been awarded by the review board as of June thirtieth of the previous fiscal year. Three-quarters of the endowment shall be awarded by the review board in its discretion. One-quarter of the endowment shall be awarded by the review board pursuant to requests by and recommendations of the Secretary of Commerce as set forth in subsection (C). The total state appropriated funding amount shall include funds that have been returned to the endowment due to a dissolution, withdrawal, or termination of a center of excellence. The fund must be managed by the State Treasurer, subject to awards from the endowment as provided in this chapter. Interest earnings of the endowment must remain in the fund, and may be used at the review board's discretion for additional state awards. Interest earnings are not considered part of the total state appropriations unless used by the review board for additional state awards.

(B) Except as provided in subsection (C), an endowed chair proposal is considered awarded once a full review process is complete and the review board has voted in an affirmative on each proposal. A full review process shall include the following, but is not limited to:

- (1) a technical and scientific review of each proposal. The three research universities shall work with the review board staff to nominate reviewers. The review board staff shall select no fewer than five technical reviewers to review each proposal, and a minimum of three technical and scientific reviews must be received by the review board staff for each proposal. The review board staff shall determine an appropriate number of technical reviewers and scientific and technical reviews. The review board staff shall limit the number of university-nominated reviewers to two per proposal;
- (2) an on-site review of each proposal. The review board staff shall contract with a minimum of five out-of-state expert reviewers, to include individuals with expertise in economic development as well as in appropriate scientific disciplines, to serve on a site review team that shall visit each of the research universities. The review board staff shall determine an appropriate number of expert reviewers. The on-site review team shall interview relevant investigators and other university personnel regarding proposals and shall have access to collected scientific and technical reviews as well as other materials germane to the proposed projects. The on-site review team shall evaluate the proposals using an approved set of metrics; each recommendation must include a detailed narrative which explains the on-site review team's recommendations; and
- (3) a presentation of findings. The on-site review team shall present its findings to the review board, which shall make final decisions on awards. The on-site review team shall recommend an appropriate level of funding to achieve successfully the stated goals of each project. The review board shall consider these recommendations in determining award amounts for each project.

(C) The Secretary of Commerce may request that the review board allocate and award, pursuant to Sections 2-75-50 and 2-75-60, an endowment of up to two million dollars for each significant capital investment committed by a qualified project or industry sector. Upon such request, the review board shall review the requested endowment and may award the endowment upon an affirmative vote. Once allocated, the qualified project or industry sector will have thirty-six months from the date of allocation to make the significant capital investment. Once the significant capital investment has been made, the Secretary of Commerce shall certify to the review board and the review board shall make awards for one or more endowed professors who will directly support the industry in which the significant capital investment is made. The review board only may make awards from funds appropriated from the South Carolina Lottery account pursuant to this section from Fiscal Year 2011 forward, together with any unallocated funds and any accrued interest earnings which have not already been awarded by the review board, including funds that have been returned to the endowment due to a dissolution, withdrawal, or termination of a center of excellence. A dissolution, withdrawal, or termination of a center of excellence includes the failure of the center to provide the requisite matching funds during the allowable timeframe. For purposes of this subsection:

- (i) "qualified projects or industries" are those that have made a significant capital investment in South Carolina after January 1, 2010, in one or more of the following areas: Engineering, Nanotechnology, Biomedical Sciences, Energy Sciences, Environmental Sciences, Information and Management Sciences, Distribution and Logistics Sciences, or any other science, research, development, or industry that creates well-paying jobs and enhanced economic opportunities for the State as determined by the Secretary of Commerce; and
- (ii) "significant capital investment" means at least one hundred million private dollars for a single project or at least five hundred million

private dollars for an industry sector. No public funds used to support a qualified project or industry may be included as part of the significant capital investment.

The requirements related to matching funds contained in Sections 2-75-50, 2-75-90, and 2-75-110 shall not apply to these awards. Awards by the review board pursuant to this subsection only may be used to fund new or existing endowed professorships at one or more of the state's three research universities.

HISTORY: 2002 Act No. 356, Section 3C; 2008 Act No. 355, Section 3, eff June 25, 2008; 2010 Act No. 290, Section 30, eff January 1, 2011.

Effect of Amendment

The 2008 amendment designated and rewrote subsection (A) and added subsection (B) relating to an endowed chair proposal.

The 2010 amendment, in subsection (A), inserted the third sentence; in subsection (B), inserted "Except as provided in subsection (C),"; and added subsection (C) relating to an endowment.

**SECTION 2-75-40.** Applications for awards from endowment.

The senior research universities, individually, in conjunction with one or more other senior research universities or with other South Carolina higher education institutions, may make application for awards from the endowment as provided in this chapter.

HISTORY: 2002 Act No. 356, Section 3C.

**SECTION 2-75-50.** Application requirements; partnering to develop proposals to enhance economic competitiveness.

(A) An application for an award from the endowment shall:

(1) provide to the review board documentation of private matching funds, on hand, in an amount equal to the amount for which application is made;

(2) provide to the review board documentation that all matching funds have been committed and raised exclusively from sources other than South Carolina tax dollars, and that the funds have been committed and raised after January 1, 2002;

(3) be in an amount of not less than two million dollars and not more than five million dollars;

(4) document that the application has significant potential to provide for enhanced economic development for the citizens of South Carolina in a specified knowledge-based industry or field of commerce; and

(5) provide specific partnering activities with other institutions, businesses, or the community.

(B) Eligible research universities are strongly encouraged to partner with other South Carolina colleges and universities to develop proposals to enhance the economic competitiveness of our State and to enhance science and engineering through collaborations in related disciplines.

HISTORY: 2002 Act No. 356, Section 3C; 2008 Act No. 355, Section 4, eff June 25, 2008.

Effect of Amendment

The 2008 amendment designated subsection (A), in paragraphs (A)(1) and (A)(2), added "review"; and added subsection (B) relating to partnering.

**SECTION 2-75-60.** Review by panel of experts; site visits.

Upon a determination by the board that the provisions of Section 2-75-50 have been met, the board must appoint a panel of experts chosen from outside South Carolina for their expertise in the respective research field to review the application. The members appointed to the panel shall have no affiliation with the senior research universities. The panel will convene in the State to review the proposals and to conduct site visits to ensure that appropriate research infrastructure exists at the applying university. The panel shall make a report and recommendation to the board as to the merits of the application not more than ninety days after submission to the panel. The board shall then make a determination as to whether or not to award the matching funds and the amount of the award.

HISTORY: 2002 Act No. 356, Section 3C.

**SECTION 2-75-70.** Staff and support for operations of board and panels; reimbursement of expenses.

Staff and support for the operations of the board and the panels must be provided by the Commission on Higher Education. The Commission on Higher Education shall approve all necessary funds for the prudent operation of the board, including per diem, subsistence, and mileage expenses of board members as provided by law for members of state boards, committees, and commissions, and for the costs and expenses of the panel members. The expenditures authorized by this section must be provided from the fund created by Section 2-75-30 upon approval by the commission.

HISTORY: 2002 Act No. 356, Section 3C.

**SECTION 2-75-80.** Severability.

If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this chapter is for any reason held to be

unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this section, the General Assembly hereby declaring that it would have passed this section, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

HISTORY: 2002 Act No. 356, Section 3C.

**SECTION 2-75-90.** Meeting matching requirement with private or federal funds specifically provided for use in certain areas.

(A) To meet the endowed professorships matching requirement, a research university may use funds specifically provided for use in the areas provided in subsection (B) that are derived from private or federal government sources, excluding state appropriations to the institution, tuition, or fees. Subject to the restrictions in subsection (B), only federal dollars received after July 1, 2003, may be used to meet the endowed professorships matching requirement.

(B) The matching funds in subsection (A) may be used only in the areas of Engineering, Nanotechnology, Biomedical Sciences, Energy Sciences, Environmental Sciences, Information and Management Sciences, and for other sciences and research that create well-paying jobs and enhanced economic opportunities for the people of South Carolina and that are approved by the Research Centers of Excellence Review Board.

HISTORY: 2004 Act No. 187, Section 11, eff March 17, 2004; 2008 Act No. 355, Section 5, eff June 25, 2008.

Effect of Amendment

The 2008 amendment, in subsection (A), in the first sentence deleted the references to paragraphs (B)(4) and (6) of Section 2-75-05.

**SECTION 2-75-100.** Use of matching funds.

(A) The review board may, at its discretion, permit the senior research universities to utilize a portion of the nonstate matching funds of any single award to pay for initial operating costs including, but not limited to, infrastructure improvement, purchase of equipment, and payment of salaries for junior faculty, researchers, technicians, and other support staff directly associated with the establishment of the professorship's research efforts and the creation of the center of economic excellence which the professorship serves. The portion established by the review board must apply equally to all of the senior research universities' centers of economic excellence and endowed professorships created under this act. The portion established by the review board may be modified by the review board in order to facilitate program success.

(B) The full amount of every state award, with the exception of programmatic support proposals, must be placed into and remain in endowment. Should a center of economic excellence be dissolved, withdrawn, or otherwise terminated, the entirety of the state award which has been drawn by the institution must be returned to the Centers of Excellence Matching Endowment.

HISTORY: 2008 Act No. 355, Section 6, eff June 25, 2008.

**SECTION 2-75-110.** Source of matching funds; nonstate sources.

In addition to accepting and applying nonstate funds, as stipulated in Section 2-75-90(A), to meet the matching requirement of each state award, a senior research university may accept and apply cash equivalent and in-kind donations from nonstate sources. Such donations must directly impact and promote the research of the endowed professorship and the center of economic excellence which the professorship serves. Such donations may include, but are not limited to, donated or rent-discounted laboratory, and research facility space; buildings, including sale-lease back; equipment; furnishings; and infrastructure upgrades. The value of each cash equivalent or in-kind donation must be determined using standard accounting methods and a cost share accounting policy established by the review board. The total value of cash equivalent and in-kind donations applicable per award may not exceed the portion of nonstate matching funds available for nonendowment use established by the board. Cash equivalent and in-kind donations may only be applied if received by a senior research university after July 1, 2002.

HISTORY: 2008 Act No. 355, Section 7, eff June 25, 2008.

**SECTION 2-79-20.** Responsibility of state agencies.

It is the responsibility of each state agency, department, and institution to operate within the limits of appropriations set forth in the annual general appropriations act, appropriation acts, or joint resolution supplemental thereto, and any other approved expenditures of monies. A state agency, department, or institution shall not operate in a manner that results in a year-end deficit except as provided in this chapter.

HISTORY: 2014 Act No. 121 (S.22), Pt VI, Section 10.A, eff July 1, 2015.

**SECTION 2-79-30.** Notice of likely agency deficit; deficit avoidance plan.

If at the end of each quarterly deficit monitoring review by the Executive Budget Office, it is determined by either the Executive Budget Office or a state agency, department, or institution that the likelihood of a deficit for the current fiscal year exists, the state agency shall notify the General Assembly within fifteen days of this determination and shall further request the Executive Budget Office to work with it to develop a plan to avoid the deficit. Within fifteen days of the deficit avoidance plan being completed, the Executive Budget Office shall either request the General Assembly to recognize the deficit in the manner provided in this chapter if it determines the deficit avoidance

plan will not be sufficient to avoid a deficit or notify the General Assembly of how the deficit will be avoided based on the deficit avoidance plan if the Executive Budget Office determines the plan will be sufficient to avoid a deficit.

HISTORY: 2014 Act No. 121 (S.22), Pt VI, Section 10.A, eff July 1, 2015.

**SECTION 2-79-40.** Recognition of deficit.

(A) Upon notification from the Executive Budget Office as provided in Section 2-79-30 that an agency will run a deficit and requesting that it be recognized, the General Assembly, by joint resolution, may make a finding that the cause of, or likelihood of, a deficit is unavoidable due to factors which are outside the control of the state agency, department, or institution, and recognize the deficit. Any legislation to recognize a deficit must be in a separate joint resolution enacted for the sole purpose of recognizing the deficit of a particular state agency, department, or institution. A deficit only may be recognized by an affirmative vote of each branch of the General Assembly.

(B) If the General Assembly recognizes the deficit, then the actual deficit at the close of the fiscal year must be reduced as necessary from surplus revenues or surplus funds available at the close of the fiscal year in which the deficit occurs and from funds available in the General Reserve Fund and the Capital Reserve Fund, as required by the Constitution of this State.

HISTORY: 2014 Act No. 121 (S.22), Pt VI, Section 10.A, eff July 1, 2015.

**SECTION 2-79-50.** Limitations on agency spending when deficit recognized.

Once a deficit has been recognized by the General Assembly, the state agency, department, or institution shall limit travel and conference attendance to that which is deemed essential by the director of the agency, department, or institution. In addition, the General Assembly, when recognizing a deficit may direct that any pay increases and purchases of equipment and vehicles must be approved by the Executive Budget Office.

HISTORY: 2014 Act No. 121 (S.22), Pt VI, Section 10.A, eff July 1, 2015.

**SECTION 7-19-35.** Division of state into congressional districts.

The State is divided into seven congressional districts as follows:...

**SECTION 8-1-10.** "Public officers" defined.

The term "public officers" shall be construed to mean all officers of the State that have heretofore been commissioned and trustees of the various colleges of the State, members of various State boards and other persons whose duties are defined by law.

HISTORY: 1962 Code Section 50-1; 1952 Code Section 50-1; 1942 Code Sections 1512, 3042; 1932 Code Sections 1512, 3042; Civ. C. '22 Section 733; Cr. C. '22 Section 460; Civ. C. '12 Section 649; Cr. C. '12 Section 535; 1901 (23) 754.

**SECTION 8-1-20.** Illegal collecting and retaining rebates, commissions or discounts.

A state or county officer who receives or collects a rebate, commission, or discount from a person upon the purchase of books or other property or supplies or from printing or advertising, whether for use of the State or a county, and fails or refuses to pay it to the proper state or county authority at the time of receiving it is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years. A person convicted under this section must forfeit his office.

HISTORY: 1962 Code Section 50-2; 1952 Code Section 50-2; 1942 Code Section 1254; 1932 Code Section 1254; Cr. C. '22 Section 149; Cr. C. '12 Section 303; Cr. C. '02 Section 223; 1897 (22) 519; 1993 Act No. 184, Section 14, eff January 1, 1994.

Effect of Amendment

The 1993 amendment rewrote this section so as to change portions from misdemeanors to felonies and the maximum term of imprisonment to conform to the new crime classification system.

**SECTION 8-1-100.** Suspension of officer indicted for crime.

Except as provided in Section 8-1-110, any state or county officer who is indicted in any court for any crime may, in the discretion of the Governor, be suspended by the Governor, who in event of suspension shall appoint another in his stead until he shall be acquitted. In case of conviction, the office shall be declared vacant by the Governor and the vacancy filled as provided by law.

HISTORY: 1962 Code Section 50-10; 1956 (49) 1841; 1993 Act No 181, Section 67, eff July 1, 1993.

Effect of Amendment

The 1993 amendment added "Except as provided in Section 8-1-110," at the beginning of the section.

**SECTION 8-1-110.** Suspension of officer charged with embezzlement or misappropriation of funds; removal upon conviction.

Whenever it shall be brought to the notice of the Governor by affidavit that any officer who has the custody of public or trust funds is probably guilty of embezzlement or the appropriation of public or trust funds to private use then the Governor shall direct his immediate prosecution by the proper officer and, upon true bill found, the Governor shall suspend such officer and appoint one in his stead until he shall have been acquitted by the verdict of a jury. In case of conviction the office shall be declared vacant and the vacancy filled as may be provided by law.

HISTORY: 1962 Code Section 50-205; 1952 Code Section 50-205; 1942 Code Section 985; 1932 Code Section 985; Cr. P. '22 Section 76; Cr. C. '12 Section 546; Cr. C. '02 Section 389; G. S. 2556; R. S. 306; 1896 (22) 312.

**SECTION 8-1-115.** Lien on public retirement or pension plan of persons convicted of embezzling public funds; procedures; exceptions.

(A) There is hereby created a general lien upon any public retirement or pension plan not governed by ERISA of any public officer, public employee, or any other person who is convicted of an offense involving embezzlement or misappropriation of public funds or public property to the private use of himself or any other person, to the extent of the total loss, damage, and expense to the State, or to a county or municipality, or to any agency or political subdivision of the State, or to any state, county or municipal agency, any college or university, or to any school, special or public service district within the State, that is authorized by law to perform a governmental function or provide a governmental service.

(B)(1) The presiding judge before whom any public officer, employee, or any other person is convicted of an offense described in subsection (A) must send to the Attorney General and the appropriate retirement or pension plan system a notice of the lien showing the name of the person convicted whose retirement or pension plan is subject to the lien created by subsection (A) and the date of the conviction, which is the date upon which the lien attaches. The presiding judge must set the lien at the time of conviction and the presiding judge's notice of lien must state the amount of the lien.

(2)(a) Within ten days of the date of conviction, the convicted person's spouse or representative of the convicted person's minor children may file a petition with the presiding judge requesting the judge to dissolve the lien, in whole or in part, in favor of the spouse or minor children because the spouse or minor children would suffer extreme financial hardship if the lien were to attach. If the petition is filed, the lien is stayed pending a hearing on the petition and the ruling of the judge. Any benefits occurring during the stay accrue to the potential benefit of the spouse and minor children, if the petition is successful, and do not accrue to the benefit of the convicted person. The judge's ruling must be based on clear and convincing evidence that the spouse or minor children would suffer extreme financial hardship were the lien to attach and that the spouse or minor children have not been convicted of the same offense involving the embezzlement of public funds for which the lien was created. To the extent that the lien is dissolved in whole or in part in favor of the spouse or minor children, the appropriate retirement or pension plan system is directed to make payment directly to the spouse or representative of the minor children. The dissolution extends only until the minor children reach majority or the spouse dies or remarries at which time the lien reattaches.

(b) If the convicted person is divorced and is subject to a Qualified Domestic Relations Order (QDRO) pursuant to Section 9-18-10, et seq., then the lien shall not attach to the alternate payee's portion of the retirement benefit, unless the alternate payee has been convicted of the same offense involving embezzlement of public funds for which the lien was created. The pension plan is directed to make payment to the alternate payee in accordance with the provisions of the QDRO.

(c) If the convicted person's pension benefit is subject to an order for child support, then the lien shall not attach to the portion of the convicted person's benefit which goes to pay support for any minor child who has not been convicted of the same offense involving embezzlement of public funds for which the lien was created.

(C) In addition to any other sentence imposed upon a person convicted of an offense described in subsection (A) and taking into account the petition process set forth in subsection (B), the presiding judge may require full restitution of all public funds embezzled or misappropriated and full payment for the conversion, use, and value of public property appropriated to private use and may provide for an indeterminate sentence of incarceration or probation, or both, until restitution in full has been made.

(D) The Attorney General is charged with an affirmative duty to recover public funds and property embezzled or converted to private use, or the value thereof, and he or his designee may bring an action to enforce the lien created by this section at any time up to the death of a person whose retirement or pension plan is subject to the lien created by subsection (A).

(E) The Attorney General or his designee shall file a satisfaction and discharge of the lien created by this section after restitution has been made by payment of the amount of the lien in full or after the death of the person whose retirement or pension plan is subject to the lien created by subsection (A). If the beneficiary of the person whose retirement or pension plan is subject to the lien created by subsection (A) was, himself, convicted of the same offense involving the embezzlement or misappropriation of public funds or public property for which the lien was created, the lien must continue until restitution has been made or until the death of the beneficiary.

(F) The lien created by this section and the action to enforce the lien are cumulative and in addition to all other remedies provided by law.

HISTORY: 2001 Act No. 16, Section 1, eff April 10, 2001.

Editor's Note

2001 Act No. 16, Section 6, provides as follows:

"This act is intended to create remedies to more efficiently recover restitution due to state and local governmental entities in cases involving embezzlement or misappropriation of public funds or public property to the private use of a public officer or employee, or any other person. As such, it is remedial legislation intended to be retroactive as well as prospective in its application, so as to attach the general lien created by Section 8-1-115(A) to any public retirement or pension plan not governed by ERISA of any public officer, public employee, or any other person who has been convicted of an offense described in Section 8-1-115(A). In cases where a living person was convicted of an offense described in Section 8-1-115(A) before the effective date of this act, the lien attaches to their public retirement or pension plan not governed by ERISA immediately upon approval of this act by the Governor. In cases concluded before the effective date of this act the Attorney General or his designee may send the notice of lien required by Section 8-1-115(B) to the appropriate retirement or pension plan system instead of the presiding judge."

**SECTION 8-1-155.** Preference to resident of State.

Notwithstanding another provision of law, if a vacancy occurs in a state agency, other than an institution of higher learning, or if an agency acts to fill a new position, the agency shall give preference to a resident of this State, if the applicants are equally qualified for the vacancy or new position.

HISTORY: 2008 Act No. 353, Section 2, Pt 20D, eff July 1, 2008.

**SECTION 8-1-160.** Performance increase or decrease in salary; redress for decrease.

Notwithstanding other provisions of law, state agencies may increase or decrease individual employee salaries based upon performance. Such increase or decrease shall be determined by the agency. Performance increases shall not place an employee's salary above the maximum of the grade or executive compensation level. Performance decreases may not place an employee's salary below the minimum of the grade or executive compensation level. Performance decreases shall be based on the results of an EPMS evaluation. Employees assessed salary decreases may seek redress through the state employees' grievance system.

HISTORY: 1993 Act No. 178, Section 7, eff July 1, 1993.

**SECTION 8-1-170.** Group productivity incentive programs.

State agencies are authorized to develop group productivity incentive programs for the recognition and award of team accomplishments through group performance. Employees of any organizational unit within each of the various agencies are eligible to share equally twenty-five percent of the identified savings resulting from reduced operational costs in the unit up to a maximum of two thousand dollars per employee in a fiscal year. The agency shall adopt policies and procedures to determine unit expenses or base data and for the year of participation in the group productivity incentive program. Records of proposals, actual dollar savings, and employee awards will be reported to the Department of Administration or its designee. Any bonus or cash award paid as a group productivity incentive shall not become a part of the employee's base salary and shall not be considered as compensation in terms of contributions to and determination of benefits for any of the state's retirement systems.

HISTORY: 1993 Act No. 178, Section 7, eff July 1, 1993.

**SECTION 8-1-180.** Tokens of recognition and other rewards; limit on amount per individual.

State agencies and institutions shall be allowed to spend public funds on employee plaques, certificates, and other events, including meals and similar types of recognition to reward innovations or improvements by individual employees or employee teams that enhance the quality of work or productivity or as a part of employee development programs of their agency or institution. Awards shall be limited to fifty dollars for each individual.

HISTORY: 1993 Act No. 178, Section 7, eff July 1, 1993.

**SECTION 8-3-10.** Oath and commission prerequisite to assumption of duties.

It shall be unlawful for any person to assume the duties of any public office until he has taken the oath provided by the Constitution and been regularly commissioned by the Governor.

HISTORY: 1962 Code Section 50-51; 1952 Code Section 50-51; 1942 Code Sections 1512, 3042; 1932 Code Sections 1512, 3042; Civ. C. '22 Section 733; Cr. C. '22 Section 460; Civ. C. '12 Section 649; Cr. C. '12 Section 535; 1901 (23) 754.

Title 8 of the SC Code of Laws outlines provisions for **Public Officers and Employees** (<http://www.scstatehouse.gov/code/title8.php>). Title 8, Chapter 11 provides regulations for State Officers and Employees pertaining to the following: Article 1 – General Provisions; Article 3 – Personnel Administration; Article 7 – Annual Leave for State Employees; Article 9 – State Employee Leave Transfer Program; Article 11 – State Employee Pay Plan.

**SECTION 8-11-260.** Exemptions from application of article. [*Chapter 11-State Officers and Employees, Article 3 – Personnel Administration*] The provisions of this article apply to all state employees except the following:... (j) Employees of the Medical University Hospital Authority...

The **Ethics, Government Accountability, and Campaign Reform Act** can be found in its entirety under Title 8, Chapter 13 (<http://www.scstatehouse.gov/code/t08c013.php>). The following sections (Article 7- Rules of Conduct) pertain to public employees generally.

**SECTION 8-13-700.** Use of official position or office for financial gain; disclosure of potential conflict of interest.

(A) No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a family member, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment, subject to or available for a public official's, public member's, or public employee's use that does not result in additional public expense.

(B) No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a family member, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or public employee who, in the

discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a family member, an individual with whom he is associated, or a business with which he is associated shall:

(1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

(2) if the public official is a member of the General Assembly, he shall deliver a copy of the statement to the presiding officer of the appropriate house. The presiding officer shall have the statement printed in the appropriate journal and require that the member of the General Assembly be excused from votes, deliberations, and other action on the matter on which a potential conflict exists;

(3) if he is a public employee, he shall furnish a copy of the statement to his superior, if any, who shall assign the matter to another employee who does not have a potential conflict of interest. If he has no immediate superior, he shall take the action prescribed by the State Ethics Commission;

(4) if he is a public official, other than a member of the General Assembly, he shall furnish a copy of the statement to the presiding officer of the governing body of an agency, commission, board, or of a county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and the reasons for it to be noted in the minutes;

(5) if he is a public member, he shall furnish a copy to the presiding officer of an agency, commission, board, or of a county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and shall require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause such disqualification and the reasons for it to be noted in the minutes.

(C) Where a public official, public member, or public employee or a member of his immediate family holds an economic interest in a blind trust, he is not considered to have a conflict of interest with regard to matters pertaining to that economic interest, if the existence of the blind trust has been disclosed to the appropriate supervisory office.

(D) The provisions of this section do not apply to any court in the unified judicial system.

(E) When a member of the General Assembly is required by law to appear because of his business interest as an owner or officer of the business or in his official capacity as a member of the General Assembly, this section does not apply.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 2011 Act No. 40, Section 5, eff June 7, 2011.

#### Effect of Amendment

The 2011 amendment, in subsection (A), and in the introductory paragraph of subsection (B), substituted "family member" for "member of his immediate family"; and made other nonsubstantive changes.

**SECTION 8-13-705.** Offering, giving, soliciting, or receiving anything of value to influence action of public employee, member or official, or to influence testimony of witness; exceptions; penalty for violation.

(A) A person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with the intent to:

(1) influence the discharge of a public official's, public member's, or public employee's official responsibilities;

(2) influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or

(3) induce a public official, public member, or public employee to perform or fail to perform an act in violation of the public official's, public member's, or public employee's official responsibilities.

(B) A public official, public member, or public employee may not, directly or indirectly, knowingly ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for himself or for another person in return for being:

(1) influenced in the discharge of his official responsibilities;

(2) influenced to commit, aid in committing, collude in, allow fraud, or make an opportunity for the commission of fraud on a governmental entity; or

(3) induced to perform or fail to perform an act in violation of his official responsibilities.

(C) A person may not, directly or indirectly, give, offer, or promise to give anything of value to another person with intent to influence testimony under oath or affirmation in a trial or other proceeding before:

(1) a court;

(2) a committee of either house or both houses of the General Assembly; or

(3) an agency, commission, or officer authorized to hear evidence or take testimony or with intent to influence a witness to fail to appear.

(D) A person may not, directly or indirectly, ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value in return for influencing testimony under oath or affirmation in a trial or other proceeding before:

(1) a court;

(2) a committee of either house or both houses of the General Assembly; or

(3) an agency, commission, or officer authorized to hear evidence or take testimony, or with intent to influence a witness to fail to appear.

(E) Subsections (C) and (D) of this section do not prohibit the payment or receipt of witness fees provided by law or the payment by the party on whose behalf a witness is called and receipt by a witness of the reasonable costs of travel and subsistence at trial, hearing, or proceeding, or, in the case of an expert witness, of the reasonable fee for time spent in the preparation of the opinion and in appearing or testifying.

(F) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be punished by imprisonment for not more than ten years and a fine of not more than ten thousand dollars and is permanently disqualified from being a public official or a public member. A public official, public member, or public employee who violates the provisions of this section forfeits his public office, membership, or employment.

(G) This section does not apply to political contributions unless the contributions are conditioned upon the performance of specific actions of the person accepting the contributions nor does it prohibit a parent, grandparent, or other close relative from making a gift to a child, grandchild, or other close relative for love and affection except as otherwise provided.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991.

**SECTION 8-13-710.** Reporting of particular gifts received by public employee, official, or member on statement of economic interests.

(A) Unless provided by subsection (B) and in addition to the requirements of Chapter 17 of Title 2, a public official or public employee required to file a statement of economic interests under Section 8-13-1110 who accepts anything of value from a lobbyist's principal must report the value of anything received on his statement of economic interests pursuant to Section 8-13-1120(A)(9).

(B) A public official, public member, or public employee required to file a statement of economic interests under Section 8-13-1110 who receives, accepts, or takes, directly or indirectly, from a person, anything of value worth twenty-five dollars or more in a day and anything of value worth two hundred dollars or more in the aggregate in a calendar year must report on his statement of economic interests pursuant to Section 8-13-1120 the thing of value from:

(1) a person, if there is reason to believe the donor would not give the thing of value but for the public official's public member's, or public employee's office or position;

(2) a person, or from an officer or director of a person, if the public official, public member, or public employee has reason to believe the person:

(a) has or is seeking to obtain contractual or other business or financial relationships with the public official's, public member's, or public employee's governmental entity;

(b) conducts operations or activities which are regulated by the public official's, public member's, or public employee's governmental entity.

(C) Nothing in this section requires a public official, public member, or public employee to report a gift from a parent, grandparent, or relative to a child, grandchild, or other immediate family member for love and affection.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991.

**SECTION 8-13-715.** Speaking engagements of public officials, members or employees; only expense reimbursement permitted; authorization for reimbursement of out-of-state expenses.

A public official, public member, or public employee acting in an official capacity may not receive anything of value for speaking before a public or private group. A public official, public member, or public employee is not prohibited by this section from accepting a meal provided in conjunction with a speaking engagement where all participants are entitled to the same meal and the meal is incidental to the speaking engagement. Notwithstanding the limitations of Section 2-17-90, a public official, public member, or public employee may receive

payment or reimbursement for actual expenses incurred for a speaking engagement. The expenses must be reasonable and must be incurred in a reasonable time and manner in which to accomplish the purpose of the engagement. A public official, public member, or public employee required to file a statement of economic interests under Section 8-13-1110 must report on his statement of economic interests the organization which paid for or reimbursed actual expenses, the amount of such payment or reimbursement, and the purpose, date, and location of the speaking engagement. A public official, public member, or public employee who is not required to file a statement of economic interests but who is paid or reimbursed actual expenses for a speaking engagement must report this same information in writing to the chief administrative official or employee of the agency with which the public official, public member, or public employee is associated.

If the expenses are incurred out of state, the public official, public member, or public employee incurring the expenses must receive prior written approval for the payment or reimbursement from:

- (1) the Governor, in the case of a public official of a state agency who is not listed in an item in this section;
- (2) a statewide constitutional officer, in the case of himself;
- (3) the President Pro Tempore of the Senate, in the case of a member of the Senate;
- (4) the Speaker of the House, in the case of a member of the House of Representatives; or
- (5) the chief executive of the governmental entity in all other cases.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 1995 Act No. 6, Section 21, effective upon approval (became law without the Governor's signature January 12, 1995) and applies only to transactions occurring on or after January 1, 1995.

Effect of Amendment

The 1995 amendment rewrote this section.

**SECTION 8-13-720.** Offering, soliciting, or receiving money for advice or assistance of public official, member or employee.

No person may offer or pay to a public official, public member, or public employee and no public official, public member, or public employee may solicit or receive money in addition to that received by the public official, public member, or public employee in his official capacity for advice or assistance given in the course of his employment as a public official, public member, or public employee.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991.

**SECTION 8-13-725.** Use or disclosure of confidential information by public official, member, or employee for financial gain; examination of private records; penalties.

(A) A public official, public member, or public employee may not use or disclose confidential information gained in the course of or by reason of his official responsibilities in a way that would affect an economic interest held by him, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated.

(B)(1) A public official, public member, or public employee may not wilfully examine, or aid and abet in the wilful examination of, a tax return of a taxpayer, a worker's compensation record, a record in connection with health or medical treatment, social services records, or other records of an individual in the possession of or within the access of a public department or agency if the purpose of the examination is improper or unlawful.

(2) A person convicted of violating this subsection must be fined not more than five thousand dollars, or imprisoned not more than five years, or both, and shall reimburse the costs of prosecution. Upon conviction, the person also must be discharged immediately from his public capacity as an official, member, or employee.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 1997 Act No. 114, Section 3, eff June 13, 1997.

Effect of Amendment

The 1997 amendment rewrote this section.

**SECTION 8-13-730.** Membership on or employment by regulatory agency of person associated with regulated business.

Unless otherwise provided by law, no person may serve as a member of a governmental regulatory agency that regulates any business with which that person is associated. An employee of the regulatory agency which regulates a business with which he is associated annually shall file a statement of economic interests notwithstanding the provisions of Section 8-13-1110. No person may be an employee of the regulatory agency which regulates a business with which he is associated if this relationship creates a continuing or frequent conflict with the performance of his official responsibilities.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991.

**SECTION 8-13-735.** Participation in decision affecting personal economic interests by one employed by and serving on governing body of governmental entity.

(A) Except as provided in subsection (B), no person who serves at the same time:

(1) on the governing body of a state, county, municipal, or political subdivision board or commission; and

(2) as an employee of the same board or commission or in a position subject to the control of that board or commission may make or participate in making a decision that affects his economic interests.

(B) No person shall serve at the same time as:

(1) a nonappointed member of the governing body of the board or commission for a water or sewer district or a nonprofit water or sewer corporation or company organized pursuant to the provisions of state law; and

(2)(a) an employee of the same board, commission, corporation, or company; or

(b) in a position subject to the control of that board, commission, corporation, or company; or

(c) in a decision-making position concerning the operation and functions of that board, commission, corporation, or company.

(C)(1) Any person violating the provisions of subsection (B) may be assessed a civil penalty of fifty dollars per day to be remitted to the general fund of the board, commission, corporation, or company.

(2) If a lawsuit is brought to force the person to vacate either his position held pursuant to subsection (B)(1) or subsection (B)(2), and the person is found in circuit court to have violated subsection (B), the person must pay the civil penalty in subsection (C)(1) plus court costs, attorney's fees, and any damages required by the court.

(3) Any individual or entity served by the board, commission, corporation, or company has standing to bring a lawsuit in the circuit court pursuant to this subsection.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 2011 Act No. 11, Section 1, eff April 7, 2011.

Effect of Amendment

The 2011 amendment rewrote this section.

**SECTION 8-13-740.** Representation of another by a public official, member, or employee before a governmental entity.

(A)(1) A public official occupying statewide office, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated may not knowingly represent another person before a governmental entity, except as otherwise required by law.

(2) A member of the General Assembly, an individual with whom he is associated, or a business with which he is associated may not knowingly represent another person before a governmental entity, except:

(a) as required by law;

(b) before a court under the unified judicial system; or

(c) in a contested case, as defined in Section 1-23-310, excluding a contested case for a rate or price fixing matter before the South Carolina Public Service Commission or South Carolina Department of Insurance, or in an agency's consideration of the drafting and promulgation of regulations under Chapter 23 of Title 1 in a public hearing.

(3) A public member occupying statewide office, an individual with whom he is associated, or a business with which he is associated may not knowingly represent another person before the same unit or division of the governmental entity for which the public member has official responsibility, except as otherwise required by law.

(4) A public official, public member, or public employee of a county may not knowingly represent a person before an agency, unit, or subunit of that county for which the public official, public member, or public employee has official responsibility except:

(a) as required by law; or

(b) before a court under the unified judicial system.

(5) A public official, public member, or public employee of a municipality may not knowingly represent a person before any agency, unit, or subunit of that municipality for which the public official, public member, or public employee has official responsibility except as required by law.

(6) A public employee, other than those specified in items (4) and (5) of this subsection, receiving compensation other than reimbursement or per diem payments for his official duties, an individual with whom he is associated, or a business with which he is associated may not knowingly represent a person before an entity on the same level of government for which the public official, public member, or public

employee has official responsibility except:

(a) as required by law;

(b) before a court under the unified judicial system; or

(c) in a contested case, as defined in Section 1-23-310, excluding a contested case for a rate or price fixing matter before the South Carolina Public Service Commission or the South Carolina Department of Insurance, or in an agency's consideration of the drafting and promulgation of regulations under Chapter 23 of Title 1 in a public hearing.

(7) The restrictions set forth in items (1) through (6) of this subsection do not apply to:

(a) purely ministerial matters which do not require discretion on the part of the governmental entity before which the public official, public member, or public employee is appearing;

(b) representation by a public official, public member, or public employee in the course of the public official's, public member's, or public employee's official duties;

(c) representation by the public official, public member, or public employee in matters relating to the public official's, public member's or public employee's personal affairs or the personal affairs of the public official's, public member's, or public employee's immediate family.

(8) A state, county, or municipal public official, public member, or public employee, including a person serving on an agency, unit, or subunit of a governmental entity shall not be required to resign or otherwise vacate his seat or position due to a conflict of interest that arises under this section as long as notice of the possible conflict of interest is given and he complies with the recusal requirements of Section 8-13-700(B). A governmental entity includes, but is not limited to, a planning board or zoning commission.

(9) Notwithstanding another provision of law, a governmental entity shall not prohibit a state, county, or municipal public official, public member, or public employee, including a person serving on an agency, unit, or subunit of a governmental entity from service in office or employment based solely on race, color, national origin, religion, sex, disability, or occupation.

(B) A member of the General Assembly, when he, an individual with whom he is associated, or a business with which he is associated represents a client for compensation as permitted by subsection (A)(2)(c), must file within his annual statement of economic interests a listing of fees earned, services rendered, names of persons represented, and the nature of contacts made with the governmental entities.

(C) A member of the General Assembly may not vote on the section of that year's general appropriation bill relating to a particular agency or commission if the member, an individual with whom he is associated, or a business with which he is associated has represented any client before that agency or commission as permitted by subsection (A)(2)(c) within one year prior to such vote. This subsection does not prohibit a member from voting on other sections of the general appropriation bill or from voting on the general appropriation bill as a whole.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 1993 Act No 181, Sections 70, 71, eff July 1, 1995; 1995 Act No. 6, Sections 22, 23, effective upon approval (became law without the Governor's signature January 12, 1995) and applies only to transactions occurring on or after January 1, 1995; 1995 Act No. 6, Section 24, eff July 1, 1995 (became law without the Governor's signature January 12, 1995) and applies only to transactions occurring on or after January 1, 1995; 2007 Act No. 10, Sections 1 to 3, eff April 12, 2007.

#### Effect of Amendment

The 1993 amendment by Section 70, in subparagraph (c) of paragraph (2) of subsection (A), and by Section 71, in subparagraph (c) of paragraph (6) of subsection (A), substituted "Department of Insurance" for "Insurance Commission".

The 1995 amendment, by Section 22, revised paragraphs (4) and (5) of subsection (A); by Section 23, revised paragraph (6) of subsection (A); and by Section 24, revised paragraph (6) of subsection (A) effective July 1, 1995.

The 2007 amendment, in subsection (A), in subparagraphs (4) and (5) deleted ", an individual with whom the public official, public member, or public employee is associated, or a business with which the public official, public member, or public employee is associated" and added subparagraphs (8) and (9).

#### **SECTION 8-13-745.** Paid representation of clients and contracting by member of General Assembly or associate in particular situations.

(A) No member of the General Assembly or an individual with whom he is associated or business with which he is associated may represent a client for a fee in a contested case, as defined in Section 1-23-310, before an agency, a commission, board, department, or other entity if the member of the General Assembly has voted in the election, appointment, recommendation, or confirmation of a member of the governing body of the agency, board, department, or other entity within the twelve preceding months.

(B) Notwithstanding any other provision of law, after the effective date of this section, no member of the General Assembly or any individual with whom he is associated or business with which he is associated may represent a client for a fee in a contested case, as defined in Section 1-23-310, before an agency, a commission, board, department, or other entity elected, appointed, recommended, or confirmed by the House, the Senate, or the General Assembly if that member has voted on the section of that year's general appropriation bill or supplemental appropriation bill relating to that agency, commission, board, department, or other entity within one year from the date of the vote. This subsection does not prohibit a member from voting on other sections of the general appropriation bill or from voting

on the general appropriation bill as a whole.

(C) Notwithstanding any other provision of law, after the effective date of this section, no member of the General Assembly or an individual with whom he is associated in partnership or a business, company, corporation, or partnership where his interest is greater than five percent may enter into any contract for goods or services with an agency, a commission, board, department, or other entity funded with general funds or other funds if the member has voted on the section of that year's appropriation bill relating to that agency, commission, board, department, or other entity within one year from the date of the vote. This subsection does not prohibit a member from voting on other sections of the appropriation bill or from voting on the general appropriation bill as a whole.

(D) The provisions of this section do not apply to any court in the unified judicial system.

(E) When a member of the General Assembly is required by law to appear because of his business interest as an owner or officer of the business or in his official capacity as a member of the General Assembly, this section does not apply.

(F) The provisions of subsections (A), (B), and (C) do not apply in the case of any vote or action taken by a member of the General Assembly prior to January 1, 1992.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991.

**SECTION 8-13-750.** Employment, promotion, advancement, or discipline of family member of public official, member, or employee.

(A) No public official, public member, or public employee may cause the employment, appointment, promotion, transfer, or advancement of a family member to a state or local office or position in which the public official, public member, or public employee supervises or manages.

(B) A public official, public member, or public employee may not participate in an action relating to the discipline of the public official's, public member's, or public employee's family member.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991.

**SECTION 8-13-755.** Restrictions on former public official, member, or employee serving as lobbyist or accepting employment in field of former service.

A former public official, former public member, or former public employee holding public office, membership, or employment on or after January 1, 1992, may not for a period of one year after terminating his public service or employment:

(1) serve as a lobbyist or represent clients before the agency or department on which he formerly served in a matter which he directly and substantially participated during his public service or employment; or

(2) accept employment if the employment:

(a) is from a person who is regulated by the agency or department on which the former public official, former public member, or former public employee served or was employed; and

(b) involves a matter in which the former public official, former public member, or former public employee directly and substantially participated during his public service or public employment.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991.

**SECTION 8-13-760.** Employment by government contractor of former public official, member, or employee who was engaged in procurement.

Except as is permitted by regulations of the State Ethics Commission, it is a breach of ethical standards for a public official, public member, or public employee who is participating directly in procurement, as defined in Section 11-35-310(22), to resign and accept employment with a person contracting with the governmental body if the contract falls or would fall under the public official's, public member's, or public employee's official responsibilities.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991.

**SECTION 8-13-765.** Use of government personnel or facilities for campaign purposes; government personnel permitted to work on campaigns on own time.

(A) No person may use government personnel, equipment, materials, or an office building in an election campaign. The provisions of this subsection do not apply to a public official's use of an official residence.

(B) A government, however, may rent or provide public facilities for political meetings and other campaign-related purposes if they are available on similar terms to all candidates and committees, as defined in Section 8-13-1300(6).

(C) This section does not prohibit government personnel, where not otherwise prohibited, from participating in election campaigns on their

own time and on nongovernment premises.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991.

**SECTION 8-13-770.** Members of General Assembly prohibited from serving on state boards and commissions; exceptions. A member of the General Assembly may not serve in any capacity as a member of a state board or commission, except for the State Fiscal Accountability Authority, the Advisory Commission on Intergovernmental Relations, the Legislative Audit Council, the Legislative Council, the Legislative Services Agency, the Judicial Council, the Commission on Prosecution Coordination, the South Carolina Tobacco Community Development Board, the Tobacco Settlement Revenue Management Authority, the South Carolina Transportation Infrastructure Bank, the Commission on Indigent Defense, the South Carolina Research Authority, and the joint legislative committees.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 1998 Act No. 419, Part II, Section 35D, eff July 1, 1998; 1999 Act No. 77, Section 3, eff June 11, 1999; 2000 Act No. 387, Part II, Section 69A.4, eff June 30, 2000; 2003 Act No. 76, Section 18, eff June 26, 2003; 2005 Act No. 103, Section 1, eff July 1, 2005; 2012 Act No. 209, Section 5, eff June 7, 2012.

**Code Commissioner's Note**

At the direction of the Code Commissioner, reference to "Legislative Information Systems" was changed to "Legislative Services Agency" pursuant to 2013 Act No. 31.

**Editor's Note**

2000 Act No. 387, Part II, Section 69A.6, provides as follows:

"If a provision of this subsection, including the provisions of Chapter 49, Title 11 of the 1976 Code as added by it, or the application of a provision to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this subsection or the chapter added by it which may be given effect without the invalid provision or application. To this end, the provisions of this subsection and the chapter added by it are severable."

**Effect of Amendment**

The 1998 amendment deleted "the Reorganization Commission" from the list of exceptions.

The 1999 amendment inserted "the South Carolina Tobacco Community Development Board,".

The 2000 amendment added "the Tobacco Settlement Revenue Management Authority,".

The 2003 amendment added "the South Carolina Transportation Infrastructure Bank," after "the Tobacco Settlement Revenue Management Authority".

The 2005 amendment deleted "the Sentencing Guidelines Commission," and added "the Commission on Indigent Defense,".

The 2012 amendment inserted "The South Carolina Research Authority,".

**SECTION 8-13-775.** Public official, member, or employee with official function related to contracts not permitted to have economic interest in contracts.

A public official, public member, or public employee may not have an economic interest in a contract with the State or its political subdivisions if the public official, public member, or public employee is authorized to perform an official function relating to the contract. Official function means writing or preparing the contract specifications, acceptance of bids, award of the contract, or other action on the preparation or award of the contract. This section is not intended to infringe on or prohibit public employment contracts with this State or a political subdivision of this State nor does it prohibit the award of contracts awarded through a process of public notice and competitive bids if the public official, public member, or public employee has not performed an official function regarding the contract.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 1995 Act No. 6, Section 25, eff upon approval (became law without the Governor's signature January 12, 1995) and applies only to transactions occurring on or after January 1, 1995.

**Effect of Amendment**

The 1995 amendment, at the end of the third sentence, inserted "nor does it prohibit the award of contracts awarded through a process of public notice and competitive bids in the public official, public member, or public employee has not performed an official function regarding the contract".

**SECTION 8-13-780.** Remedies for breaches of ethical standards by public officials, members, or employees.

(A) The provisions of this section are in addition to all other civil and administrative remedies against public officials, public members, or public employees which are provided by law.

(B) In addition to existing remedies for breach of the ethical standards of this chapter or regulations promulgated hereunder, the State Ethics Commission may impose an oral or written warning or reprimand.

(C) The value of anything received by a public official, public member, or public employee in breach of the ethical standards of this chapter or regulations promulgated hereunder is recoverable by the State or other governmental entity in an action by the Attorney General against a person benefitting from the violations.

(D) Before a public employee's employment or a public official's or public member's association with the governmental entity is terminated for a violation of the provisions of this chapter, notice and an opportunity for a hearing must be provided to the public official, public member, or public employee.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991.

**SECTION 8-13-785.** Communication by elected official with state board or commission on behalf of constituent.

Nothing in Chapter 13 of Title 8 prevents an elected official from communicating with a board or commission member or employee, on behalf of a constituent relating to delays in obtaining a hearing, discourteous treatment, scheduling, or other matters not affecting the outcome of pending matters, provided that the elected official, an individual with whom the elected official is associated, or a business with which the elected official is associated is not representing the constituent for compensation.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 1995 Act No. 6, Section 26, effective upon approval (became law without the Governor's signature January 12, 1995) and applies only to transactions occurring on or after January 1, 1995.

Effect of Amendment

The 1995 amendment deleted the designator (A) from the first paragraph; deleted ", in writing," in that paragraph; and deleted former paragraph (B) pertaining to particular contacts between public officials as not prohibited.

**SECTION 8-13-790.** Recovery of amounts received by official or employee in breach of ethical standards; recovery of kickbacks.

(A) The value of anything transferred or received in breach of the ethical standards of Articles 1 through 11 of this chapter or regulations promulgated under it by a public employee, public official, or a nonpublic employee or official may be recovered from the public employee, public official, or nonpublic employee or official.

(B) Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order under it, it is conclusively presumed that the amount of the kickback was included in the price of the subcontract or order and ultimately borne by the State or governmental entity and is recoverable hereunder from the subcontractor making the kickback. Recovery from one offending party does not preclude recovery from other offending parties.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991.

**SECTION 8-13-795.** Receipt of award, grant, or scholarship by public official or family member.

Nothing in Chapter 13 of Title 8 prevents a public official or a member of his immediate family from being awarded an award, a grant, or scholarship, or negatively reflects on a public official because of an award, a grant, or scholarship awarded to the public official or to a member of his immediate family on a competitive, objective basis if the public official has not wilfully contacted any person involved in the selection of the recipient, on behalf of the recipient, before the award.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991.

The following sections of the **Ethics, Government Accountability, and Campaign Reform Act** (Article 9- Forms and Reports by Candidates for Election by the General Assembly; <http://www.scstatehouse.gov/code/t08c013.php>) pertain to candidates for public office filled by election by the General Assembly.

**SECTION 8-13-910.** Candidates elected or consented to by General Assembly to file statements of economic interests; authority with whom to file.

(A) No person who is a candidate for public office which is filled by election by the General Assembly may be voted upon by the General Assembly until at least ten days following the date on which the candidate files a statement of economic interests as defined in this chapter with the Chairman of the Senate Ethics Committee and the Chairman of the House of Representatives Ethics Committee.

(B) No person who is appointed to an office which is filled with the advice and consent of the Senate or the General Assembly may be confirmed unless the appointment, when received by the Senate and/or the House, is accompanied by a current original copy of a statement of economic interests which has been filed with the appointing authority and is transmitted with the appointment and until at least ten days following the date on which the appointment, with the attached original economic interest statement, has been received by the Senate and/or the House.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 1993 Act No. 183 Section 3, eff June 21, 1993; 1993 Act No. 181 Section 72, eff July 1, 1993.

Effect of Amendment

The 1993 amendments, by both Act No. 181 and Act No. 183, designated the existing text as subsection (A); in (A) deleted "or with the advice and consent of the Senate or the General Assembly"; and added subsection (B).

**SECTION 8-13-920.** Report of campaign expenditures.

A person running for an office elected by the General Assembly must file a report with the Chairman of the Senate Ethics Committee and the Chairman of the House of Representatives Ethics Committee of money in excess of one hundred dollars spent by him or in his behalf in seeking the office. The report must include the period beginning with the time he first announces his intent to seek the office. The report must not include travel expenses or room and board while campaigning. Contributions made to members of the General Assembly during the period from announcement of intent to election date must be included. The report must be updated quarterly with an additional report filed five days before the election and the final report filed thirty days after the election. Persons soliciting votes on behalf of candidates must submit expenses in excess of one hundred dollars to the candidate which must be included on the candidate's report. A copy of all reports received by the Senate Ethics Committee and the House of Representatives Ethics Committee must be forwarded to the State Ethics Commission within two business days of receipt.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991.

**SECTION 8-13-930.** Seeking or offering pledges of votes for candidates.

No candidate for an office elected by the General Assembly may seek directly the pledge of a member of the General Assembly's vote until the qualifications of all candidates for that office have been determined by the appropriate joint committee to review candidates for that office. No member of the General Assembly may offer a pledge until the qualifications of all candidates for that office have been determined by the appropriate joint committee to review candidates for that office.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991.

The following sections of the **Ethics, Government Accountability, and Campaign Reform Act** (<http://www.scstatehouse.gov/code/t08c013.php>) are from Article 11- Disclosure of Economic Interests and Article 15- Penalties.

**SECTION 8-13-1110.** Persons required to file statement of economic interests.

(A) No public official, regardless of compensation, and no public member or public employee as designated in subsection (B) may take the oath of office or enter upon his official responsibilities unless he has filed a statement of economic interests in accordance with the provisions of this chapter with the appropriate supervisory office. If a public official, public member, or public employee referred to in this section has no economic interests to disclose, he shall nevertheless file a statement of inactivity to that effect with the appropriate supervisory office. All disclosure statements are matters of public record open to inspection upon request.

(B) Each of the following public officials, public members, and public employees must file a statement of economic interests with the appropriate supervisory office, unless otherwise provided:

- (1) a person appointed to fill the unexpired term of an elective office;
- (2) a salaried member of a state board, commission, or agency;
- (3) the chief administrative official or employee and the deputy or assistant administrative official or employee or director of a division, institution, or facility of any agency or department of state government;
- (4) the city administrator, city manager, or chief municipal administrative official or employee, by whatever title;
- (5) the county manager, county administrator, county supervisor, or chief county administrative official or employee, by whatever title;
- (6) the chief administrative official or employee of each political subdivision including, but not limited to, school districts, libraries, regional planning councils, airport commissions, hospitals, community action agencies, water and sewer districts, and development commissions;
- (7) a school district and county superintendent of education;
- (8) a school district board member and a county board of education member;
- (9) the chief finance official or employee and the chief purchasing official or employee of each agency, institution, or facility of state government, and of each county, municipality, or other political subdivision including, but not limited to, those named in item (6);
- (10) a public official;
- (11) a public member who serves on a state board, commission, or council; and
- (12) Department of Transportation District Engineering Administrators.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 1995 Act No. 6, Section 27, effective upon approval (became law without the Governor's signature January 12, 1995) and applies only to transactions occurring on or after January 1, 1995; 2007 Act No. 114, Section 4, eff June 27, 2007.

**Effect of Amendment**

The 1995 amendment, in subsection (B), deleted former paragraph (12), which read: "a consultant".

The 2007 amendment added paragraph (B)(12) relating to Department of Transportation District Engineering Administrators.

**SECTION 8-13-1120.** Contents of statement of economic interests.

(A) A statement of economic interests filed pursuant to Section 8-13-1110 must be on forms prescribed by the State Ethics Commission and must contain full and complete information concerning:

- (1) the name, business or government address, and workplace telephone number of the filer;

(2) the source, type, and amount or value of income, not to include tax refunds, of substantial monetary value received from a governmental entity by the filer or a member of the filer's immediate family during the reporting period;

(3)(a) the description, value, and location of all real property owned and options to purchase real property during the reporting period by a filer or a member of the filer's immediate family if:

(i) there have been any public improvements of more than two hundred dollars on or adjacent to the real property within the reporting period and the public improvements are known to the filer; or

(ii) the interest can reasonably be expected to be the subject of a conflict of interest; or

(b) if a sale, lease, or rental of personal or real property is to a state, county, or municipal instrumentality of government, a copy of the contract, lease, or rental agreement must be attached to the statement of economic interests;

(4) the name of each organization which paid for or reimbursed actual expenses of the filer for speaking before a public or private group, the amount of such payment or reimbursement, and the purpose, date, and location of the speaking engagement;

(5) the identity of every business or entity in which the filer or a member of the filer's immediate family held or controlled, in the aggregate, securities or interests constituting five percent or more of the total issued and outstanding securities and interests which constitute a value of one hundred thousand dollars or more;

(6)(a) a listing by name and address of each creditor to whom the filer or member of the filer's immediate family owed a debt in excess of five hundred dollars at any time during the reporting period, if the creditor is subject to regulation by the filer or is seeking or has sought a business or financial arrangement with the filer's agency or department other than for a credit card or retail installment contract, and the original amount of the debt and amount outstanding unless:

(i) the debt is promised or loaned by a bank, savings and loan, or other licensed financial institution which loans money in the ordinary course of its business and on terms and interest rates generally available to a member of the general public without regard to status as a public official, public member, or public employee; or

(ii) the debt is promised or loaned by an individual's family member if the person who promises or makes the loan is not acting as the agent or intermediary for someone other than a person named in this subitem; and

(b) the rate of interest charged the filer or a member of the filer's immediate family for a debt required to be reported in (a);

If a discharge of a debt required to be reported in (a) has been made, the date of the transaction must be shown.

(7) the name of any lobbyist, as defined in Section 2-17-10(13) who is:

(a) an immediate family member of the filer;

(b) an individual with whom or business with which the filer or a member of the filer's immediate family is associated;

(8) if a public official, public member, or public employee receives compensation from an individual or business which contracts with the governmental entity with which the public official, public member, or public employee serves or is employed, the public official, public member, or public employee must report the name and address of that individual or business and the amount of compensation paid to the public official, public member, or public employee by that individual or business;

(9) the source and a brief description of any gifts, including transportation, lodging, food, or entertainment received during the preceding calendar year from:

(a) a person, if there is reason to believe the donor would not give the gift, gratuity, or favor but for the official's or employee's office or position; or

(b) a person, or from an officer or director of a person, if the public official or public employee has reason to believe the person:

(i) has or is seeking to obtain contractual or other business or financial relationship with the official's or employee's agency; or

(ii) conducts operations or activities which are regulated by the official's or employee's agency if the value of the gift is twenty-five dollars or more in a day or if the value totals, in the aggregate, two hundred dollars or more in a calendar year.

Text of (A)(10) effective January 1, 2017.

(10) a listing of the private source and type of any income received in the previous year by the filer or a member of his immediate family.

This item does not include income received pursuant to:

(a) a court order;

(b) a savings, checking, or brokerage account with a bank, savings and loan, or other licensed financial institution which offers savings, checking, or brokerage accounts in the ordinary course of its business and on terms and interest rates generally available to a member of the general public without regard to status as a public official, public member, or public employee;

(c) a mutual fund or similar fund in which an investment company invests its shareholders' money in a diversified selection of securities.

(B) This article does not require the disclosure of economic interests information concerning:

(1) a spouse separated pursuant to a court order from the public official, public member, or public employee;

(2) a former spouse;

(3) a campaign contribution that is permitted and reported under Article 13 of this chapter; or

(4) matters determined to require confidentiality pursuant to Section 2-17-90(E).

Text of (C) effective January 1, 2017.

(C) For purposes of this section, income means anything of value received, which must be reported on a form used by the Internal Revenue Service for the reporting or disclosure of income received by an individual or a business. Income does not include retirement, annuity, pension, IRA, disability, or deferred compensation payments received by the filer or filer's immediate family member.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 1995 Act No. 6, Sections 28, 29, eff upon approval (became law without the Governor's signature January 12, 1995) and applies only to transactions occurring on or after January 1, 1995; 2016 Act No. 283 (H.3186), Sections 1, 2, eff January 1, 2017.

#### Effect of Amendment

The 1995 amendment, in subsection (A), by Section 28, rewrote paragraphs (3) and (4), and by Section 29, in paragraph (6)(a), inserted "if the creditor is subject to regulation by the filer or is seeking or has sought a business or financial arrangement with the filer's agency or department".

2016 Act No. 283, Sections 1, 2, added (A)(10) and (C), requiring the disclosure of specified income information on the statement of economic interests, and defining "income" for purposes of the statement of economic interests and to enumerate exclusions.

**SECTION 8-13-1125.** Exception to reporting requirement for events to which entire legislative body invited.

Notwithstanding Sections 2-17-90(C) and 8-13-710, the reporting requirement of Section 8-13-1120(A)(9) does not apply to an event to which a member of the General Assembly is invited by a lobbyist's principal, regardless of whether or not the member attended the event, if the invitation was extended to the entire membership of the House, Senate, or General Assembly, and the invitation was accepted by the House or Senate Invitations Committee pursuant to House or Senate rules.

HISTORY: 1995 Act No. 6, Section 30, eff upon approval (became law without the Governor's signature January 12, 1995) and applies only to transactions occurring on or after January 1, 1995.

**SECTION 8-13-1127.** Legislative invitations committees to keep records of invitations accepted; public inspection.

The House and Senate Invitations Committees shall keep an updated list of invitations accepted by the body. The list must be available for public inspection during regular business hours.

HISTORY: 1995 Act No. 6, Section 31, eff upon approval (became law without the Governor's signature January 12, 1995) and applies only to transactions occurring on or after January 1, 1995.

**SECTION 8-13-1130.** Report on names of, and purchases by, lobbyists.

In addition to the statement of economic interests required pursuant to Section 8-13-1110, a person required to file the statement shall further report to the appropriate supervisory office the name of any person he knows to be a lobbyist as defined in Section 2-17-10(13) or a lobbyist's principal as defined in Section 2-17-10(14) and knows that the lobbyist or lobbyist's principal has in the previous calendar year purchased from the filer, a member of the filer's immediate family, an individual with whom the filer is associated, or a business with which the filer is associated, goods or services in an amount in excess of two hundred dollars.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991.

**SECTION 8-13-1140.** Filing of updated statement.

A person required to file a statement of economic interests under this chapter annually shall file, pursuant to Section 8-13-365, an updated statement for the previous calendar year, no later than noon on March thirtieth of each calendar year. If the person has filed the description by name, amount, and schedule of payments of a continuing arrangement relating to an item required to be reported under this article, an updating statement need not be filed for each payment under the continuing arrangement, but only if the arrangement is

terminated or altered.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 2013 Act No. 61, Section 8, eff June 25, 2013.

Editor's Note

2013 Act No. 61, Sections 11, 14, provide as follows:

"SECTION 11. In order to educate various parties regarding the provisions contained in this act, the following notifications must be made:

"(1) The State Election Commission must notify each county election commission of the provisions of this act.

"(2) The State Election Commission must post the provisions of this act on its website.

"(3) Each state party executive committee must notify their respective county executive parties of the provisions of this act."

"SECTION 14. This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first."

The amendment by 2013 Act No. 61 became effective June 25, 2013, see *South Carolina Libertarian Party v. South Carolina State Election Com'n*, 407 S.C. 612, 757 S.E.2d 707 (2014).

Effect of Amendment

The 2013 amendment rewrote the first sentence.

**SECTION 8-13-1150.** Filing of statement by certain consultants.

A consultant must file a statement for the previous calendar year with the appropriate supervisory office no later than twenty-one days after entering into a contractual relationship with the State or a political subdivision of the State and must file an update within ten days from the date the consultant knows or should have known that new economic interests in an entity have arisen in which the consultant or a member of the consultant's immediate family has economic interests:

(1) where the entity's bid was evaluated by the consultant and who was subsequently awarded the contract by the State, county, municipality, or a political subdivision of any of these entities that contracted with the consultant; or

(2) where the entity was awarded a contract by the consultant.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 1995 Act No. 6, Section 32, eff upon approval (became law without the Governor's signature January 12, 1995) and applies only to transactions occurring on or after January 1, 1995.

Effect of Amendment

The 1995 amendment deleted "of economic interests" following "must file a statement" at the beginning of the section.

**SECTION 8-13-1160.** Forwarding of copies of statement to State Ethics Commission and filing person's county of residence.

(A) The Senate Ethics Committee and the House of Representatives Ethics Committee must forward a copy of each statement filed with it to the State Ethics Commission within five business days of receipt.

(B) Within five business days of receipt, a copy of all statements of economic interests received by the State Ethics Commission must be forwarded to the clerk of court in the county of residence of the filing official or employee.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 1995 Act No. 6, Section 33, eff upon approval (became law without the Governor's signature January 12, 1995) and applies only to transactions occurring on or after January 1, 1995.

Effect of Amendment

The 1995 amendment substituted "five" for "two" preceding "business days of receipt" in two instances.

**SECTION 8-13-1170.** Technical violations of disclosure requirements; extensions of time for filing statements.

(A) The appropriate supervisory office may, in its discretion, determine that errors or omissions on statements of economic interests are inadvertent and unintentional and not an effort to violate a requirement of this chapter and may be handled as technical violations not subject to the provisions of this chapter pertaining to ethical violations. Technical violations must remain confidential unless requested to be made public by the public official, public member, or public employee filing the statement. In lieu of all other penalties, the appropriate supervisory office may assess a technical violations penalty not exceeding fifty dollars.

(B) The appropriate supervisory office may grant a reasonable extension of time for filing a statement of economic interests. The extension may not exceed thirty days except in cases of illness or incapacitation.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991.

**SECTION 8-13-1180.** Soliciting of contributions by elective official or agent from employees; favoritism by public official or employee towards employees making contributions.

(A) An elective official or the elective official's agent may not knowingly solicit a contribution from an employee in the elective official's area

of official responsibility.

(B) A public official or public employee may not provide an advantage or disadvantage to a public employee or applicant for public employment concerning employment, conditions of employment, or application for employment based on the employee's or applicant's contribution, promise to contribute, or failure to contribute to a candidate, a political party, as defined in Section 8-13-1300(26) or a committee, as defined in Section 8-13-1300(6).

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991.

**SECTION 8-13-1510.** Civil and criminal penalties for late filing of or failure to file report or statement required by this chapter.

(A) Except as otherwise specifically provided in this chapter, a person required to file a report or statement under this chapter who files a late statement or report or fails to file a required statement or report must be assessed a civil penalty as follows:

(1) a fine of one hundred dollars if the statement or report is not filed within five days after the established deadline provided by law in this chapter; and

(2) after notice has been given by certified or registered mail that a required statement or report has not been filed, a fine of ten dollars per calendar day for the first ten days after notice has been given, and one hundred dollars for each additional calendar day in which the required statement or report is not filed, not exceeding five thousand dollars.

(B) After the maximum civil penalty has been levied and the required statement or report has not been filed, the person is:

(1) for a first offense, guilty of a misdemeanor triable in magistrates court and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days;

(2) for a second offense, guilty of a misdemeanor triable in magistrates court and, upon conviction, must be fined not less than two thousand five hundred dollars nor more than five thousand dollars or imprisoned not less than a mandatory minimum of thirty days;

(3) for a third or subsequent offense, guilty of a misdemeanor triable in magistrates court and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than one year, or both.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 2003 Act No. 76, Section 52, eff July 1, 2003; 2011 Act No. 40, Section 6, eff June 7, 2011.

Effect of Amendment

The 2003 amendment, in item (1), added "the statement or report is" following "dollars" and "or" following "chapter"; and in item (2) added "for the first ten days after notice has been given, and one hundred dollars" following "per day", deleted ", not exceeding five hundred dollars" following "not filed", and made a nonsubstantive change.

The 2011 amendment designated the existing text as subsection (A); in subsection (A)(1), substituted "and" for "or"; in subsection (A)(2), inserted "calendar" following "ten dollars per", inserted "or report" following "statement", and added ", not exceeding five thousand dollars"; and added subsection (B).

**SECTION 8-13-1520.** Violation of chapter constitutes misdemeanor; violation not necessarily ethical infraction.

(A) Except as otherwise specifically provided in this chapter, a person who violates any provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than one year, or both.

(B) A person who violates any provision of this Article 13 is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred percent of the amount of contributions or anything of value that should have been reported pursuant to the provisions of this Article 13 but not less than five thousand dollars or imprisoned for not more than one year, or both.

(C) A violation of the provisions of this chapter does not necessarily subject a public official to the provisions of Section 8-13-560.

HISTORY: 1991 Act No. 248, Section 3, eff January 1, 1992 and governs only transactions which take place after December 31, 1991; 2003 Act No. 76, Section 53, eff November 3, 2004.

Effect of Amendment

The 2003 amendment rewrote this section.

**SECTION 8-17-370.** Exemptions. *[Chapter 17-State or Local Employees Grievance Procedure, Article 5-State Employee Grievance Procedure]*  
The provisions of this article do not apply to:...

(8) an agency head who has the authority and responsibility for an agency within state government including the divisions of the Department of Administration and the State Fiscal Accountability Authority;...

(10) teaching or research faculty, professional librarians, academic administrators, or other persons holding faculty appointments at a four-year post-secondary educational institution, including its branch campuses, if any, as defined in Section 59-107-10;...

(14) employees of the Medical University Hospital Authority, provided the Medical University Hospital Authority has promulgated an employee grievance plan in accordance with its enabling provision;...

**SECTION 10-1-70.** Roofs of public buildings, fireproof and noncombustible materials requirements.

Every public building erected, enlarged or reroofed after May 27, 1936, whether owned by the State or a county or school district, shall have the roof of such building and also the roof top and sides of all roof structures, including dormer windows, covered with fireproof and incombustible material.

HISTORY: 1962 Code Section 1-465; 1952 Code Section 1-465; 1942 Code Section 2194; 1936 (39) 1668.

**SECTION 10-1-75.** Smoke actuated door closers on patient rooms in institutional facilities licensed by state agencies.

Whenever any patient room in any institutional facility licensed by a state agency is equipped with an approved smoke detecting system and provided that the facility is equipped with an approved automatic fire extinguishing system, smoke actuated door closers shall not be required on patient room doors opening into the corridor.

HISTORY: 1977 Act No. 219, Part II, Section 22.

**SECTION 10-1-100.** Public construction projects, provision for antipollution devices.

All invitations for bid proposals for construction projects (but not including South Carolina Highway Department projects) issued by the State, its authorities, commissions, departments, committees or agencies, or any political subdivision of the State, shall set forth in the contract documents, to the extent they are reasonably obtainable by the public awarding authority, those provisions of federal, state and local statutes, ordinances and regulations dealing with the prevention of environmental pollution and the preservation of public natural resources that affect or are affected by the projects. If the successful bidder must undertake additional work which was not specified in the invitation for bid proposals or which are due to the enactment of new or the amendment of existing statutes, ordinances, rules or regulations occurring after the submission of the successful proposal, the awarding agency shall issue a change order, setting forth the additional work that must be undertaken, which shall not invalidate the contract. The cost of such a change order to the awarding agency shall be determined in accordance with the provisions of the contract for change orders or force accounts and that such additional costs to undertake work not specified in the contract documents shall not be approved unless written authorization is given the successful bidder/contractor prior to his undertaking such additional activity. In the event of a dispute between the awarding agency and the successful bidder/contractor, arbitration procedures may be commenced under the applicable terms of the construction contract under the provisions of Chapter 48, Title 15.

HISTORY: 1962 Code Section 1-466.1; 1974 (58) 2783.

**SECTION 10-1-105.** Buildings constructed with public funds to include windows which may be opened.

Whereas, state office buildings have been constructed recently with windows that cannot be opened; therefore, heating or air conditioning equipment is in use most all of the time causing use of electrical energy which could be avoided; and

Whereas, it is incumbent upon the General Assembly to do everything within its power to help alleviate the ever-present energy crisis and having windows which could be conveniently opened to let fresh air in would help to some extent in conserving energy. Now, therefore:

Unless agreed to by the Department of Administration, any building constructed with the state funds shall include windows which may be conveniently opened.

HISTORY: 1979 Act No. 199 Part II, Section 29.

**SECTION 10-1-130.** Grant of easements and rights of way.

The trustees or governing bodies of state institutions and agencies may grant easements and rights of way over any property under their control, upon the recommendation of the Department of Administration and approval of the State Fiscal Accountability Authority, whenever it appears that such easements do not materially impair the utility of the property or damage it and, when a consideration is paid therefor, any amounts must be placed in the State Treasury to the credit of the institution or agency having control of the property involved.

HISTORY: 1962 Code Section 1-49.3; 1963 (53) 177; 2014 Act No. 121 (S.22), Pt V, Section 7.K, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.K, rewrote the section, substituting the Department of Administration and the State Fiscal Accountability Authority for the State Budget and Control Board.

**SECTION 10-1-140.** Responsibility for personal property of state departments, agencies, and institutions.

The head of each department, agency, or institution of this State is responsible for all personal property under his supervision and each fiscal year shall make an inventory of all property under his supervision, except expendables.

HISTORY: 1962 Code Section 1-49.4; 1967 (55) 719; 1996 Act No. 458, Part II, Section 16A; 2005 Act No. 164, Section 6.

**SECTION 10-1-150.** Accounting for expenses of public buildings.

All expenditures from amounts specified in appropriations for expenses in connection with the public buildings of the State shall be itemized and verified by the contractors and certified to by the respective officers in charge thereof.

HISTORY: 1962 Code Section 1-462; 1952 Code Section 1-462; 1942 Code Section 3196; 1932 Code Section 3196; Civ. C. '22 Section 893; Civ. C. '12 Section 813; 1909 (26) 282.

**SECTION 10-1-160.** Display of certain flags.

(A) The United States flag and the State flag shall be flown daily, except in rainy weather, from a staff upon the State House, and shall be displayed above the rostrum in the chambers of the House of Representatives and the Senate and in the first floor north foyer of the State House. No other flag shall be displayed in these locations or atop the dome or roof, or within the foyers or common or public areas within the capitol building. The Department of Administration shall purchase suitable flags for display at the State House locations and cause them to be displayed, the expense to be borne out of the funds appropriated to it.

(B) The provisions of this section may only be amended or repealed upon passage of an act which has received a two-thirds vote on the third reading of the bill in each branch of the General Assembly.

(C) The term "chambers" of the House or Senate for purposes of this section does not include individual members' offices. The provisions of this section do not prohibit a private individual on the capitol complex grounds from wearing as a part of his clothing or carrying or displaying any type of flag including a Confederate Flag.

HISTORY: 1962 Code Section 1-461; 1952 Code Section 1-461; 1942 Code Section 5703; 1932 Code Sections 5703, 5705; Civ. C. '22 Sections 2772, 2773; Civ. C. '12 Sections 1842, 1843; 1910 (26) 753; 1922 (32) 779; 2000 Act No. 292, Section 2.

**SECTION 10-1-180.** Expenditure of funds by state agency subject to approval and regulation of State Budget and Control Board; exceptions. The expenditure of funds by any state agency, except the Department of Transportation for permanent improvements as defined in the state budget, is subject to approval and regulation of the State Budget and Control Board. The board shall have authority to allot to specific projects from funds made available for such purposes, such amounts as are estimated to cover the respective costs of such projects, to declare the completion of any such projects, and to dispose, according to law, of any unexpended balances of allotments, or appropriations, or funds otherwise provided for such projects, upon the completion thereof. The approval of the Budget and Control Board is not required for minor construction projects, including renovations and alterations, where the cost does not exceed an amount determined by the Joint Bond Review Committee and the Budget and Control Board.

All construction, improvement, and renovation of state buildings shall comply with the applicable standards and specifications set forth in each of the following codes: The Standard Building Code, The Standard Existing Building Code, The Standard Gas Code, The Standard Mechanical Code, The Standard Plumbing Code and The Standard Fire Prevention Code, all as adopted by the Southern Building Code Congress International, Inc.; and the National Electrical Code NFPA 70, The National Electrical Safety Code-ANSI-C2, The National Fire Protection Association Standard-NFPA 59, all with the code editions, revision years, and deletions as specified in the Manual For Planning and Execution of State Permanent Improvements. The State Engineer shall determine the enforcement and interpretation of the aforementioned codes and referenced standards on state buildings. Any interested local officials shall coordinate their comments related to state buildings through the State Engineer and shall neither delay construction nor delay or deny water, sewer, power, other utilities, or firefighting services. Agencies may appeal to the Director of Office of General Services regarding the application of these codes to state buildings.

HISTORY: 1995 Act No. 145, Part II, Section 11.

**Code Commissioner's Note**

At the direction of the Code Commissioner, reference in this section to the former Budget and Control Board has not been changed pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), until further action by the General Assembly.

**Editor's Note**

Under the provisions of Chapter 34, Title 1, an agency is required to adopt the latest edition of a nationally recognized code which it is charged by statute or regulation with enforcing by giving notice in the State Register.

**SECTION 10-1-200.** Regulation of parking facilities owned or controlled by agencies of state government.

Parking facilities owned or controlled by agencies of the state government must be regulated as follows:

(1) The Department of Administration is director to establish and collect a schedule of charges for the use of the parking facilities in the Capitol Complex and other individually assigned spaces in state-owned parking lots and facilities administered by the Department of Administration. Proceeds of these charges, except where the proceeds are pledged to the retirement of indebtedness or to expenses related to the provision of the facilities, must be deposited in the General Fund of the State. The schedule of charges shall include charges for a fixed number of parking spaces to both the House of Representatives and the Senate in the McEachern Parking Facility in an area adjacent to each respective body's office building, sufficient to provide spaces for all members of the General Assembly and all permanent employees of the Senate and House of Representatives and Joint Legislative Committees as determined by the respective operations and management committees of the body.

(2) Any agency or institution of the state government owning or controlling parking facilities, excluding the South Carolina Educational

Television Commission and the Department of Agriculture when receiving revenues from parking during University football games, at its discretion, subject to approval of the Budget and Control Board, may charge such rates as it considers appropriate for the use of such facilities, except where these proceeds are pledged to the retirement of bonded indebtedness, and shall deposit the proceeds to the credit of the General Fund of the State.

(3) Any unauthorized motor vehicle parked in a reserved space on state-owned or controlled property may be removed and the cost involved in removing and storing the vehicle must be paid by the owner of the vehicle.

HISTORY: 1995 Act No. 145, Part II, Section 10.

**SECTION 10-1-205.** Computers in public libraries; regulation of Internet access.

A computer which:

(1) is located in a lending library supported by public funds, public school library or media arts center, or in the library of a public institution of higher learning as defined in Section 59-103-5;

(2) can access the Internet; and

(3) is available for use by the public or students, or both;

shall have its use policies determined by the library's or center's governing board, as appropriate. The governing board must adopt policies intended to reduce the ability of the user to access web sites displaying information or material in violation of Article 3 of Chapter 15 of Title 16.

HISTORY: 2000 Act No. 387, Part II, Section 97.A; 2000 Act No. 407, Section 1.

**SECTION 10-7-10.** Insurance on state public buildings, state-supported institutions, and Department of Transportation buildings.

All insurance on public buildings and on the contents thereof of the State and of all institutions supported in whole or in part by the State shall be carried by the State Fiscal Accountability Authority. Any building or buildings, and the contents thereof, owned by the Department of Transportation may be insured by the State Fiscal Accountability Authority, with the consent or approval of such board, or the Department of Transportation shall have the alternative of assuming its own risks.

HISTORY: 1962 Code Section 1-431; 1952 Code Section 1-431; 1942 Code Section 2180; 1936 (39) 1668; 1950 (46) 3605; 1956 (49) 1751; 1963 (53) 275; 1974 (58) 2217; 1993 Act No. 181, Section 85.

**SECTION 10-7-70.** Officials in charge of buildings shall provide for insurance.

The proper officer, official or trustee having by law the care and custody of state and county buildings and of public school buildings shall insure such buildings under the provisions set forth in this chapter.

HISTORY: 1962 Code Section 1-436; 1952 Code Section 1-436; 1942 Code Section 2183; 1936 (39) 1668.

**SECTION 10-7-100.** Payment of premiums.

The premium on all policies of insurance issued by the State Fiscal Accountability Authority shall be paid by the officer, official, or trustee having the property insured under his care and custody upon demand of the authority. If an agency or political subdivision fails to pay any required premium within sixty days from the date the premium is invoiced, the State Fiscal Accountability Authority may cancel the policy for nonpayment of premium by mailing a notice of cancellation giving not less than thirty days' notice of the cancellation to the delinquent agency or political subdivision. Prior to the termination of the insurance coverage, notice of the impending termination also must be published in a newspaper of regular circulation in the county where the insured's headquarters is located. The State Fiscal Accountability Authority is not responsible for risk or loss occurring after the effective date of the cancellation.

HISTORY: 1962 Code Section 1-439; 1952 Code Section 1-439; 1942 Code Section 2185; 1936 (39) 1668; 1950 (46) 3605; 1996 Act No. 314, Section 1.

**SECTION 10-7-230.** Penalties.

Any officer, official or trustee, upon whom the duties provided in this chapter devolve, who fails or refuses to carry out such provisions, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in a sum not less than twenty-five dollars, nor more than one hundred dollars, or imprisoned not less than ten nor more than thirty days.

HISTORY: 1962 Code Section 1-452; 1952 Code Section 1-452; 1942 Code Section 2190; 1936 (39) 1668.

**SECTION 11-9-10.** Money to be spent only for purpose or activity specifically appropriated.

It shall be unlawful for any monies to be expended for any purpose or activity except that for which it is specifically appropriated, and no transfer from one appropriation account to another shall be made unless such transfer be provided for in the annual appropriation act.

HISTORY: 1962 Code Section 1-701; 1952 Code Section 1-701; 1942 Code Section 3143; 1932 Code Section 3143; Civ. C. '22 Section 839; 1921 (32) 114.

**SECTION 11-9-15.** Use of state funds for function at club practicing discrimination prohibited.

(A) No state funds may be used to sponsor or defray the cost of any function by a state agency or institution at a club or organization which does not admit as members persons of all races, religions, colors, sexes, or national origins.

(B) No state officer or employee may be reimbursed from public funds for expenses incurred at any club or establishment which does not admit as members persons of all races, religions, colors, sexes, or national origins.

HISTORY: 1978 Act No. 644, Part II, Section 6; 1987 Act No. 170, Part II, Section 27.

**SECTION 11-9-20.** Disbursing officers exceeding or transferring appropriations.

(A) It is unlawful for an officer, clerk, or other person charged with disbursements of state funds appropriated by the General Assembly to exceed the amounts and purposes stated in the appropriations, or to change or shift appropriations from one item to another. Transfers may be authorized by the General Assembly in the annual appropriation act for the State.

(B) An officer, clerk, or other person who violates the provisions of this section is guilty of malfeasance in office. The Governor may suspend immediately the officer and shall investigate the conduct of the person.

(C) If after the investigation the person is found guilty, the Governor shall suspend him from office. In addition to the suspension, the officer is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years.

HISTORY: 1962 Code Section 1-702; 1952 Code Section 1-702; 1942 Code Sections 1592, 3070; 1932 Code Section 1592; Cr. C. '22 Section 557; 1921 (32) 117; 1993 Act No. 184, Section 153.

**SECTION 11-9-80.** Fiscal year starts July 1 and ends June 30.

In accordance with the terms of Section 10, Article X of the Constitution of South Carolina, as amended, the fiscal year of the State shall begin on the first day of July and end on the thirtieth day of June each year. All officers or servants of the State who are required to perform any duty at a specific time contingent upon the beginning and ending of the fiscal year shall perform such duties at such a time as will conform to the fiscal year beginning July first and ending June thirtieth. Nothing herein contained shall be held to affect the date for the assessment, levying or collection of any tax now provided for by law nor to affect the submitting of reports to the General Assembly. All officers or servants of the State shall keep their accounts and records in conformity with such fiscal year, opening them on the first day of July and closing them on the thirtieth day of June each year.

HISTORY: 1962 Code Section 1-709; 1952 Code Section 1-709; 1942 Code Section 3081-1; 1933 (38) 218.

**SECTION 11-9-105.** Contracts for legal or consultant services.

Any contract for legal or consultant services entered into by a state agency or institution shall include a provision which requires completion of all services. The provisions shall further require that in the event all services are not fully rendered as provided for in the contract, any monies which have been paid by the agency under the contract must be refunded to the agency along with a twelve percent penalty.

HISTORY: 1983 Act No. 151, Part II, Section 36.

**SECTION 11-9-125.** Order of expenditure of funds by state agencies; remittance of certain funds to state general fund.

Federal and other funds must be expended before funds appropriated from the general fund of the State, to the extent possible, and any excess balances in accounts resulting from matching fund programs must be remitted to the general fund of the State. Federal or other funds generated by the expenditure of state funds, including refunds from prior year general fund expenditures, must be remitted to the general fund of the State if there is no federal or state requirement governing the specific use of the funds. In order to permit identification of these funds, state agencies shall:

- (1) draw down and expend federal and other funds before spending state general fund appropriations whenever possible;
- (2) maintain separate accounting records for each grant for cash, revenues, and expenditures to insure a proper audit trail;
- (3) reconcile federal and other fund accounts at the end of each state fiscal year and maintain those records for audit purposes;
- (4) submit federal financial reports to the grantor agency as required.

State agencies shall remit to the general fund of the State any funds found to exist in agency accounts. If an agency believes funds have been inappropriately identified as the funds defined in this section, the agency may appeal through the process provided in Sections 2-65-30 and 2-65-40. A report of the amount of funds credited to the general fund of the State pursuant to this section must be made by the Comptroller General at the time of each official state revenue forecast. This report must be provided to the Executive Budget Office and the Revenue and Fiscal Affairs Office, the Senate Finance Committee, and the House Ways and Means Committee. Research and student aid grants, including indirect cost recoveries, are exempt from this provision.

HISTORY: 1988 Act No. 658, Part II, Section 37; 2005 Act No. 164, Section 9.

**SECTION 11-13-125.** State Treasury designated as depository for all funds received by state departments and institutions.

All funds received by any department or institution of the state Government shall be deposited and maintained in appropriate accounts in the State Treasury except such funds as may be authorized by the State Fiscal Accountability Authority to be maintained in departmental or

institutional bank accounts for regular operating purposes or for other justifiable circumstances, such accounts to be maintained in such banks or banking institutions as shall be designated by the State Treasurer.

To facilitate the management of all funds, all earnings from investments of general deposit funds shall become a part of the General Fund of the State.

HISTORY: 1977 Act No. 219, Part II, Section 8.

The **South Carolina Consolidated Procurement Code** can be found in its entirety in Title 11-Public Finance, Chapter 35-South Carolina Consolidated Procurement Code (<http://www.scstatehouse.gov/code/t11c035.php>).

**SECTION 11-35-710.** Exemptions.

The board, upon the recommendation of the designated board office, may exempt governmental bodies from purchasing certain items through the respective chief procurement officer's area of responsibility. The board may exempt specific supplies, services, information technology, or construction from the purchasing procedures required in this chapter and for just cause by unanimous written decision limit or may withdraw exemptions provided for in this section. The following exemptions are granted from this chapter:

(6) expenditure of funds at state institutions of higher learning derived wholly from athletic or other student contests, from the activities of student organizations, and from the operation of canteens and bookstores, except as the funds are used for the procurement of construction, architect-engineer, construction-management, and land surveying services;...

(14) Medical University Hospital Authority, if the Medical University Hospital Authority has promulgated a procurement process in accordance with its enabling provision.

HISTORY: 1981 Act No. 148, Section 1; 1984 Act No. 309, Section 4; 1993 Act No. 181, Section 94; 1995 Act No. 7, Part II, Section 51; 1996 Act No. 459, Section 7; 1997 Act No. 153, Section 1; 2000 Act No. 264, Section 4; 2006 Act No. 376, Section 13.

**SECTION 11-51-10.** Short title.

This chapter may be cited as the "South Carolina Research University Infrastructure Act".

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11-51-20.** Legislative findings and purpose.

The General Assembly finds:

(1) That by Section 4, Act 10 of 1985, the General Assembly ratified an amendment to Section 13(6)(c), Article X of the Constitution of this State, 1895. As amended, Section 13(6)(c), Article X limits the issuance of certain general obligation debt of the State such that the maximum annual debt service on general obligation bonds of the State, excluding highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, may not exceed five percent of the general revenues of the State for the fiscal year next preceding, excluding revenues that are authorized to be pledged for state highway bonds and state institution bonds.

(2) Section 13(6)(c), Article X, as amended, further provides that the percentage rate of general revenues of the State by which general obligation bond debt service is limited may be reduced to four or increased to seven percent by legislative enactment passed by two-thirds vote of the total membership of the Senate and a two-thirds vote of the total membership of the House of Representatives.

(3) That pursuant to Section 13(6)(c), Article X, the General Assembly, in Act 254 of 2002, increased to five and one-half percent the percentage rate of the general revenues of the State by which general obligation bond debt service is limited with the additional debt service capacity available at any time as a consequence of the increase available only for the repayment of general obligation bonds issued to provide infrastructure for economic development within the State.

(4) Facility and infrastructure constraints prevent the advancement of research projects as well as restrict the ability of the research universities, as defined in Section 11-51-30, to retain faculty and generate research dollars. A dedicated source of funds to repay general obligation debt authorized pursuant to this chapter would provide a consistent funding stream for capital improvements at the research universities and allow for improved planning of capital expenditures to meet the mission of the research universities.

(5) In order to advance economic development and create a knowledge based economy, thereby increasing job opportunities, and to facilitate and increase research within the State at the research universities, it is in the interest of the State that, pursuant to Section 13(6)(c), Article X that the limitation on general obligation debt imposed by Section 13(6)(c), Article X be increased to six percent with the additional debt service capacity available at any time as a consequence of the increase available only for the repayment of general obligation debt issued pursuant to the provisions of this chapter.

(6) That Section 13(5), Article X of the Constitution of this State, 1895, authorizes the General Assembly to authorize general obligation debt by two-thirds vote of the members of each House of the General Assembly, subject to such conditions or restrictions limiting the incurring of such indebtedness contained in the authorization to incur such indebtedness, and the provisions of Section 13(3), Article X of the Constitution of this State.

(7) That Section 13(5), Article X provides additional constitutional authority for the bonds authorized by this chapter and the designated principal amount of general obligation bonds to be issued pursuant to the debt limit as it existed prior to this chapter.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11-51-30. Definitions.**

As used in this chapter:

(1) "Facilities and administration costs" means depreciation and use allowances, interest on debt associated with buildings, equipment and capital improvements, operation and maintenance expenses, library expenses, general administration expenses, departmental administration, sponsored projects administration, and student administration and services.

(2) "General obligation debt" means any indebtedness of the State which must be secured in whole or in part by a pledge of the full faith, credit and taxing power of the State, including, but not limited to, bonds, notes, and other evidences of indebtedness, and issued pursuant to the provisions of this chapter.

(3) "Research Centers of Excellence Review Board" means the board created pursuant to Section 2-75-10.

(4) "Research infrastructure project" or " project" means a project that would advance economic development and create a knowledge based economy, thereby increasing job opportunities, or facilitate and increase externally funded research at the research universities, including, but not limited to, land acquisition, acquisition or construction of buildings, equipment, furnishings, site preparation, road and highway improvements, water and sewer infrastructure, and other things necessary or convenient to advance economic development or to facilitate and increase research at the research universities.

(5) "Research universities" means Clemson University, The Medical University of South Carolina, and the University of South Carolina-Columbia.

(6) "State board" means the governing board of the State Fiscal Accountability Authority.

HISTORY: 2004 Act No. 187, Section 9; 2014 Act No. 121 (S.22), Pt VII, Section 20.L.1, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 20.L.1, in subsection (6), substituted "governing board of the State Fiscal Accountability Authority" for "South Carolina State Budget and Control Board".

**SECTION 11-51-40. Issuance of general obligation debt authorized; limitations.**

To obtain funds for allocation to the research universities for the financing of research infrastructure projects, and for the other purposes set forth in Section 11-51-125, there may be issued general obligation debt pursuant to the conditions prescribed by this chapter; provided, however, that the amount of the general obligation debt issued pursuant to this chapter that may be outstanding at any one time shall not exceed two hundred fifty million dollars.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11-51-50. Maximum annual debt service at time of issuance.**

(A) Pursuant to the provisions of Section 13(6)(c), Article X of the Constitution of this State, 1895, as amended, and by enactment of this chapter, the General Assembly provides that general obligation debt may be issued pursuant to this chapter only at such times as the maximum annual debt service on all general obligation bonds of the State, including economic development bonds and bonds issued pursuant to this chapter, outstanding and being issued, but excluding highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, will not exceed six percent of the general revenues of the State for the fiscal year next preceding, excluding revenues that are authorized to be pledged for state highway bonds and state institution bonds. The State may not issue general obligation bonds, excluding economic development bonds and bonds authorized pursuant to this chapter, highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes, if at the time of issuance the maximum annual debt service on these general obligation bonds, outstanding and being issued, exceeds five percent of the general revenues of the State for the fiscal year next preceding, excluding revenues that are authorized to be pledged for state highway bonds and state institution bonds.

(B) At the time of issuance of general obligation debt pursuant to this chapter, the maximum annual debt service on such general obligation debt outstanding or being issued must not exceed one-half of one percent of the general revenues of this State for the fiscal year next preceding, excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds.

(C) With respect to the first eight hundred fifty million dollars in principal amount of general obligation bonds issued after the effective date of this chapter within the debt service constraints set forth in subsections (A) and (B) of this section, the General Assembly provides additional constitutional authorization for such bonds pursuant to Section 13(5), Article X of the Constitution of this State, 1895.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11-51-60.** Research infrastructure project used for unapproved purpose; reimbursement of debt service to State.  
In the event a research infrastructure project is used for a purpose other than as approved by the Research Centers of Excellence Review Board pursuant to Section 11-51-80(2), the research university for which the research infrastructure project was originally established shall reimburse the State a percentage of debt service on the general obligation debt issued to finance the debt, the percentage to be equal to the percentage of the research infrastructure project which is used for an unapproved purpose. Amounts reimbursed to the State pursuant to this section must be applied, as directed by the state board, to the debt service on the applicable general obligation debt, either currently or by way of defeasance, or to the general fund of the State.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11-51-70.** Certification of costs to State Budget and Control Board prior to issuance of general obligation debt.  
As a condition precedent to the issuance of general obligation debt pursuant to the provisions of this chapter, the Research Centers of Excellence Review Board shall certify to the state board that at least fifty percent of the cost of each research infrastructure project is being provided by private, federal, municipal, county, or other local government sources. This portion of the cost, in the discretion of the Research Centers of Excellence Review Board, may be in the form of cash; cash equivalent; buildings including sale-lease back; gifts in kind including, but not limited to, land, roads, water and sewer, and maintenance of infrastructure; facilities and administration costs; equipment; or furnishings.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11-51-80.** Information provided to Joint Bond Review Committee and State Budget and Control Board prior to issuance of general obligation debt.

Before the issuance of general obligation debt, the Research Centers of Excellence Review Board shall provide the Joint Bond Review Committee and the state board the following:

- (1) a description of each research infrastructure project for which general obligation debt is requested to be issued;
- (2) a certification by the Research Centers of Excellence Review Board that the provisions of Section 11-51-70 have been met, that the source of funding has been identified, and that each research infrastructure project complies with the provisions of this chapter;
- (3) the total cost of each research infrastructure project and the principal amount of general obligation debt requested to be issued;
- (4) a tentative time schedule setting forth the period of time during which the proceeds of the general obligation debt requested to be issued will be expended;
- (5) a debt service schedule showing the annual principal and interest requirements, at a projected current rate of interest, on the requested general obligation debt;
- (6) the total amount of the general obligation debt issued pursuant to this chapter; and
- (7) a debt service schedule showing the principal and interest requirements for the general obligation debt outstanding and the proposed general obligation debt at a projected current rate of interest.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11-51-90.** Principal amount of general obligation debt provided on a competitive basis.

The principal amount of the general obligation debt allocated to research universities pursuant to Section 11-51-125 must be provided to each of the research universities on a competitive basis by the Research Centers of Excellence Review Board.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11-51-100.** Issuance of general obligation debt or anticipation notes.

Following the receipt of the information presented pursuant to Section 11-51-80, and after approval by the Joint Bond Review Committee, the state board, by resolution duly adopted, shall effect the issuance of general obligation debt, or pending the issuance of the general obligation debt, effect the issuance of general obligation debt anticipation notes pursuant to Chapter 17 of this title.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11-51-110.** Resolution by State Budget and Control Board authorizing issuance of general obligation debt.

To effect the issuance of general obligation debt, the state board shall adopt a resolution providing for the issuance of general obligation debt pursuant to the provisions of this chapter. The authorizing resolution must include:

- (1) a schedule showing the aggregate principal amount of general obligation debt issued, the annual principal payments required to retire the general obligation debt, and the interest on the general obligation debt;
- (2) the amount of general obligation debt proposed to be issued;

(3) a schedule showing future annual principal requirements and estimated annual interest requirements on the general obligation debt to be issued;

(4) a certificate evidencing that the provisions of Section 11-51-70 of this chapter have been or will be met; and

(5) a certificate of the State Auditor as to the general fund revenues of the State for the fiscal year next preceding, excluding revenues pledged to the payment of state highway bonds and state institution bonds.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11-51-120.** Maturity, payment, and interest rates.

The general obligation debt must bear the date and mature at the time that the state board resolution provides, except that the general obligation debt may not mature more than thirty years from its date of issue. The general obligation debt may be in the denominations, be payable in the medium of payment, be payable at the place and at the time, and be subject to redemption or repurchase and contain other provisions determined by the state board before its issue. The general obligation debt may bear interest payable at the times and at the rates determined by the state board.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11-51-125.** Allocation and use of funds; authorization for additional bonds; project approval.

(A) Of the funds authorized pursuant to this act, public institutions of higher learning as defined in Section 59-103-5, not including research universities, are authorized twelve percent of the total amount authorized under Section 11-51-40. The eligible institutions may only use the funds authorized under this subsection for deferred maintenance projects. The twelve percent authorized for the institutions, not including research universities, must be allocated by the Commission of Higher Education to eligible institutions as follows:

(1) sixty-five percent of the total twelve percent must be allocated based on a reported deferred maintenance needs list from each eligible institutions; and

(2) thirty-five percent of the total twelve percent must be allocated by FTE student enrollment from the prior academic year at each eligible institution.

The Research Centers of Excellence Review Board has no jurisdiction over these projects and no matching requirement is imposed for these projects. The Joint Bond Review Committee must review and the State Fiscal Accountability Authority must approve all projects.

(B)(1) After the aggregate total of bonds issued pursuant to this chapter equals two hundred and fifty million dollars, all further proceeds of bonds authorized pursuant to this chapter must be authorized as follows:

(a) eighty-eight percent for the research universities in the manner and for the purposes provided pursuant to this chapter;

(b) twelve percent to public institutions of higher learning as defined in Section 59-103-5, not including the research universities, for deferred maintenance projects allocated as follows:

(i) one-half for the state's ten comprehensive teaching universities distributed among them as provided in item (2) of this subsection; and

(ii) one-half for the state's two-year and technical colleges distributed among them as provided in item (2) of this subsection.

(2) The Commission on Higher Education shall distribute amounts allocated pursuant to item (1)(b)(i) and (ii) of this subsection among the two categories of eligible institutions as follows:

(a) thirty-five percent in equal shares to each eligible institution; and

(b) sixty-five percent based on FTE student enrollment from the prior academic year at eligible institutions.

(3) The Research Centers of Excellence Review Board has no jurisdiction over projects funded by bonds issued pursuant to item (1)(b) of this subsection and no matching requirement is imposed for these projects. All projects must be approved by the Joint Bond Review Committee and the State Budget and Control Board.

HISTORY: 2004 Act No. 187, Section 9; 2014 Act No. 121 (S.22), Pt VII, Section 20.L.2, eff July 1, 2015.

**Effect of Amendment**

2014 Act No. 121, Section 20.L.2, in the undesignated paragraph following subsection (A)(2), substituted "must review and the State Fiscal Accountability Authority" for "and the State Budget and Control Board".

**SECTION 11-51-130.** General obligation debt exempt from taxation.

General obligation debt issued pursuant to this chapter is exempt from taxation as provided in Section 12-2-50.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11-51-140.** Executive signature, attestation, and state seal requirements.

General obligation debt issued pursuant to this chapter must be signed by the Governor and the State Treasurer and attested by the Secretary of State. The Governor, State Treasurer, and Secretary of State may sign the general obligation debt by a facsimile of their signatures. The Great Seal of the State must be affixed to, impressed on, or reproduced upon the general obligation debt. The delivery of the general obligation debt executed and authenticated, as provided in the state board resolution, is valid notwithstanding changes in officers or seal occurring after the execution or authentication.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11-51-150.** Pledge of full faith, credit, and taxing power of State; allocation of tax revenues for payment of principal and interest. For the payment of the principal of and interest on the general obligation debt issued and outstanding pursuant to this chapter there is pledged the full faith, credit, and taxing power of this State, and in accordance with the provisions of Section 13(4), Article X of the Constitution of this State, 1895, the General Assembly allocates on an annual basis sufficient tax revenues to provide for the punctual payment of the principal of and interest on the general obligation debt authorized by this chapter.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11-51-160.** Advertisement and sale requirements; right to reject bids; expenses incident to sale.

General obligation debt must be sold by the Governor and the State Treasurer upon sealed proposals, after publication of a summary notice of the sale one or more times at least seven days before the sale, in a financial paper published in New York City which regularly publishes notices of sale of state or municipal bonds. The general obligation debt may be awarded upon the terms and in the manner as prescribed by the State Treasurer. The right is reserved to reject bids and to re-advertise the general obligation debt for sale. For the purpose of bringing about successful sales of the general obligation debt, the State Treasurer may do all things ordinarily and customarily done in connection with the sale of state or municipal bonds. Expenses incident to the sale of the general obligation debt must be paid from the proceeds of the sale of the general obligation debt.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11-51-170.** Application of sale proceeds; liability of purchaser.

The proceeds of the sale of general obligation debt must be received by the State Treasurer and applied by him to the purposes for which issued, but the purchasers of the general obligation debt are in no way liable for the proper application of the proceeds to the purposes for which they are intended.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11-51-180.** Investment by executors, administrators, and other fiduciaries.

It is lawful for executors, administrators, guardians, and other fiduciaries to invest monies in their hands in general obligation debt issued pursuant to this chapter.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 11-51-190.** Exemption from state procurement process; alternative procurement procedures.

The research universities while engaging in projects related to this act shall be exempt from the state procurement process, except that the research universities must work in conjunction with the State Fiscal Accountability Authority's Chief Procurement Officer to establish alternate procurement procedures, and must submit a procurement process to the State Commission on Higher Education to be forwarded to the State Fiscal Accountability Authority for approval. These processes shall include provisions for audit and recertification.

HISTORY: 2004 Act No. 187, Section 9; 2014 Act No. 121 (S.22), Pt VII, Section 20.L.3, eff July 1, 2015.

**Effect of Amendment**

2014 Act No. 121, Section 20.L.3, substituted "State Fiscal Accountability Authority's" for "Budget and Control Board's", and substituted "Fiscal Accountability Authority" for "Budget and Control Board", and made other nonsubstantive changes.

**SECTION 11-51-200.** Construction of Chapter.

No provision of this act is intended nor shall any provision of this act be construed to appropriate funds. The intent of the General Assembly is authorizing bonds according to the terms pursuant to this act only.

HISTORY: 2004 Act No. 187, Section 9.

**SECTION 12-36-2120.** Exemptions from sales tax. [For a list of exempt purchases, see <http://www.scstatehouse.gov/code/t12c036.php>]

**SECTION 13-17-20.** South Carolina Research Authority; divisions; objectives.

The SCRA (authority) is organized to enhance the research capabilities of the state's public and private universities, to establish a continuing

forum to foster greater dialogue throughout the research community within the State, and to promote the development of high technology industries and research facilities in South Carolina. The SCRA shall contain at least two divisions: the South Carolina Research Division (SCRD) and the South Carolina Research Innovation Centers (SCRIC). The SCRD shall perform those duties as outlined in this chapter that relate to the core mission of the SCRA. The SCRIC shall perform those duties as outlined in this chapter that establish innovation centers in South Carolina. The objectives of the authority include but are not limited by the following to:

- (1) advance the general welfare of the people;
- (2) increase the opportunities for employment of citizens of South Carolina;
- (3) develop the human, economic, and productive resources of South Carolina;
- (4) promote and encourage expansion of the research and development sector, with emphasis on capital formation and investments in research and development within South Carolina;
- (5) create and maintain a dialogue between the public and private research communities;
- (6) enhance the potential for private support for South Carolina colleges and universities, to promote cooperative research efforts between the private sector and South Carolina universities and colleges, and to strengthen the partnership among state government, higher education, and business and industry;
- (7) assist South Carolina colleges and universities in attracting nationally prominent academic researchers and professors and to serve as an initial linkage between the state's outstanding existing research and the business and industrial sector;
- (8) maximize the research capabilities of the public and private universities and colleges in South Carolina; and
- (9) foster the perception of South Carolina as an international leader in the idea generation and the development, testing, and implementation of new advances in science and technology.

HISTORY: 1983 Act No. 50 Section 2, eff April 29, 1983; 2005 Act No. 133, Section 1, eff June 7, 2005.

**SECTION 13-17-40.** Members of board; terms; vacancies; compensation; annual reports; meetings.

(A)(1) The SCRA shall consist of a board of twenty-four trustees that includes the following ex officio members: President of the Council of Private Colleges of South Carolina, Chairman of the South Carolina Commission on Higher Education, President of Clemson University, President of the Medical University of South Carolina, President of South Carolina State College, President of the University of South Carolina, Director of Savannah River National Laboratory, President of Francis Marion University, Chairman of the State Board for Technical and Comprehensive Education, Governor of South Carolina or his designee, Chairman of the House Ways and Means Committee or his designee, Chairman of the Senate Finance Committee or his designee, and the Secretary of Commerce or his designee.

(2) The Governor shall name the chairman who must not be a public official and who serves at the pleasure of the Governor. The remaining ten trustees must be elected by the board of trustees from a list of nominees submitted by an ad hoc committee named by the chairman and composed of the members serving as elected trustees. Each of the Congressional Districts of South Carolina must have at least one of the ten trustees.

(3) Terms of elected trustees are for four years, and half expire every two years. An elected trustee may not serve more than two consecutive four-year elected terms. Vacancies must be filled for the unexpired term in the manner of original appointment. A vacancy occurs upon the expiration of the term of service, death, resignation, disqualification, or removal of a trustee.

(B)(1) The President of Clemson University, President of the Medical University of South Carolina, President of the University of South Carolina at Columbia, the Governor or his designee, the Chairman of the House Ways and Means Committee or his designee, the Chairman of the Senate Finance Committee or his designee, and the Chairman of the Board of Trustees shall serve on the executive committee of the board of trustees. The executive committee shall elect two additional members of the executive committee, who shall be trustees at the time of their election, by the affirmative vote of a majority of the members of the executive committee then serving. Each of the three university presidents, with respect to no more than two executive committee meetings each calendar year, may designate in his place that university's chief research officer, as determined in the sole discretion of the designating president, to participate in and vote at executive committee meetings specified in the designation. The executive committee has all powers and authority of the board of trustees. The board shall have an advisory role only and shall advise the executive committee of the actions recommended by the board.

(2) Terms of elected executive committee members are for four years, and half expire every two years. An elected executive committee member may not serve more than two consecutive four-year elected terms. A vacancy must be filled for the unexpired term in the manner of original election, and occurs upon the expiration of the term of service, death, resignation, disqualification, or removal of an elected executive committee member. An elected executive committee member need not continue to be a trustee in order to complete his term as an executive committee member. An elected executive committee member may be removed from office by the affirmative vote of two-thirds of the executive committee members serving.

(3) The executive committee shall appoint a business and science advisory board to include representatives from each research university, the venture capital industry, relevant industry leaders, and the Department of Commerce. The purpose of the advisory board is to advise the board of trustees when requested by it. The advisory board shall ensure that the authority has the input of the research and business communities in implementing its programs and services.

(C) A trustee may not receive a salary for his services as a trustee; however, a trustee must be reimbursed for actual expenses incurred in service to the authority.

(D) The board annually shall submit a report to the General Assembly including information on all acts of the board of trustees together with a financial statement and full information as to the work of the authority.

(E) The board shall hire an executive director of the SCRA who has administrative responsibility for the SCRA. The executive director shall maintain, through a designated agent, accurate and complete books and records of account, custody, and responsibility for the property and funds of the authority and control over the authority bank account. The executive director, with the approval of the board, has the power to appoint officers and employees, to prescribe their duties, and to fix their compensation. The board of trustees shall select a reputable certified public accountant to audit the books of account at least once each year.

(F) Regular meetings of the board of trustees must be held at a time and place the chairman may determine. Special meetings of the board of trustees may be called by the chairman when reasonable notice is given.

HISTORY: 1983 Act No. 50 Section 2, eff April 29, 1983; 1984 Act No. 309, Section 2, eff March 23, 1984; 1991 Act No. 248, Section 6, effective January 1, 1992, and governs only transactions which take place after December 31, 1991; 2002 Act No. 172, Section 2, eff February 8, 2002; 2005 Act No. 133, Section 1, eff June 7, 2005; 2006 Act No. 319, Section 4, eff June 1, 2006; 2007 Act No. 83, Section 7, eff June 19, 2007; 2012 Act No. 209, Section 2, eff June 7, 2012; 2012 Act No. 279, Section 7, eff June 26, 2012.

Editor's Note

1991 Act No. 248, Section 6, codified as Section 2-13-65, effective January 1, 1992, and governs only transactions which take place after December 31, 1991, provides as follows:

"The Code Commissioner is directed to delete all references to legislative members serving in any capacity as a member of a state board or commission, except as allowed by Section 8-13-770 of the 1976 Code."

2006 Act No. 319, Section 1, provides as follows:  
"This act may be cited as the 'Industry Partners Act'."

2012 Act No. 279, Section 33, provides as follows:

"Due to the congressional redistricting, any person elected or appointed to serve, or serving, as a member of any board, commission, or committee to represent a congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board, commission, or committee from the district which loses a resident member as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires. Further, the inability to hold an election or to make an appointment due to judicial review of the congressional districts does not constitute a vacancy."

**SECTION 13-17-81.** "Research park" defined.

As used in this chapter, "research park" is defined as the Clemson Research Park located in Anderson County, the Carolina Research Park in Columbia, any park developed at Line Street and Hagood Avenue in downtown Charleston, and any park mutually designated by the SCRA and the participating research university.

HISTORY: 2005 Act No. 133, Section 1, eff June 7, 2005.

**SECTION 13-17-83.** South Carolina Research Division to operate research parks in cooperation with other entities.

The South Carolina Research Division (SCRD) may operate existing research parks in cooperation with Clemson University, the Medical University of South Carolina, and the University of South Carolina at Columbia. The authority may establish and operate additional research parks and research, computer and technology-related projects, and facilities as determined by the board of trustees. The authority is responsible for the decisions and operations of a research park, project, or facility established pursuant to this chapter.

HISTORY: 2005 Act No. 133, Section 1, eff June 7, 2005; 2006 Act No. 319, Section 5, eff June 1, 2006.

Editor's Note

2006 Act No. 319, Section 1, provides as follows: "This act may be cited as the 'Industry Partners Act'."

**SECTION 13-17-85.** Confidentiality.

Negotiations with a prospective industry or business concern considering a research park or South Carolina as a facility site are confidential information and must not be disclosed without the permission of the industry or business concern. Information relating to pending or incomplete research projects is confidential as determined by the board.

HISTORY: 2005 Act No. 133, Section 1, eff June 7, 2005.

**SECTION 13-17-87.** Establishment of Research Innovation Centers; purposes; operation; locations; funding.

(A) The SCRIC shall establish three Research Innovation Centers (innovation centers) in South Carolina. The innovation centers shall:

(1) enhance the research and technology transition capabilities of the state's three research universities;

- (2) establish a continuing forum to foster greater dialogue between the state's three research universities and industry;
- (3) promote the development of high technology industries and applied research facilities in South Carolina;
- (4) focus their efforts on the development, testing, and implementation of new advances in the life sciences, pharmaceuticals, biotechnology, hydrogen and fuel cells, military and defense technology, chemical products, high tech fibers, advanced materials, automotive, aerospace, and information technology; and
- (5) maximize the use of the funds and activities of the innovation centers for partnerships among the research universities and between the public and private sectors for the purpose of generating professional research and development jobs in South Carolina.

(B) The SCRIC shall operate in conjunction with the three research universities in South Carolina. One innovation center must be located in each of the following areas; except that an innovation center and its activities are not otherwise required to be at a particular location:

- (1) Charleston, to be associated with the Medical University of South Carolina;
- (2) Columbia, to be associated with the University of South Carolina; and
- (3) the Upstate, to be associated with Clemson University.

(C) Each of the three innovation centers may have a center director appointed or removed with the advice and consent of the president of the research university associated with the respective center. Staff for innovation centers should encompass a variety of specialty areas, which may include market research, intellectual property protection, finance, management and business practices, relevant science and technology, industry research partner recruitment, and other specific skills as required to advise and assist start-up companies, pre-company initiatives, or launch new products. Consulting services may be obtained for specialized needs not otherwise met by existing staff personnel.

(D)(1) The SCRIC must be funded by a direct payment of funds by the SCRA for at least the first three years of the centers' existence. The payments must be at least three million dollars for the first year and at least four million dollars for the second year. After the second year, the board of trustees shall determine the method and payment of funds. By the end of the third year, total funding dedicated to the SCRIC for startup must be twelve million dollars; however, the board of trustees may provide a portion of the twelve million dollars with funds generated by other means as determined by the board. Additionally, all remaining vacant land, excluding those parcels mutually agreed upon by the SCRA and the university to which the land is geographically associated, not currently in use by the SCRA for its core mission in the Clemson Research Park in Anderson County and in the Carolina Research Park in Columbia as well as the authority's land located at the intersection of Line Street and Hagood Avenue in downtown Charleston may be dedicated to the benefit of the innovation centers or sold to account for part of the twelve million dollar payment. If the land is not sold, the board of trustees shall determine how best to use this land for the benefit of the innovation centers consistent with the plans of the university to which the land is geographically associated. Any revenue, net of expenses generated from this land, including but not limited to the sale of this land, must be used for the benefit of the innovation centers. If land is offered for sale by the SCRA, it must be offered first to the university associated with the innovation center before it is offered to the public or to another potential buyer.

(2) After the initial three-year period, the State shall explore methods to provide additional funding until the innovation centers have a reasonable opportunity to become self-sustaining. These methods may include direct appropriation from the general fund, private donations, or other funds as necessary.

(3) Notwithstanding the provisions contained in Section 73.18(A) of Part IB of the General Appropriations Bill for fiscal year 2004-2005, or any subsequent appropriations bills or other legislation, the land identified in Section 13-17-87(D)(1) and any additional real property owned or held by SCRA now or in the future must be titled in the name of, and under the control of, the SCRA.

(E) Costs associated with the physical space for the innovation centers including, but not limited to, the costs to acquire, lease, or build the physical space and to up fit the physical space, may be financed through the issuance of general obligation debt to the maximum extent allowed by Chapter 51, Title 11, the South Carolina Research University Infrastructure Act, by private match funding, from the budget of the authority, or by other means; provided, however, that in no event shall there be a pledge of the credit and taxing power of the State or a political subdivision of the State in connection with this financing. The facilities and programs at each site may be tailored to the predominant research focuses of that area. Each may contain wet and dry laboratory space, office space, prototype production facilities, pilot operations, clean rooms, and other specialized facilities.

(F) The SCRIC may:

- (1) admit qualified companies including, but not limited to, start-up companies, new product initiatives, and pre-company initiatives into a center and grant these companies up to two hundred thousand dollars each as well as physical and staff resources;
- (2) solicit grants and other financial support from federal, local, and private sources and fees, royalties, and other resources from innovation center users, which ultimately should enable the innovation centers to become self-sufficient;
- (3) allow a company to remain in an innovation center for up to four years or until exceeding one million dollars in annual commercial revenue;
- (4) allow rent and fees for services initially to be waived; and
- (5) provide financing to qualified companies.

(G) The SCRIC shall use monetary grants for proof-of-concept studies, Small Business Innovation Research program matches, the protection of intellectual property, and other similar uses. Early support programs must support specialized equipment, facilities, staff assistance, and

recruitment for consultants for specific projects. These support programs may be modified quarterly based on the progress of the company or new product.

HISTORY: 2005 Act No. 133, Section 1, eff June 7, 2005; 2006 Act No. 319, Section 6, eff June 1, 2006; 2012 Act No. 209, Section 4, eff June 7, 2012.

Editor's Note

2006 Act No. 319, Section 1, provides as follows: "This act may be cited as the 'Industry Partners Act'."

**SECTION 13-17-88.** Target programs of excellence; Industry Partnership Fund.

(A) There is established within each of the three South Carolina Research Innovation Centers (SCRIC) established in Section 13-17-87 a target program of excellence reflecting the basic research currently undertaken at each center and serving as the focal point of the state's applied research and development in each of the program areas of excellence:

(1) The Upstate Innovation Center associated with Clemson University: Automotive Center of Excellence, an automotive technology development program, in collaboration with the University and International Center for Automotive Research (ICAR);

(2) The Charleston Innovation Center associated with the Medical University of South Carolina: Health Sciences Center of Excellence, a health science technology development program;

(3) The Columbia Innovation Center associated with the University of South Carolina: Fuel Cell Center of Excellence, a fuel cell and hydrogen technology program, in collaboration with Savannah River National Lab (SRNL); and

(4) Other programs necessary or appropriate to fulfill the purposes of this section.

(B) The South Carolina Research Authority (SCRA), through the SCRIC, may implement and manage the specified programs and other programs as the SCRA determines in collaboration with the public and private sectors. Additional programs also shall focus on fields in which the State has demonstrated existing or emerging excellence. Program activities are not required to be performed at a particular location. Programs to be conducted pursuant to this section must be approved by the SCRA Executive Committee.

(C) Each target program must coordinate with basic researchers, both inside and outside this State, and with industry so as to focus on and effect applied research, product development, and commercialization efforts in this State in the targeted field of excellence.

(D) A target program of excellence as provided in Section (A) may undertake the following:

(1) incubation needs for start-ups and spin-offs in the program area;

(2) demonstration projects and related teams charged with conceptualizing, attracting, and executing technology in the program area;

(3) working with industry partners to develop collaborative relationships with national and international trade groups, government agencies, research labs, and other universities;

(4) financing for industry partners conducting activities in furtherance of the program area;

(5) financing for prototype development, clinical trials, and other program related preproduction projects;

(6) support for university researchers to work with industry partners on applied research and commercialization in the program area;

(7) marketing activities including, but not limited to:

(a) building national and international recognition of the program;

(b) recruiting industries and scientific and entrepreneurial talent to the program;

(c) building public awareness;

(d) supporting South Carolina based trade shows in South Carolina that attract national and international audiences;

(8) other activities necessary or appropriate in relation to the programs.

(E) There is established the "Industry Partnership Fund" at the SCRA or at an SCRA-designated affiliate, or both, for the acceptance of contributions for funding the programs. Financing methods pursuant to this section and Section 13-17-87 include grants, loans, investments, and other incentives. The SCRA may, but is not required to, provide additional funding for the programs. Program funding is authorized for the purposes of this section and related administrative costs. A contributor is eligible for a tax credit against the state income or premium tax or license fee, as provided in Section 12-6-3585.

(F) The South Carolina Research Authority (SCRA) may implement the provisions of this section and Section 13-17-87, pursuant to Section 13-17-180.

(G) The SCRA must consult with Clemson University, The Medical University of South Carolina, or the University of South Carolina in the conduct of a program if the program is conducted by an innovation center associated with that research university.

(H) The SCRA shall submit an annual report to the General Assembly on the programs established pursuant to this section.

HISTORY: 2006 Act No. 319, Section 2, eff June 1, 2006.

Editor's Note

2006 Act No. 319, Section 1, provides as follows: "This act may be cited as the 'Industry Partners Act'."

**SECTION 13-17-130.** Assistance to public and private universities.

The authority may assist public and private universities in South Carolina in their efforts to identify and attract nationally prominent academic researchers and professors to accept positions in our schools following established university procedures. This assistance includes coordination of corporate contributions or the provision for direct subsidies to establish professorships and salary supplements competitive in the national markets. The sole determination for hiring resides with the individual institutions.

HISTORY: 1983 Act No. 50 Section 2, eff April 29, 1983; 2005 Act No. 133, Section 1, eff June 7, 2005.

**SECTION 13-17-140.** Identification of common interest areas; promotion of universities.

The authority shall identify subject areas of common interest to the public and private sectors and shall promote the use of South Carolina universities to perform research for private industries.

HISTORY: 1983 Act No. 50 Section 2, eff April 29, 1983; 2005 Act No. 133, Section 1, eff June 7, 2005.

**SECTION 13-17-150.** Establishment of statewide professional research organization.

The authority may establish, in cooperation with the state's colleges and universities, a statewide professional research organization to promote social, professional, and business relationships among researchers in the public and private sectors of the State. The organization established shall conduct regular, regional, and statewide meetings to provide a forum for research presentations and to bring researchers from various industries and universities together to discuss topics of common interest.

HISTORY: 1983 Act No. 50 Section 2, eff April 29, 1983; 2005 Act No. 133, Section 1, eff June 7, 2005.

**SECTION 13-17-160.** Restrictions on authority.

The authority may not interfere in the relationships colleges and universities have established or may establish in the future with industry. The authority may not infringe upon or compete with the rights of faculty members to pursue their own research interests or to secure funding for them. The authority may not inhibit similar scientific activities in the research parks, but the authority may promote individual parks for differing activities of scientific excellence.

HISTORY: 1983 Act No. 50 Section 2, eff April 29, 1983; 2005 Act No. 133, Section 1, eff June 7, 2005.

**SECTION 14-1-211.** General Sessions Court surcharge; fund retention for crime victim services; unused funds; reports; audits.

(A)...(2) In addition to all other assessments and surcharges, a one hundred dollar surcharge is imposed on all convictions pursuant to Section 56-5-2930 and Section 56-5-2933. No portion of the surcharges imposed pursuant to this section may be waived, reduced, or suspended.

(B) ...The revenue collected pursuant to subsection (A)(2) must be paid over to the State Treasurer monthly and placed in a separate account to be used for spinal cord research by the Medical University of South Carolina.

**SECTION 17-5-570.** Release and burial of dead bodies; preservation and disposition of unidentified dead bodies.

(A) After the post-mortem examination, autopsy, or inquest has been completed, the dead body must be released to the person lawfully entitled to it for burial. If no person claims the body, the coroner or medical examiner must notify the board created pursuant to Section 44-43-510. If the board does not accept the body, the body must be turned over to the coroner of the county where death occurred for disposition as provided by law. If the deceased has an estate out of which burial expenses can be paid either in whole or in part, the estate must be taken for that purpose before an expense under this section is imposed upon a county.

(B) If the body cannot be identified through reasonable efforts, the coroner must forward the body to the Medical University of South Carolina or other suitable facility for preservation. If the body remains unidentified thirty days after the coroner forwarded the body, the Medical University of South Carolina or other facility preserving the body must immediately notify the State Law Enforcement Division (SLED). If the body has not been identified within thirty days after SLED has entered the unidentified person's DNA profile into the Combined DNA Indexing System pursuant to Section 23-3-635, the Medical University may retain possession of the body for its use and benefit or return the body to the coroner of the county where death occurred for disposition as provided by law. A facility other than the Medical University utilized by the coroner for storage of an unidentified body may dispose of the body as provided by law or return the body to the coroner of the county where death occurred for disposition.

(C) If an unidentified body is preserved at the Medical University, the county is responsible for transporting the body to and from the

Medical University; however, the county is not responsible for the cost of preserving the body at the Medical University. If an unidentified body is preserved at the Medical University, the Medical University must absorb the cost of preserving the body for not less than thirty days.

HISTORY: 2001 Act No. 73, Section 1; 2008 Act No. 413, Section 3.E, eff October 21, 2008.

Editor's Note

2008 Act No. 413, Section 3.A provides as follows: "This SECTION may be referred to and cited as the 'Unidentified Human Remains DNA Database Act'."

2008 Act No. 413, Section 7 provides as follows: "The provisions of Section 17-28-350 become effective upon the signature of the Governor. All other provisions become effective January 1, 2009. The enactment of these provisions prior to the effective date indicates the intent of the General Assembly that statewide laws or practices shall exist to ensure additional procedures for post-conviction DNA testing, and proper preservation of biological evidence connected to murder, rape, and nonnegligent homicide in order that application for available federal funds shall be made by the appropriate agencies and considered by the appropriate federal agencies prior to the effective date."

**SECTION 24-1-285.** Organ and tissue donation program.

(A) An organ and tissue donor program is established within the Department of Corrections. The purpose of the program is to educate prisoners about the need for organ and tissue donors, the procedures required to become a registered organ donor, and, in the case of bone marrow donors, the procedures for determining the person's tissue type and the medical procedures a donor must undergo to donate bone marrow. The Medical University of South Carolina and the University of South Carolina, School of Medicine, in conjunction with the Department of Corrections, must make available to prisoners educational pamphlets and brochures concerning bone marrow donation and the bone marrow donation programs operating in this State.

(B) Organ or tissue donations, other than bone marrow donations, may be made by a prisoner, or other person, who meets the requirements contained in Section 44-43-315 and in the manner provided by Section 44-43-320. However, if the department determines that a prisoner's participation in the program would constitute a threat to security, then the department may prohibit the prisoner from participating.

(C) The department is not responsible for any costs associated with tests or other procedures required to make an organ or tissue donation, including costs associated with follow-up doctor appointments or complications arising from donation.

(D) Within its prisoner housing units, the department must display signage informing prisoners of the donor program and, upon request, must provide prisoners with a form, sufficient under the provisions of the Uniform Anatomical Gift Act, for the gift of all or part of the donor's body conditioned upon the donor's death and a document containing a summary description and explanation of the act. If the prisoner would like to make an organ or tissue donation, the department must provide the prisoner with appropriate assistance and the presence of the legally required number of witnesses. A prisoner's election to donate all or any part of his body pursuant to this section must be noted in his prison records.

(E) The department, in conjunction with appropriate medical authorities, must develop and maintain policies and procedures to:

(1) facilitate participation by interested prisoners in the bone marrow donor programs established in Article 2, Chapter 43, Title 44; and

(2) ensure that organ and tissue donations made by prisoners, other than bone marrow donations, comply with Articles 5, 7, and 11, Chapter 43 of Title 44.

(F) All organ or tissue donations, including bone marrow donations, made pursuant to this section must be made on a voluntary basis.

HISTORY: 2007 Act No. 41, Section 1, eff June 4, 2007.

Code Commissioner's Note

At the direction of the Code Commissioner, the references in the first sentence of subsection (B) were changed from "44-43-330" and "44-43-350" to "44-43-315" and "44-43-320", respectively, to reflect amendments by 2009 Act No. 4.

**SECTION 28-3-20.** Right of eminent domain conferred on certain state authorities.

All state authorities, commissions, boards, or governing bodies established by the State of South Carolina, (hereinafter referred to as "state authority") which have been, or may be created in the future, to develop waterways of the State for use in intrastate, interstate, and foreign commerce; to construct, maintain, and operate powerhouses, dams, canals, locks, and reservoirs; to produce, transmit, sell, and distribute electric power; to reclaim and drain swampy and flooded lands; to improve health conditions of the State; and to reforest watersheds, and for which purposes the acquisition of property is necessary, have the right of eminent domain.

HISTORY: 1962 Code Section 25-52; 1952 Code Section 25-52; 1942 Code Section 9112; 1939 (41) 265; 1987 Act No. 173, Section 18.

The **South Carolina Freedom of Information Act** can be found in its entirety in Title 30-Public Records, Chapter 4-Freedom of Information Act (<http://www.scstatehouse.gov/code/t30c004.php>).

**SECTION 30-4-10.** Short title.

This chapter shall be known and cited as the "Freedom of Information Act".

HISTORY: 1978 Act No. 593, Section 1.

**SECTION 30-4-15.** Findings and purpose.

The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy. Toward this end, provisions of this chapter must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings.

HISTORY: 1987 Act No. 118, Section 1.

**SECTION 30-4-20.** Definitions.

(a) "Public body" means any department of the State, a majority of directors or their representatives of departments within the executive branch of state government as outlined in Section 1-30-10, any state board, commission, agency, and authority, any public or governmental body or political subdivision of the State, including counties, municipalities, townships, school districts, and special purpose districts, or any organization, corporation, or agency supported in whole or in part by public funds or expending public funds, including committees, subcommittees, advisory committees, and the like of any such body by whatever name known, and includes any quasi-governmental body of the State and its political subdivisions, including, without limitation, bodies such as the South Carolina Public Service Authority and the South Carolina State Ports Authority. Committees of health care facilities, which are subject to this chapter, for medical staff disciplinary proceedings, quality assurance, peer review, including the medical staff credentialing process, specific medical case review, and self-evaluation, are not public bodies for the purpose of this chapter.

(b) "Person" includes any individual, corporation, partnership, firm, organization or association.

(c) "Public record" includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by a public body. Records such as income tax returns, medical records, hospital medical staff reports, scholastic records, adoption records, records related to registration, and circulation of library materials which contain names or other personally identifying details regarding the users of public, private, school, college, technical college, university, and state institutional libraries and library systems, supported in whole or in part by public funds or expending public funds, or records which reveal the identity of the library patron checking out or requesting an item from the library or using other library services, except nonidentifying administrative and statistical reports of registration and circulation, and other records which by law are required to be closed to the public are not considered to be made open to the public under the provisions of this act; nothing herein authorizes or requires the disclosure of those records where the public body, prior to January 20, 1987, by a favorable vote of three-fourths of the membership, taken after receipt of a written request, concluded that the public interest was best served by not disclosing them. Nothing herein authorizes or requires the disclosure of records of the Board of Financial Institutions pertaining to applications and surveys for charters and branches of banks and savings and loan associations or surveys and examinations of the institutions required to be made by law. Information relating to security plans and devices proposed, adopted, installed, or utilized by a public body, other than amounts expended for adoption, implementation, or installation of these plans and devices, is required to be closed to the public and is not considered to be made open to the public under the provisions of this act.

(d) "Meeting" means the convening of a quorum of the constituent membership of a public body, whether corporal or by means of electronic equipment, to discuss or act upon a matter over which the public body has supervision, control, jurisdiction or advisory power.

(e) "Quorum" unless otherwise defined by applicable law means a simple majority of the constituent membership of a public body.

HISTORY: 1978 Act No. 593, Section 3; 1985 Act No. 108, Section 3; 1987 Act No. 118, Section 2; 2002 Act No. 339, Section 17; 2003 Act No. 86, Section 7.

**SECTION 30-4-30.** Right to inspect or copy public records; fees; notification as to public availability of records; presumption upon failure to give notice; records to be available when requestor appears in person.

(a) Any person has a right to inspect or copy any public record of a public body, except as otherwise provided by Section 30-4-40, in accordance with reasonable rules concerning time and place of access.

(b) The public body may establish and collect fees not to exceed the actual cost of searching for or making copies of records. Fees charged by a public body must be uniform for copies of the same record or document. However, members of the General Assembly may receive copies of records or documents at no charge from public bodies when their request relates to their legislative duties. The records must be furnished at the lowest possible cost to the person requesting the records. Records must be provided in a form that is both convenient and practical for use by the person requesting copies of the records concerned, if it is equally convenient for the public body to provide the records in this form. Documents may be furnished when appropriate without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Fees may not be charged for examination and review to determine if the documents are subject to disclosure. Nothing in this chapter prevents the custodian of the public records from charging a reasonable hourly rate for making records available to the public nor requiring a reasonable deposit of these costs before searching for or making copies of the records.

(c) Each public body, upon written request for records made under this chapter, shall within fifteen days (excepting Saturdays, Sundays,

and legal public holidays) of the receipt of any such request notify the person making such request of its determination and the reasons therefor. Such a determination shall constitute the final opinion of the public body as to the public availability of the requested public record and, if the request is granted, the record must be furnished or made available for inspection or copying. If written notification of the determination of the public body as to the availability of the requested public record is neither mailed nor personally delivered to the person requesting the document within the fifteen days allowed herein, the request must be considered approved.

(d) The following records of a public body must be made available for public inspection and copying during the hours of operations of the public body without the requestor being required to make a written request to inspect or copy the records when the requestor appears in person:

- (1) minutes of the meetings of the public body for the preceding six months;
- (2) all reports identified in Section 30-4-50(A)(8) for at least the fourteen-day period before the current day; and
- (3) documents identifying persons confined in any jail, detention center, or prison for the preceding three months.

HISTORY: 1978 Act No. 593, Section 4; 1987 Act No. 118, Section 4; 1990 Act No. 555, Section 1; 1998 Act No. 423, Section 1.

**SECTION 30-4-40. Matters exempt from disclosure.**

(a) A public body may but is not required to exempt from disclosure the following information:

(1) Trade secrets, which are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person and which are generally recognized as confidential and work products, in whole or in part collected or produced for sale or resale, and paid subscriber information. Trade secrets also include, for those public bodies who market services or products in competition with others, feasibility, planning, and marketing studies, marine terminal service and nontariff agreements, and evaluations and other materials which contain references to potential customers, competitive information, or evaluation.

(2) Information of a personal nature where the public disclosure thereof would constitute unreasonable invasion of personal privacy. Information of a personal nature shall include, but not be limited to, information as to gross receipts contained in applications for business licenses and information relating to public records which include the name, address, and telephone number or other such information of an individual or individuals who are handicapped or disabled when the information is requested for person-to-person commercial solicitation of handicapped persons solely by virtue of their handicap. This provision must not be interpreted to restrict access by the public and press to information contained in public records.

(3) Records of law enforcement and public safety agencies not otherwise available by state and federal law that were compiled in the process of detecting and investigating crime if the disclosure of the information would harm the agency by:

(A) disclosing identity of informants not otherwise known;

(B) the premature release of information to be used in a prospective law enforcement action;

(C) disclosing investigatory techniques not otherwise known outside the government;

(D) by endangering the life, health, or property of any person; or

(E) disclosing any contents of intercepted wire, oral, or electronic communications not otherwise disclosed during a trial.

(4) Matters specifically exempted from disclosure by statute or law.

(5) Documents of and documents incidental to proposed contractual arrangements and documents of and documents incidental to proposed sales or purchases of property; however:

(a) these documents are not exempt from disclosure once a contract is entered into or the property is sold or purchased except as otherwise provided in this section;

(b) a contract for the sale or purchase of real estate shall remain exempt from disclosure until the deed is executed, but this exemption applies only to those contracts of sale or purchase where the execution of the deed occurs within twelve months from the date of sale or purchase;

(c) confidential proprietary information provided to a public body for economic development or contract negotiations purposes is not required to be disclosed.

(6) All compensation paid by public bodies except as follows:

(A) For those persons receiving compensation of fifty thousand dollars or more annually, for all part-time employees, for any other persons who are paid honoraria or other compensation for special appearances, performances, or the like, and for employees at the level of agency

or department head, the exact compensation of each person or employee;

(B) For classified and unclassified employees, including contract instructional employees, not subject to item (A) above who receive compensation between, but not including, thirty thousand dollars and fifty thousand dollars annually, the compensation level within a range of four thousand dollars, such ranges to commence at thirty thousand dollars and increase in increments of four thousand dollars;

(C) For classified employees not subject to item (A) above who receive compensation of thirty thousand dollars or less annually, the salary schedule showing the compensation range for that classification including longevity steps, where applicable;

(D) For unclassified employees, including contract instructional employees, not subject to item (A) above who receive compensation of thirty thousand dollars or less annually, the compensation level within a range of four thousand dollars, such ranges to commence at two thousand dollars and increase in increments of four thousand dollars.

(E) For purposes of this subsection (6), "agency head" or "department head" means any person who has authority and responsibility for any department of any institution, board, commission, council, division, bureau, center, school, hospital, or other facility that is a unit of a public body.

(7) Correspondence or work products of legal counsel for a public body and any other material that would violate attorney-client relationships.

(8) Memoranda, correspondence, and working papers in the possession of individual members of the General Assembly or their immediate staffs; however, nothing herein may be construed as limiting or restricting public access to source documents or records, factual data or summaries of factual data, papers, minutes, or reports otherwise considered to be public information under the provisions of this chapter and not specifically exempted by any other provisions of this chapter.

(9) Memoranda, correspondence, documents, and working papers relative to efforts or activities of a public body and of a person or entity employed by or authorized to act for or on behalf of a public body to attract business or industry to invest within South Carolina; however, an incentive agreement made with an industry or business: (1) requiring the expenditure of public funds or the transfer of anything of value, (2) reducing the rate or altering the method of taxation of the business or industry, or (3) otherwise impacting the offeror fiscally, is not exempt from disclosure after:

(a) the offer to attract an industry or business to invest or locate in the offeror's jurisdiction is accepted by the industry or business to whom the offer was made; and

(b) the public announcement of the project or finalization of any incentive agreement, whichever occurs later.

(10) Any standards used or to be used by the South Carolina Department of Revenue for the selection of returns for examination, or data used or to be used for determining such standards, if the commission determines that such disclosure would seriously impair assessment, collection, or enforcement under the tax laws of this State.

(11) Information relative to the identity of the maker of a gift to a public body if the maker specifies that his making of the gift must be anonymous and that his identity must not be revealed as a condition of making the gift. For the purposes of this item, "gift to a public body" includes, but is not limited to, gifts to any of the state-supported colleges or universities and museums. With respect to the gifts, only information which identifies the maker may be exempt from disclosure. If the maker of any gift or any member of his immediate family has any business transaction with the recipient of the gift within three years before or after the gift is made, the identity of the maker is not exempt from disclosure.

(12) Records exempt pursuant to Section 9-16-80(B) and 9-16-320(D).

(13) All materials, regardless of form, gathered by a public body during a search to fill an employment position, except that materials relating to not fewer than the final three applicants under consideration for a position must be made available for public inspection and copying. In addition to making available for public inspection and copying the materials described in this item, the public body must disclose, upon request, the number of applicants considered for a position. For the purpose of this item "materials relating to not fewer than the final three applicants" do not include an applicant's income tax returns, medical records, social security number, or information otherwise exempt from disclosure by this section.

(14)(A) Data, records, or information of a proprietary nature, produced or collected by or for faculty or staff of state institutions of higher education in the conduct of or as a result of study or research on commercial, scientific, technical, or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or private concern, where the data, records, or information has not been publicly released, published, copyrighted, or patented.

(B) Any data, records, or information developed, collected, or received by or on behalf of faculty, staff, employees, or students of a state institution of higher education or any public or private entity supporting or participating in the activities of a state institution of higher education in the conduct of or as a result of study or research on medical, scientific, technical, scholarly, or artistic issues, whether sponsored by the institution alone or in conjunction with a governmental body or private entity until the information is published,

patented, otherwise publicly disseminated, or released to an agency whereupon the request must be made to the agency. This item applies to, but is not limited to, information provided by participants in research, research notes and data, discoveries, research projects, proposals, methodologies, protocols, and creative works.

(C) The exemptions in this item do not extend to the institution's financial or administrative records.

(15) The identity, or information tending to reveal the identity, of any individual who in good faith makes a complaint or otherwise discloses information, which alleges a violation or potential violation of law or regulation, to a state regulatory agency.

(16) Records exempt pursuant to Sections 59-153-80(B) and 59-153-320(D).

(17) Structural bridge plans or designs unless: (a) the release is necessary for procurement purposes; or (b) the plans or designs are the subject of a negligence action, an action set forth in Section 15-3-530, or an action brought pursuant to Chapter 78 of Title 15, and the request is made pursuant to a judicial order.

(18) Photographs, videos, and other visual images, and audio recordings of and related to the performance of an autopsy, except that the photographs, videos, images, or recordings may be viewed and used by the persons identified in Section 17-5-535 for the purposes contemplated or provided for in that section.

(19) Private investment and other proprietary financial data provided to the Venture Capital Authority by a designated investor group or an investor as those terms are defined by Section 11-45-30.

(b) If any public record contains material which is not exempt under subsection (a) of this section, the public body shall separate the exempt and nonexempt material and make the nonexempt material available in accordance with the requirements of this chapter.

(c) Information identified in accordance with the provisions of Section 30-4-45 is exempt from disclosure except as provided therein and pursuant to regulations promulgated in accordance with this chapter. Sections 30-4-30, 30-4-50, and 30-4-100 notwithstanding, no custodian of information subject to the provisions of Section 30-4-45 shall release the information except as provided therein and pursuant to regulations promulgated in accordance with this chapter.

(d) A public body may not disclose a "privileged communication", "protected information", or a "protected identity", as defined in Section 23-50-15 pursuant to a request under the South Carolina Freedom of Information Act. These matters may only be disclosed pursuant to the procedures set forth in Section 23-50-45.

HISTORY: 1978 Act No. 593, Section 5; 1980 Act No. 495, Section 1; 1987 Act No. 118, Section 5; 1993 Act No. 181, Section 489; 1994 Act No. 404, Section 1; 1995 Act No. 1, Section 11; 1996 Act No. 458, Part II, Section 31D; 1998 Act No. 371, Section 7A; 1998 Act No. 423, Sections 2, 3, 4, 5, 6; 1999 Act No. 122, Section 4; 2002 Act No. 339, Sections 18, 19, 29; 2002 Act No. 350, Section 1; 2003 Act No. 34, Section 2; 2003 Act No. 86, Sections 4, 5; 2005 Act No. 125, Section 2; 2006 Act No. 380, Section 2, eff upon approval (became law without the Governor's signature on June 14, 2006).

#### Effect of Amendment

The 2006 amendment added subsection (d) relating to certain disclosures by a public body.

**SECTION 30-4-45.** Information concerning safeguards and off-site consequence analyses; regulation of access; vulnerable zone defined.

(A) The director of each agency that is the custodian of information subject to the provisions of 42 U.S.C. 7412(r)(7)(H), 40 CFR 1400 "Distribution of Off-site Consequence Analysis Information", or 10 CFR 73.21 "Requirements for the protection of safeguards information", must establish procedures to ensure that the information is released only in accordance with the applicable federal provisions.

(B) The director of each agency that is the custodian of information, the unrestricted release of which could increase the risk of acts of terrorism, may identify the information or compilations of information by notifying the Attorney General in writing, and shall promulgate regulations in accordance with the Administrative Procedures Act, Sections 1-23-110 through 1-23-120(a) and Section 1-23-130, to regulate access to the information in accordance with the provisions of this section.

(C) Regulations to govern access to information subject to subsections (A) and (B) must at a minimum provide for:

(1) disclosure of information to state, federal, and local authorities as required to carry out governmental functions; and

(2) disclosure of information to persons who live or work within a vulnerable zone.

For purposes of this section, "vulnerable zone" is defined as a circle, the center of which is within the boundaries of a facility possessing hazardous, toxic, flammable, radioactive, or infectious materials subject to this section, and the radius of which is that distance a hazardous, toxic, flammable, radioactive, or infectious cloud, overpressure, radiation, or radiant heat would travel before dissipating to the point it no longer threatens serious short-term harm to people or the environment.

Disclosure of information pursuant to this subsection must be by means that will prevent its removal or mechanical reproduction.

Disclosure of information pursuant to this subsection must be made only after the custodian has ascertained the person's identity by viewing photo identification issued by a federal, state, or local government agency to the person and after the person has signed a register

kept for the purpose.

HISTORY: 2002 Act No. 339, Section 30.

**SECTION 30-4-50.** Certain matters declared public information; use of information for commercial solicitation prohibited.

(A) Without limiting the meaning of other sections of this chapter, the following categories of information are specifically made public information subject to the restrictions and limitations of Sections 30-4-20, 30-4-40, and 30-4-70 of this chapter:

- (1) the names, sex, race, title, and dates of employment of all employees and officers of public bodies;
- (2) administrative staff manuals and instructions to staff that affect a member of the public;
- (3) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;
- (4) those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the public body;
- (5) written planning policies and goals and final planning decisions;
- (6) information in or taken from any account, voucher, or contract dealing with the receipt or expenditure of public or other funds by public bodies;
- (7) the minutes of all proceedings of all public bodies and all votes at such proceedings, with the exception of all such minutes and votes taken at meetings closed to the public pursuant to Section 30-4-70;
- (8) reports which disclose the nature, substance, and location of any crime or alleged crime reported as having been committed. Where a report contains information exempt as otherwise provided by law, the law enforcement agency may delete that information from the report.
- (9) statistical and other empirical findings considered by the Legislative Audit Council in the development of an audit report.

(B) No information contained in a police incident report or in an employee salary schedule revealed in response to a request pursuant to this chapter may be utilized for commercial solicitation. Also, the home addresses and home telephone numbers of employees and officers of public bodies revealed in response to a request pursuant to this chapter may not be utilized for commercial solicitation. However, this provision must not be interpreted to restrict access by the public and press to information contained in public records.

HISTORY: 1978 Act No. 593, Section 6; 1982 Act No. 370, Section 1; 1992 Act No. 269, Section 1; 1993 Act No. 44, Section 1; 1998 Act No. 423, Section 7.

**SECTION 30-4-55.** Disclosure of fiscal impact on public bodies offering economic incentives to business; cost-benefit analysis required.

A public body as defined by Section 30-4-20(a), or a person or entity employed by or authorized to act for or on behalf of a public body, that undertakes to attract business or industry to invest or locate in South Carolina by offering incentives that require the expenditure of public funds or the transfer of anything of value or that reduce the rate or alter the method of taxation of the business or industry or that otherwise impact the offeror fiscally, must disclose, upon request, the fiscal impact of the offer on the public body and a governmental entity affected by the offer after:

- (a) the offered incentive or expenditure is accepted, and
- (b) the project has been publicly announced or any incentive agreement has been finalized, whichever occurs later.

The fiscal impact disclosure must include a cost-benefit analysis that compares the anticipated public cost of the commitments with the anticipated public benefits. Notwithstanding the requirements of this section, information that is otherwise exempt from disclosure under Section 30-4-40(a)(1), (a)(5)(c), and (a)(9) remains exempt from disclosure.

HISTORY: 2003 Act No. 86, Section 3.

**SECTION 30-4-60.** Meetings of public bodies shall be open.

Every meeting of all public bodies shall be open to the public unless closed pursuant to Section 30-4-70 of this chapter.

HISTORY: 1978 Act No. 593, Section 7.

**SECTION 30-4-70.** Meetings which may be closed; procedure; circumvention of chapter; disruption of meeting; executive sessions of General Assembly.

(a) A public body may hold a meeting closed to the public for one or more of the following reasons:

- (1) Discussion of employment, appointment, compensation, promotion, demotion, discipline, or release of an employee, a student, or a person regulated by a public body or the appointment of a person to a public body; however, if an adversary hearing involving the

employee or client is held, the employee or client has the right to demand that the hearing be conducted publicly. Nothing contained in this item shall prevent the public body, in its discretion, from deleting the names of the other employees or clients whose records are submitted for use at the hearing.

(2) Discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against the agency of a claim.

(3) Discussion regarding the development of security personnel or devices.

(4) Investigative proceedings regarding allegations of criminal misconduct.

(5) Discussion of matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by the public body.

(6) The Retirement System Investment Commission, if the meeting is in executive session specifically pursuant to Section 9-16-80(A) or 9-16-320(C).

(b) Before going into executive session the public agency shall vote in public on the question and when the vote is favorable, the presiding officer shall announce the specific purpose of the executive session. As used in this subsection, "specific purpose" means a description of the matter to be discussed as identified in items (1) through (5) of subsection (a) of this section. However, when the executive session is held pursuant to Sections 30-4-70(a)(1) or 30-4-70(a)(5), the identity of the individual or entity being discussed is not required to be disclosed to satisfy the requirement that the specific purpose of the executive session be stated. No action may be taken in executive session except to (a) adjourn or (b) return to public session. The members of a public body may not commit the public body to a course of action by a polling of members in executive session.

(c) No chance meeting, social meeting, or electronic communication may be used in circumvention of the spirit of requirements of this chapter to act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power.

(d) This chapter does not prohibit the removal of any person who wilfully disrupts a meeting to the extent that orderly conduct of the meeting is seriously compromised.

(e) Sessions of the General Assembly may enter into executive sessions authorized by the Constitution of this State and rules adopted pursuant thereto.

(f) The Board of Trustees of the respective institution of higher learning, while meeting as the trustee of its endowment funds, if the meeting is in executive session specifically pursuant to Sections 59-153-80(A) or 59-153-320(C).

HISTORY: 1978 Act No. 593, Section 8; 1987 Act No. 118, Section 6; 1998 Act No. 371, Section 7B; 1998 Act No. 423, Section 8; 1999 Act No. 122, Section 4; 2005 Act No. 153, Pt IV, Section 5.

**SECTION 30-4-80. Notice of meetings of public bodies.**

(A) All public bodies, except as provided in subsections (B) and (C) of this section, must give written public notice of their regular meetings at the beginning of each calendar year. The notice must include the dates, times, and places of such meetings. An agenda for regularly scheduled or special meetings must be posted on a bulletin board in a publicly accessible place at the office or meeting place of the public body and on a public website maintained by the body, if any, at least twenty-four hours prior to such meetings. All public bodies must post on such bulletin board or website, if any, public notice for any called, special, or rescheduled meetings. Such notice must include the agenda, date, time, and place of the meeting, and must be posted as early as is practicable but not later than twenty-four hours before the meeting. This requirement does not apply to emergency meetings of public bodies. Once an agenda for a regular, called, special, or rescheduled meeting is posted pursuant to this subsection, no items may be added to the agenda without an additional twenty-four hours notice to the public, which must be made in the same manner as the original posting. After the meeting begins, an item upon which action can be taken only may be added to the agenda by a two-thirds vote of the members present and voting; however, if the item is one upon which final action can be taken at the meeting or if the item is one in which there has not been and will not be an opportunity for public comment with prior public notice given in accordance with this section, it only may be added to the agenda by a two-thirds vote of the members present and voting and upon a finding by the body that an emergency or an exigent circumstance exists if the item is not added to the agenda. Nothing herein relieves a public body of any notice requirement with regard to any statutorily required public hearing.

(B) Legislative committees must post their meeting times during weeks of the regular session of the General Assembly and must comply with the provisions for notice of special meetings during those weeks when the General Assembly is not in session. Subcommittees of standing legislative committees must give notice during weeks of the legislative session only if it is practicable to do so.

(C) Subcommittees, other than legislative subcommittees, of committees required to give notice under subsection (A), must make reasonable and timely efforts to give notice of their meetings.

(D) Written public notice must include but need not be limited to posting a copy of the notice at the principal office of the public body holding the meeting or, if no such office exists, at the building in which the meeting is to be held.

(E) All public bodies shall notify persons or organizations, local news media, or such other news media as may request notification of the times, dates, places, and agenda of all public meetings, whether scheduled, rescheduled, or called, and the efforts made to comply with this requirement must be noted in the minutes of the meetings.

HISTORY: 1978 Act No. 593, Section 9; 1987 Act No. 118, Section 7; 2015 Act No. 70 (S.11), Section 1, eff June 8, 2015.

Effect of Amendment

2015 Act No. 70, Section 1, changed the paragraph designators to upper case; in (A), substituted "An agenda for regularly scheduled or special meetings" for "Agenda, if any, for regularly scheduled meetings" in the third sentence, added references to websites, and added the text beginning with "Once an agenda for a regular ..."; and made other nonsubstantive changes.

**SECTION 30-4-90.** Minutes of meetings of public bodies.

(a) All public bodies shall keep written minutes of all of their public meetings. Such minutes shall include but need not be limited to:

(1) The date, time and place of the meeting.

(2) The members of the public body recorded as either present or absent.

(3) The substance of all matters proposed, discussed or decided and, at the request of any member, a record, by an individual member, of any votes taken.

(4) Any other information that any member of the public body requests be included or reflected in the minutes.

(b) The minutes shall be public records and shall be available within a reasonable time after the meeting except where such disclosures would be inconsistent with Section 30-4-70 of this chapter.

(c) All or any part of a meeting of a public body may be recorded by any person in attendance by means of a tape recorder or any other means of sonic or video reproduction, except when a meeting is closed pursuant to Section 30-4-70 of this chapter, provided that in so recording there is no active interference with the conduct of the meeting. Provided, further, that the public body is not required to furnish recording facilities or equipment.

HISTORY: 1978 Act No. 593, Section 10; 2001 Act No. 13, Section 1.

**SECTION 30-4-100.** Injunctive relief; costs and attorney's fees.

(a) Any citizen of the State may apply to the circuit court for either or both a declaratory judgment and injunctive relief to enforce the provisions of this chapter in appropriate cases as long as such application is made no later than one year following the date on which the alleged violation occurs or one year after a public vote in public session, whichever comes later. The court may order equitable relief as it considers appropriate, and a violation of this chapter must be considered to be an irreparable injury for which no adequate remedy at law exists.

(b) If a person or entity seeking such relief prevails, he or it may be awarded reasonable attorney fees and other costs of litigation. If such person or entity prevails in part, the court may in its discretion award him or it reasonable attorney fees or an appropriate portion thereof.

HISTORY: 1978 Act No. 593, Section 11; 1987 Act No. 118, Section 8.

**SECTION 30-4-110.** Penalties.

Any person or group of persons who willfully violates the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars or imprisoned for not more than thirty days for the first offense, shall be fined not more than two hundred dollars or imprisoned for not more than sixty days for the second offense and shall be fined three hundred dollars or imprisoned for not more than ninety days for the third or subsequent offense.

HISTORY: 1978 Act No. 593, Section 12.

**SECTION 40-15-175.** Restricted instructor's licenses; limitations; renewal and revocation.

(A) The State Board of Dentistry may issue a restricted instructor's license to a dentist who:

(1) holds a valid license to practice dentistry in another state, country, or territory;

(2) has met or been approved under the credentialing standards of the Medical University of South Carolina College of Dental Medicine or at a board-recognized, hospital-based residency program which must be situated in this State and with which the person is to be affiliated;

(3) has successfully completed:

- (a) the final two years of a program leading to the doctor of dental surgery degree (D.D.S.) or doctor of dental medicine degree (D.M.D.) at an accredited dental school approved by the board;
- (b) at least a two-year Commission on Dental Accreditation (CODA) approved advanced education program in a dental specialty recognized by the American Dental Association; or
- (c) has successfully completed at least a two-year CODA-approved advanced education program in general dentistry;
- (4) has not been refused a license or had a license revoked in this State or another state, country, or territory;
- (5) passes an examination on jurisprudence as prescribed by the board; and
- (6) is teaching dental medicine in South Carolina full-time at the Medical University of South Carolina College of Dental Medicine or at a board-recognized, hospital-based residency program situated in this State.

(B) A dentist with a restricted instructor's license is authorized to practice at or on behalf of the Medical University of South Carolina College of Dental Medicine or at a board-recognized, hospital-based residency program situated in this State. The holder of a restricted instructor's license may practice general dentistry or in his area of specialty, but only in a clinic or office affiliated with the dental school or with a hospital-based residency program. A restricted instructor's license issued to a faculty member under this section terminates immediately and automatically, without any further action by the board, if the holder ceases to be a faculty member at the dental school or at a board-recognized, hospital-based residency program in this State.

(C) A restricted instructor's license must be renewed biennially in accordance with procedures and fees as established by the board in regulation.

(D) A dentist holding a restricted instructor's license issued pursuant to this section is subject to the provisions of this chapter and regulations promulgated under this chapter unless otherwise provided for in this section. The board may revoke a restricted instructor's license for a violation of this chapter or regulations promulgated under this chapter or if the holder fails to supply the board, within ten days of its request, with information as to his or her current status and activities in the teaching program.

HISTORY: 1994 Act No. 507, Section 1; 2008 Act No. 207, Section 1; 2016 Act No. 211 (S.1036), Section 2, eff June 3, 2016.

Effect of Amendment  
2016 Act No. 211, Section 2, rewrote the section.

**SECTION 44-7-200.** Application for Certificate of Need; notice; prohibited communications.

(A) An application for a Certificate of Need must be submitted to the department in a form established by regulation. The application must address all applicable standards and requirements set forth in departmental regulations, Project Review Criteria of the department, and the South Carolina Health Plan.

(B) Within twenty days before submission of an application, the applicant shall publish notification that an application is to be submitted to the department in a newspaper serving the area where the project is to be located for three consecutive days. The notification must contain a brief description of the scope and nature of the project. No application may be accepted for filing by the department unless accompanied by proof that publication has been made for three consecutive days within the prior twenty-day period and payment of the initial application fee has been received.

(C) Upon publication of this notice and until a contested case hearing is requested pursuant to Section 44-1-60(G):

(1) members of the board and persons appointed by the board to hold a final review conference on staff decisions may not communicate directly or indirectly with any person in connection with the application; and

(2) no person shall communicate, or cause another to communicate, as to the merits of the application with members of the board and persons appointed by the board to hold a final review conference on staff decisions.

A person who violates this subsection is subject to the penalties provided in Section 1-23-360.

(D) After receipt of an application with proof of publication and payment of the initial application fee, the department shall publish in the State Register a notice that an application has been accepted for filing. Within thirty days of acceptance of the application, the department may request additional information as may be necessary to complete the application. The applicant has thirty days from the date of the request to submit the additional information. If the applicant fails to submit the requested information within the thirty-day period, the application is considered withdrawn.

(E) After a Certificate of Need application has been filed with the department, state and federal elected officials are prohibited from communicating with the department with regard to the Certificate of Need application at any time. This prohibition does not include written communication of support or opposition to an application. Such written communication must be included in the administrative

record.

HISTORY: 1962 Code Section 32-770; 1952 Code Section 32-770; 1947 (45) 510; 1979 Act No. 51 Section 1; 1988 Act No. 670, Section 1; 1990 Act No. 471, Section 1; 1992 Act No. 511, Section 9; 2010 Act No. 278, Sections 9, 10, eff July 1, 2010.

Editor's Note

2010 Act 278, Section 26, provides as follows: "This act takes effect July 1, 2010; provided, the provisions of this act do not apply to any matter pending before a court of this State prior to June 1, 2010."

Effect of Amendment

The 2010 amendment rewrote subsections (A) and (C) and added subsection (E) relating to communication to the department by elected officials.

**SECTION 44-7-210.** Certificate of Need review procedures.

(A) After the department [*Department of Health and Environmental Control*] has determined that an application is complete, affected persons must be notified in accordance with departmental regulations. The notification to affected persons that the application is complete begins the review period; however, in the case of competing applications, the review period begins on the date of notice to affected persons that the last of the competing applications is complete and notice is published in the State Register. The staff shall issue its decision to approve or deny the application no earlier than thirty calendar days, but no later than one hundred twenty calendar days, from the date affected persons are notified that the application is complete, unless a public hearing is timely requested as may be provided for by department regulation. If a public hearing is properly requested, the staff's decision must not be made until after the public hearing, but in no event shall the decision be issued more than one hundred fifty calendar days from the date affected persons are notified that the application is complete. The staff may reorder the relative importance of the project review criteria no more than one time during the review period. The staff's reordering of the relative importance of the project review criteria does not extend the review period provided for in this section.

(B) The department may not issue a Certificate of Need unless an application complies with the South Carolina Health Plan, Project Review Criteria, and other regulations. Based on project review criteria and other regulations, which must be identified by the department, the department may refuse to issue a Certificate of Need even if an application complies with the South Carolina Health Plan. In the case of competing applications, the department shall award a Certificate of Need, if appropriate, on the basis of which, if any, most fully complies with the requirements, goals, and purposes of this article and the State Health Plan, Project Review Criteria, and the regulations adopted by the department.

(C) On the basis of staff review of the application, the staff shall make a staff decision to grant or deny the Certificate of Need and the staff shall issue a decision in accordance with Section 44-1-60(D). Notice of the decision must be sent to the applicant and affected persons who have asked to be notified. The decision becomes the final agency decision unless a timely written request for a final review is filed with the department as provided for in Section 44-1-60(E).

However, a person may not file a request for final review in opposition to the staff decision on a Certificate of Need unless the person provided written notice to the department during the staff review that he is an affected person and specifically states his opposition to the application under review.

(D) The staff's decision is not the final agency decision until the completion of the final review process provided for in Section 44-1-60(F).

(E) A contested case hearing of the final agency decision must be requested in accordance with Section 44-1-60(G). The issues considered at the contested case hearing considering a Certificate of Need are limited to those presented or considered during the staff review.

(F) Notwithstanding any other provision of law, including Section 1-23-650(C), in a contested case arising from the department's decision to grant or deny a Certificate of Need application, grant or deny a request for exemption under Section 44-7-170, or the issuance of a determination regarding the applicability of Section 44-7-160, the following apply:

- (1) each party may name no more than ten witnesses who may testify at the contested case hearing;
- (2) each party is permitted to take only the deposition of a person listed as a witness who may testify at the contested case hearing, unless otherwise provided for by the Administrative Law Court;
- (3) each party is permitted to serve only ten interrogatories pursuant to Rule 33 of the South Carolina Rules of Civil Procedure;
- (4) each party is permitted to serve only ten requests for admission, including subparts; and
- (5) each party is permitted to serve only thirty requests for production, including subparts.

The limitations provided for in this subsection are intended to make the contested case process more efficient, less burdensome, and less costly to the parties in Certificate of Need cases. Therefore, the Administrative Law Court may, by court order, lift these limitations beyond the parameters set forth in this subsection only in exceptional circumstances when failure to do so would cause substantial prejudice to the party seeking additional discovery.

(G) Notwithstanding any other provision of law, in a contested case arising from the department's decision to grant or deny a Certificate of Need application, grant or deny a request for exemption under Section 44-7-170, or the issuance of a determination regarding the applicability of Section 44-7-160, the Administrative Law Court shall file a final decision no later than eighteen months after the contested case is filed with the Clerk of the Administrative Law Court, unless all parties to the contested case consent to an extension or the court finds substantial cause otherwise.

HISTORY: 1962 Code Section 32-771; 1952 Code Section 32-771; 1947 (45) 510; 1971 (57) 376; 1979 Act No. 51 Section 1; 1988 Act No. 670, Section 1; 1990 Act No. 471, Sections 2, 3; 1992 Act No. 511, Section 10; 1998 Act No. 303, Section 4; 2010 Act No. 278, Section 11, eff July 1, 2010.

Editor's Note

2010 Act 278, Section 26, provides as follows: "This act takes effect July 1, 2010; provided, the provisions of this act do not apply to any matter pending before a court of this State prior to June 1, 2010."

Effect of Amendment

The 2010 amendment rewrote the section.

**SECTION 44-7-220.** Administrative Law Court review of Certificate of Need decisions.

(A) A party who is aggrieved by the Administrative Law Court's final decision may seek judicial review of the final decision in accordance with Section 1-23-380.

(B) If the relief requested in the appeal is the reversal of the Administrative Law Court's decision to approve the Certificate of Need application or approve the request for exemption under Section 44-7-170 or approve the determination that Section 44-7-160 is not applicable, the party filing the appeal shall deposit a bond with the Clerk of the Court of Appeals within five calendar days after filing the petition to appeal. The bond must be secured by cash or a surety authorized to do business in this State in an amount equal to five percent of the total cost of the project or one hundred thousand dollars, whichever is greater, up to a maximum of one million five hundred thousand dollars. If the Court of Appeals affirms the Administrative Law Court's decision or dismisses the appeal, the Court of Appeals shall award to the party whose project is the subject of the appeal all of the bond and also may award reasonable attorney's fees and costs incurred in the appeal. If a party appeals the denial of its own Certificate of Need application or of an exemption request under Section 44-7-170 or appeals the determination that Section 44-7-160 is applicable and there is no competing application involved in the appeal, the party filing the appeal is not required to deposit a bond with the Court of Appeals.

(C)(1) Furthermore, if at the conclusion of the contested case or judicial review the Administrative Law Court or the Court of Appeals finds that the contested case or a subsequent appeal was frivolous, the Administrative Law Court or the Court of Appeals may award damages incurred as a result of the delay, as well as reasonable attorney's fees and costs, to the party whose project is the subject of the contested case or judicial review.

(2) As used in this subsection, "frivolous appeal" means any one of the following:

- (a) taken solely for purposes of delay or harassment;
- (b) where no question of law is involved;
- (c) where the contested case or judicial review is without merit.

HISTORY: 1962 Code Section 32-772; 1952 Code Section 32-772; 1947 (45) 510; 1979 Act No. 51 Section 1; 1988 Act No. 670, Section 1; 1990 Act No. 471, Section 4; 2010 Act No. 278, Section 12, eff July 1, 2010.

Editor's Note

2010 Act 278, Section 26, provides as follows: "This act takes effect July 1, 2010; provided, the provisions of this act do not apply to any matter pending before a court of this State prior to June 1, 2010."

Effect of Amendment

The 2010 amendment rewrote the section.

**SECTION 44-7-230.** Limitation on Certificate of Need; capital expenditure; architectural plans; time limitation; Certificate of Need as not transferable.

(A) The Certificate of Need, if issued, is valid only for the project described in the application including location, beds and services to be offered, physical plant, capital or operating costs, or other factors as set forth in the application, except as may be modified in accordance with regulations. The department shall require periodic reports and make inspections to determine compliance with the Certificate of Need. Implementation of the project or operation of the facility or medical equipment that is not in accordance with the Certificate of Need application or conditions subsequently agreed to by the applicant and the department may be considered a violation of this article.

(B) In issuing a Certificate of Need, the department shall specify the maximum capital expenditure obligated under the certificate. The department shall prescribe the method used to determine capital expenditure maximums, establish procedures to monitor capital expenditures obligated under certificates, and establish procedures to review projects for which the capital expenditure maximum is exceeded or expected to be exceeded.

(C) Prior to any construction authorized by a Certificate of Need, final drawings and specifications prepared by an architect or engineer legally registered under the laws of this State must be submitted to the department for approval. All construction must be completed in

accordance with approved plans and specifications and prior approval must be obtained from the department for any changes that substantially alter the scope of work, function of construction, or major items of equipment, safety, or cost of the facility during construction.

(D) A Certificate of Need is valid for one year from the date of issuance. A Certificate of Need must be issued with a timetable submitted by the applicant and approved by the department to be followed for completion of the project. The holder of the Certificate of Need shall submit periodic progress reports on meeting the timetable as may be required by the department. Failure to meet the timetable results in the revocation of the Certificate of Need by the department unless the department determines that extenuating circumstances beyond the control of the holder of the Certificate of Need are the cause of the delay. The department may grant two extensions of up to nine months each upon evidence that substantial progress has been made in accordance with procedures set forth in regulations. The board may grant further extensions of up to nine months each only if it determines that substantial progress has been made in accordance with the procedures set forth in regulations.

(E) A Certificate of Need is nontransferable. A Certificate of Need or rights thereunder may not be sold, assigned, leased, transferred, mortgaged, pledged, or hypothecated, and any actual transfer or attempt to make a transfer of this sort results in the immediate voidance of the Certificate of Need. The sale or transfer of the controlling interest or majority ownership in a corporation, partnership, or other entity holding, either directly or indirectly, a Certificate of Need, results in the transfer and voidance of a Certificate of Need.

HISTORY: 1962 Code Section 32-773; 1952 Code Section 32-773; 1947 (45) 510; 1979 Act No. 51 Section 1; 1988 Act No. 670, Section 1; 1990 Act No. 471, Section 5; 1992 Act No. 511, Sections 11, 12; 2010 Act No. 278, Section 13, eff July 1, 2010.

Editor's Note

2010 Act 278, Section 26, provides as follows: "This act takes effect July 1, 2010; provided, the provisions of this act do not apply to any matter pending before a court of this State prior to June 1, 2010."

Effect of Amendment

The 2010 amendment rewrote subsection (D).

**SECTION 44-7-250.** Department to establish and enforce basic standards.

The department shall establish and enforce basic standards for the licensure, maintenance, and operation of health facilities and services to ensure the safe and adequate treatment of persons served in this State.

HISTORY: 1962 Code Section 32-775; 1952 Code Section 32-775; 1947 (45) 510; 1979 Act No. 51 Section 1; 1988 Act No. 670, Section 1.

**SECTION 44-7-260.** Requirements for licensure.

(A) If they provide care for two or more unrelated persons, the following facilities or services may not be established, operated, or maintained in this State without first obtaining a license in the manner provided by this article and regulations promulgated by the department:

- (1) hospitals, including general and specialized hospitals;
- (2) nursing homes;
- (3) residential treatment facilities for children and adolescents;
- (4) ambulatory surgical facilities;
- (5) Reserved;
- (6) community residential care facilities;
- (7) facilities for chemically dependent or addicted persons;
- (8) end-stage renal dialysis units;
- (9) day-care facilities for adults;
- (10) any other facility operating for the diagnosis, treatment, or care of persons suffering from illness, injury or other infirmity and for which the department has adopted standards of operation by regulation.
- (11) intermediate care facilities for persons with intellectual disability;
- (12) freestanding or mobile technology.
- (13) facilities wherein abortions are performed.
- (14) birthing centers.

(B) The licensing provisions of this article do not apply to:

- (1) infirmaries for the exclusive use of the student bodies of privately-owned educational institutions which maintain infirmaries;
- (2) community-based housing sponsored, licensed, or certified by the South Carolina Department of Disabilities and Special Needs. The Department of Disabilities and Special Needs shall provide to the Department of Health and Environmental Control the names and locations of these facilities on a continuing basis; or
- (3) homeshare programs designated by the Department of Mental Health, provided that these programs do not serve more than two persons at each program location, the length of stay does not exceed fourteen consecutive days for one of the two persons, and the temporarily displaced person must be directly transferred from a homeshare program location. The Department of Mental Health shall

provide to the Department of Health and Environmental Control the names and locations of these programs on a continuing basis.

(C) The department is authorized to investigate, by inspection or otherwise, any facility to determine if its operation is subject to licensure.

(D) Each hospital must have a single organized medical staff that has the overall responsibility for the quality of medical care provided to patients. Medical staff membership must be limited to doctors of medicine or osteopathy who are currently licensed to practice medicine or osteopathy by the State Board of Medical Examiners, dentists licensed to practice dentistry by the State Board of Dentistry and podiatrists licensed to practice podiatry by the State Board of Podiatry Examiners. No individual is automatically entitled to membership on the medical staff or to the exercise of any clinical privilege merely because he is licensed to practice in any state, because he is a member of any professional organization, because he is certified by any clinical examining board, or because he has clinical privileges or staff membership at another hospital without meeting the criteria for membership established by the governing body of the respective hospital. Patients of podiatrists and dentists who are members of the medical staff of a hospital must be coadmitted by a doctor of medicine or osteopathy who is a member of the medical staff of the hospital who is responsible for the general medical care of the patient. Oral surgeons who have successfully completed a postgraduate program in oral surgery accredited by a nationally recognized accredited body approved by the United States Office of Education may admit patients without the requirement of coadmission if permitted by the bylaws of the hospital and medical staff.

(E) No person, regardless of his ability to pay or county of residence, may be denied emergency care if a member of the admitting hospital's medical staff or, in the case of a transfer, a member of the accepting hospital's medical staff determines that the person is in need of emergency care. "Emergency care" means treatment which is usually and customarily available at the respective hospital and that must be provided immediately to sustain a person's life, to prevent serious permanent disfigurement, or loss or impairment of the function of a bodily member or organ, or to provide for the care of a woman in active labor if the hospital is so equipped and, if the hospital is not so equipped, to provide necessary treatment to allow the woman to travel to a more appropriate facility without undue risk of serious harm. In addition to or in lieu of any action taken by the South Carolina Department of Health and Environmental Control affecting the license of any hospital, when it is established that any officer, employee, or member of the hospital medical staff has recklessly violated the provisions of this section, the department may require the hospital to pay a civil penalty of up to ten thousand dollars.

HISTORY: 1962 Code Section 32-776; 1952 Code Section 32-776; 1947 (45) 510; 1979 Act No. 51 Section 1; 1988 Act No. 670, Section 1; 1990 Act No. 501, Section 2; 1992 Act No. 511, Section 17; 1994 Act No. 359; 1995 Act No. 1, Section 6; 2008 Act No. 233, Section 1, eff May 21, 2008; 2010 Act No. 278, Sections 14, 15, eff July 1, 2010; 2011 Act No. 47, Section 10, eff June 7, 2011.

**Editor's Note**

2010 Act 278, Section 26, provides as follows: "This act takes effect July 1, 2010; provided, the provisions of this act do not apply to any matter pending before a court of this State prior to June 1, 2010."

**Effect of Amendment**

The 2008 amendment in subsection (B) added paragraph (3) relating to the exemption from licensure of designated homeshare programs.

The 2010 amendment reserved subsection (A)(5) which related to chiropractic inpatient facilities, rewrote subsection (A)(11), and added subsection (A)(14) relating to birthing centers.

The 2011 amendment substituted "persons with intellectual disability" for "the mentally retarded" in subsection (A)(11).

**SECTION 44-7-270. Applications for license.**

Applicants for a license shall file annually, or as may be provided for in regulation, applications under oath with the department upon prescribed forms. An application must be signed by the owner, if an individual or a partnership, or in the case of a corporation by two of its officers, or in the case of a government unit by the head of the governmental department having jurisdiction over it. The application must set forth the full name and address of the facility for which the license is sought, as applicable, and the full name and address of the owner, the names of the persons in control, and additional information as the department may require, including affirmative evidence of ability to comply with standards and regulations adopted by the department. Each applicant shall pay a license fee prior to issuance of a license as established by regulation. The department may charge an inspection fee.

HISTORY: 1962 Code Section 32-777; 1952 Code Section 32-777; 1947 (45) 510; 1979 Act No. 51 Section 1; 1988 Act No. 670, Section 1; 2010 Act No. 278, Section 16, eff July 1, 2010.

**Editor's Note**

2010 Act 278, Section 26, provides as follows: "This act takes effect July 1, 2010; provided, the provisions of this act do not apply to any matter pending before a court of this State prior to June 1, 2010."

**Effect of Amendment**

The 2010 amendment inserted ", or as may be provided for in regulation," in the first sentence; inserted ", as applicable," in the third sentence; deleted "an annual" following pay in the fourth sentence; and added the fifth sentence relating to the inspection fee.

**SECTION 44-7-280. Issuance of license; expiration.**

Licenses issued pursuant to this article expire one year after date of issuance or annually upon uniform dates, or as otherwise prescribed by regulation. Licenses must be issued only for the premises and persons named in the application and are not transferable or assignable. Licenses must be posted in a conspicuous place on the licensed premises.

HISTORY: 1962 Code Section 32-778; 1952 Code Section 32-778; 1947 (45) 510; 1979 Act No. 51 Section 1; 1988 Act No. 670, Section 1; 2010 Act No. 278, Section 17, eff July 1, 2010.

Editor's Note

2010 Act 278, Section 26, provides as follows: "This act takes effect July 1, 2010; provided, the provisions of this act do not apply to any matter pending before a court of this State prior to June 1, 2010."

Effect of Amendment

The 2010 amendment inserted ", or as otherwise" in the first sentence.

**SECTION 44-7-285.** Change of ownership and control.

A health care facility, as defined in this article, shall notify the department within thirty calendar days of a change in ownership or in controlling interest of the health care facility or entity owning a health care facility, directly or indirectly, by purchase, lease, gift, donation, sale of stock, or comparable arrangement. Failure to notify the department of such change within the thirty-day period may result in an administrative action under Section 44-7-320.

HISTORY: 2010 Act No. 278, Section 21, eff July 1, 2010.

Editor's Note

2010 Act 278, Section 26, provides as follows: "This act takes effect July 1, 2010; provided, the provisions of this act do not apply to any matter pending before a court of this State prior to June 1, 2010."

**SECTION 44-7-295.** Authority to enter facilities to investigate violations.

The department is authorized to enter at all times in or on the property of any facility or service, whether public or private, licensed by the department or unlicensed, for the purpose of inspecting and investigating conditions relating to a violation of this article or regulations of the department. The department's authorized agents may examine and copy any records or memoranda pertaining to the operation of a licensed or unlicensed facility or service to determine compliance with this article. However, if such entry or inspection is denied or not consented to and no emergency exists, the department is empowered to obtain a warrant to enter and inspect the property and its records from the magistrate in the jurisdiction in which the property is located. The magistrate may issue these warrants upon a showing of probable cause for the need for entry and inspection. The department shall furnish a written copy of the results of the inspection or investigation to the owner or operator of the property.

HISTORY: 2010 Act No. 223, Section 9, eff June 7, 2010; 2010 Act No. 278, Section 22, eff July 1, 2010.

Code Commissioner's Note

This section was added by both 2010 Act No. 223, Section 9 and 2010 Act No. 278, Section 22. Act No. 278 was later enacted and that is effective.

Editor's Note

2010 Act 278, Section 26, provides as follows: "This act takes effect July 1, 2010; provided, the provisions of this act do not apply to any matter pending before a court of this State prior to June 1, 2010."

**SECTION 44-7-300.** Plans and specifications.

Prior to commencing the construction or alteration of facilities required to be licensed by this department, plans and specifications must be submitted to the department for review and approval in accordance with regulations of the department. If construction has commenced without submittal of plans and specifications, an applicant for a license is required to submit certified drawings for review and approval prior to action upon the application for a license.

HISTORY: 1962 Code Section 32-780; 1952 Code Section 32-780; 1947 (45) 510; 1979 Act No. 51 Section 1; 1988 Act No. 670, Section 1.

**SECTION 44-7-320.** Denial, revocation, or suspension of license; penalties.

(A)(1) The department may deny, suspend, or revoke licenses or assess a monetary penalty, or both, against a person or facility for:

(a) violating a provision of this article or departmental regulations;

(b) permitting, aiding, or abetting the commission of an unlawful act relating to the securing of a Certificate of Need or the establishment, maintenance, or operation of a facility requiring certification of need or licensure under this article;

(c) engaging in conduct or practices detrimental to the health or safety of patients, residents, clients, or employees of a facility or service. This provision does not refer to health practices authorized by law;

(d) refusing to admit and treat alcoholic and substance abusers, the mentally ill, or persons with intellectual disability, whose admission or treatment has been prescribed by a physician who is a member of the facility's medical staff; or discriminating against alcoholics, the mentally ill, or persons with intellectual disability solely because of the alcoholism, mental illness, or intellectual disability;

(e) failing to allow a team advocacy inspection of a community residential care facility by the South Carolina Protection and Advocacy System for the Handicapped, Inc., as allowed by law.

(2) Consideration to deny, suspend, or revoke licenses or assess monetary penalties, or both, is not limited to information relating to the

current licensing period but includes consideration of all pertinent information regarding the facility and the applicant.

(3) If in the department's judgment conditions or practices exist in a facility that pose an immediate threat to the health, safety, and welfare of the residents, the department immediately may suspend the facility's license and shall contact the appropriate agencies for placement of the residents. Within five calendar days of the suspension a preliminary hearing must be held to determine if the immediate threatening conditions or practices continue to exist. If they do not, the license must be immediately reinstated. Whether the license is reinstated or suspension remains due to the immediate threatening conditions or practices, the department may proceed with the process for permanent revocation pursuant to this section.

(B) Should the department determine to assess a penalty, deny, suspend, or revoke a license, it shall send to the appropriate person or facility, by certified mail, a notice setting forth the particular reasons for the determination. The determination becomes final thirty days after the mailing of the notice, unless the person or facility, within such thirty-day period, requests in writing a contested case hearing before the board, or its designee, pursuant to the Administrative Procedures Act. On the basis of the contested case hearing, the determination involved must be affirmed, modified, or set aside. Judicial review may be sought in accordance with the Administrative Procedures Act.

(C) The penalty imposed by the department for violation of this article or its regulations must be not less than one hundred nor more than five thousand dollars for each violation of any of the provisions of this article. Each day's violation is considered a subsequent offense.

(D) Failure to pay a penalty within thirty days is grounds for suspension, revocation, or denial of a renewal of a license. No license may be issued, reissued, or renewed until all penalties finally assessed against a person or facility have been paid.

(E) No Certificate of Need may be issued to any person or facility until a final penalty assessed against a person or a facility has been paid.

(F) All penalties collected pursuant to this article must be deposited in the state treasury and credited to the general fund of the State.

HISTORY: 1962 Code Section 32-781.1; 1971 (57) 376; 1979 Act No. 51 Section 1; 1981 Act No. 16, Section 3; 1987 Act No. 184 Section 4; 1988 Act No. 670, Section 1; 1990 Act No. 377, Section 1; 1992 Act No. 339, Section 1; 2010 Act No. 223, Section 11, eff June 7, 2010; 2010 Act No. 278, Section 19, eff July 1, 2010; 2011 Act No. 47, Section 12, eff June 7, 2011.

#### Editor's Note

2010 Act 278, Section 26, provides as follows: "This act takes effect July 1, 2010; provided, the provisions of this act do not apply to any matter pending before a court of this State prior to June 1, 2010."

#### Effect of Amendment

The first 2010 amendment in subsection (A)(1), inserted ", or both", and in subsection (A)(2), inserted ", or both" and substituted "period" for "year".

The second 2010 amendment made by 2010 Act No. 278, Section 19 made the same changes as in 2010 Act No. 223, Section 11, and inserted "engaging in" in subsection (A)(1)(c) and "calendar" in the second sentence of subsection (A)(3).

The 2011 amendment, in subsection (A)(1)(d), substituted "persons with intellectual disability" for "the mentally retarded" and substituted "intellectual disability" for "mental retardation".

#### **SECTION 44-7-325.** Fee for search and duplication of medical record; time limits for compliance with request for record.

(A)(1) A health care facility, as defined in Section 44-7-130, and a health care provider licensed pursuant to Title 40 may charge a fee for the search and duplication of a medical record, whether in paper format or electronic format, but the fee may not exceed:

(a) for records requested to be produced in an electronic format, the total charge to the requestor may not exceed one hundred fifty dollars per request regardless of the number of records produced or number of times the patient has been admitted to the health care facility. The charge, not to exceed one hundred fifty dollars, shall be calculated as follows: sixty-five cents per page for the first thirty pages provided in an electronic format and fifty cents per page for all other pages provided in an electronic format, plus a clerical fee not to exceed twenty-five dollars for searching and handling, which combined with the per page costs may not exceed a total of one hundred fifty dollars per request, and to which may be added actual postage and applicable sales tax;

(b) for paper requests, sixty-five cents per page for the first thirty printed pages and fifty cents per page for all other printed pages, plus a clerical fee not to exceed twenty-five dollars for searching and handling, which combined with the per page print costs may not exceed two hundred dollars per admission to the health care facility, and to which may be added actual postage and applicable sales tax. The patient may have more than one admission on file when the record request is made. If multiple admissions exist, the print fee applies per admission, but only one clerical fee may be charged. Multiple emergency room records without an admission to the hospital are considered one admission;

(c) notwithstanding whether the records are requested in print or electronic format, the search and handling fees in subitems (a) and (b) are permitted even though no medical record is found as a result of the search, except where the request is made by the patient; and

(d) all of the fees allowed by this section, including the maximum, must be adjusted annually in accordance with the Consumer Price Index for all Urban Consumers, South Region (CPI-U), published by the U.S. Department of Labor. The Department of Health and Environmental Control is responsible for calculating this annual adjustment, which is effective on July first of each year, starting July 1, 2015.

(2) Notwithstanding the provisions of subsection (A), no fee may be charged for records copied at the request of a health care provider or for records sent to a health care provider at the request of the patient for the purpose of continuing medical care.

(3) The facility or provider may charge a patient or the patient's representative no more than the actual cost of reproduction of an X-ray. Actual cost means the cost of materials and supplies used to duplicate the X-ray and the labor and overhead costs associated with the duplication.

(B) Except for those requests for medical records pursuant to Section 42-15-95:

(1) A health care facility shall comply with a request for copies of a medical record:

(a) no later than forty-five days after the patient has been discharged or forty-five days after the request is received, whichever is later; and

(b) in a printed format or in an electronic format if requested to be delivered in electronic format, but only if the record is stored in an electronic format at the time of the request and the health care facility has the ability to produce the medical record in an electronic format without incurring additional cost.

(2) Nothing in this section may compel a health care facility to release a copy of a medical record prior to thirty days after discharge of the patient.

HISTORY: 1994 Act No. 468, Section 3; 2014 Act No. 294 (H.4354), Section 1, eff June 23, 2014.

Effect of Amendment

2014 Act No. 294, Section 1, rewrote the section.

**SECTION 44-7-370.** Residential Care Committee; Renal Dialysis Advisory Council.

(A) The South Carolina Department of Health and Environmental Control shall establish a Residential Care Committee to advise the department regarding licensing and inspection of community residential care facilities.

(1) The committee consists of the Long Term Care Ombudsman, three operators of homes with ten beds or less, four operators of homes with eleven beds or more, and three members to represent the department appointed by the commissioner for terms of four years.

(2) The terms must be staggered and no member may serve more than two consecutive terms. Any person may submit names to the commissioner for consideration. The advisory committee shall meet at least once annually with representatives of the department to evaluate current licensing regulations and inspection practices. Members shall serve without compensation.

(B) The Department of Health and Environmental Control shall appoint a Renal Dialysis Advisory Council to advise the department regarding licensing and inspection of renal dialysis centers. The council must be consulted and have the opportunity to review all regulations promulgated by the board affecting renal dialysis prior to submission of the proposed regulations to the General Assembly.

(1) The council is composed of a minimum of fourteen persons, one member recommended by the Palmetto Chapter of the American Nephrology Nurses Association; one member recommended by the South Carolina Chapter of the National Association of Patients on Hemodialysis and Transplants; three physicians specializing in nephrology recommended by the South Carolina Renal Physicians Association; two administrators of facilities certified for dialysis treatment or kidney transplant services; one member recommended by the South Carolina Kidney Foundation; one member recommended by the South Carolina Hospital Association; one member recommended by the South Carolina Medical Association; one member of the general public; one member representing technicians working in renal dialysis facilities; one member recommended by the Council of Nephrology Social Workers; and one member recommended by the Council of Renal Nutritionists. The directors of dialysis programs at the Medical School of the University of South Carolina and the Medical University of South Carolina, or their designees, are ex officio members of the council.

(2) Members shall serve four-year terms and until their successors are appointed and qualify. No member of council shall serve more than two consecutive terms. The council shall meet as frequently as the board considers necessary, but not less than twice each year. Members shall serve without compensation.

HISTORY: 1962 Code Section 32-786; 1952 Code Section 32-786; 1947 (45) 510; 1971 (57) 267, 376; 1976 Act No. 620 Section 2; 1979 Act No. 51 Section 1; 1988 Act No. 670, Section 1; 1993 Act No. 110, Section 9.

**SECTION 44-7-380.** Surgical technology and operating room circulators; definitions; requirements to practice; exceptions.

(A) As used in this section, "surgical technology" means intraoperative surgical patient care that involves:

(1) preparing the operating room for surgical procedures by ensuring that surgical equipment is functioning properly and safely;

(2) preparing the operating room and the sterile field for surgical procedures by preparing sterile supplies, instruments, and equipment using sterile technique;

(3) anticipating the needs of the surgical team based on knowledge of human anatomy and pathophysiology and how they relate to the surgical patient and the patient's surgical procedure; and

(4) as directed within the sterile field in an operating room setting, performing tasks including:

(a) passing supplies, equipment, or instruments;

(b) sponging or suctioning an operative site;

(c) preparing and cutting suture materials;

(d) transferring fluids or drugs;

(e) holding retractors; and

(f) assisting in counting sponges, needles, supplies, and instruments.

(B)(1) A person may not practice surgical technology in a health care facility unless the person meets one of the following requirements:

(a) has successfully completed an accredited educational program for surgical technologists and holds and maintains the Surgical Technologist Certification administered by the National Board of Surgical Technology and Surgical Assisting, or its successor; however, upon completion of an accredited education program for surgical technologists, graduates may practice for up to three months before completing certification by the National Board of Surgical Technology and Surgical Assisting, or its successor;

(b) has completed an appropriate training program for surgical technology in the United States Army, Navy, Air Force, Marine Corps, or Coast Guard or in the United States Public Health Service;

(c) provides evidence that the person was employed to practice surgical technology in a health care facility in this State prior to January 1, 2008; or

(d) is in the service of the federal government, to the extent the person is performing duties related to that service.

(2) A person qualified to practice as a surgical technologist pursuant to subsection (B)(1) remains qualified to practice regardless of a break in practice provided the continuing education required in subsection (D) is current.

(C) A person who does not meet the requirements of this section, may practice surgical technology in a health care facility if:

(1) after a diligent and thorough effort has been made, the health care facility is unable to employ a sufficient number of persons who meet the requirements of this section; and

(2) the health care facility makes a written record of its efforts made pursuant to item (1) and retains the record at the health care facility.

(D) A person who qualifies to practice surgical technology in a health care facility pursuant to subsection (B)(1)(a), (b), or (c) annually must complete fifteen hours of continuing education to remain qualified for employment.

(E) A health care facility that employs a person to practice surgical technology shall verify that the person meets the continuing education requirements of subsection (D) or that the person has held and maintained the Surgical Technologist Certification as required in subsection (B)(1)(a).

(F) A health care facility shall supervise each person employed by the health care facility to practice surgical technology according to the health care facility's policies and procedures to ensure that the person competently performs delegated tasks intraoperatively according to this section or other applicable provisions of law.

(G) This section does not prohibit a person licensed under another provision of law from performing surgical technology tasks or functions if the person is acting within the scope of his or her license.

HISTORY: 2007 Act No. 95, Section 1, eff January 1, 2008.

**SECTION 44-7-385.** Requirements for serving as operating room circulator.

(A) As used in this section, an "operating room circulator" means a registered nurse trained, educated, or experienced in perioperative nursing who is responsible for coordinating the nursing care and safety needs of a patient in the operating room and who also meets the needs of the operating room team members during surgery.

(B) An operating room circulator in a health care facility must be a licensed registered nurse educated, trained, and experienced in perioperative nursing.

(C) A surgical technologist may not serve as the circulator in the operating room of a health care facility; however, a person who is employed to practice surgical technology in a health care facility may assist in the performance of circulating duties:

- (1) consistent with the person's education, training, and experience; and
- (2) as assigned and supervised by a registered nurse circulator who must be present in the operating room for the duration of the surgical procedure.

HISTORY: 2007 Act No. 95, Section 1, eff January 1, 2008.

**SECTION 44-7-390.** No liability or cause of action against a hospital for certain acts or proceedings.

There is no monetary liability on the part of, and no cause of action for damages arising against, a hospital licensed under this article, its parent, subsidiaries, health care system, physician practices owned by the hospital (its parent or subsidiaries), directors, officers, agents, employees, medical staff members, external reviewers, witnesses, or a member of any committee of a licensed hospital, whether permanent or ad hoc, including the hospital's governing body, for any act or proceeding undertaken or performed without malice, made after reasonable effort to obtain the facts, and the action taken was in the belief that it is warranted by the facts known, arising out of or relating to:

- (1) sentinel event investigations or root cause analyses, or both, as prescribed by the joint commission or any other organization under whose accreditation a hospital is deemed to meet the Centers for Medicare and Medicaid Services' conditions of participation;
- (2) investigations into the competence or conduct of hospital employees, agents, members of the hospital's medical staff or other practitioners, relating to the quality of patient care, and any disciplinary proceedings or fair hearings related thereto, provided the medical staff operates pursuant to written bylaws that have been approved by the governing body of the hospital;
- (3) quality assurance reviews;
- (4) the medical staff credentialing process, provided the medical staff operates pursuant to written bylaws that have been approved by the governing body of the hospital;
- (5) reports by a hospital to its insurance carriers;
- (6) reviews or investigations to evaluate the quality of care provided by hospital employees, agents, members of the hospital's medical staff, or other practitioners; or
- (7) reports or statements, including, but not limited to, those reports or statements to the National Practitioner Data Bank and the South Carolina Board of Medical Examiners, that provide analysis or opinion (including external reviews) relating to the quality of care provided by hospital employees, agents, members of the hospital's medical staff, or other practitioners.

HISTORY: 2012 Act No. 275, Section 1, eff June 26, 2012.

Editor's Note

2012 Act No. 275, Section 3, provides as follows: "This act take effect upon approval by the Governor and applies to any investigative action undertaken as provided herein where the underlying event giving rise to the investigation occurs on or after the effective date."

**SECTION 44-7-392.** Confidentiality of hospital proceedings, data, documents, and information.

(A)(1) All proceedings of, and all data, documents, records, and information prepared or acquired by, a hospital licensed under this article, its parent, subsidiaries, health care system, committees, whether permanent or ad hoc, including the hospital's governing body, or physician practices owned by the hospital (its parent or subsidiaries), relating to the following are confidential:

- (a) sentinel event investigations or root cause analyses, or both, as prescribed by the joint commission or any other organization under whose accreditation a hospital is deemed to meet the Centers for Medicare and Medicaid Services' conditions of participation;
- (b) investigations into the competence or conduct of hospital employees, agents, members of the hospital's medical staff or other practitioners, relating to the quality of patient care, and any disciplinary proceedings or fair hearings related thereto;
- (c) quality assurance reviews;
- (d) the medical staff credentialing process;
- (e) reports by a hospital to its insurance carriers;
- (f) reviews or investigations to evaluate the quality of care provided by hospital employees, agents, members of the hospital's medical staff, or other practitioners; or

(g) reports or statements, including, but not limited to, those reports or statements to the National Practitioner Data Bank and the South Carolina Board of Medical Examiners, that provide analysis or opinion (including external reviews) relating to the quality of care provided by hospital employees, agents, members of the hospital's medical staff, or other practitioners; or

(h) incident or occurrence reports and related investigations, unless the report is part of the medical record.

(2) The proceedings and data, documents, records, and information described in subsection (A)(1) may be shared with a parent corporation, subsidiaries, other hospitals in the health care system, directors, officers, employees, and agents of the hospital and if shared, remain confidential. These proceedings and data, documents, records, and information in subsection (A)(1) are not subject to discovery, subpoena, or introduction into evidence in any civil action unless the hospital and any affected person who is a party to such action waives the confidentiality in writing. Notwithstanding the foregoing, however, in the event an affected person asserts a claim in any civil action against a hospital, its parent, affiliates, directors, officers, agents, employees, or member of any committee of a licensed hospital, relating to any proceeding identified in subsection (A)(1), the hospital may, without consultation with the affected person, waive confidentiality in that civil action. Likewise, if a hospital asserts a claim in any civil action against an affected person relating to any proceeding identified in subsection (A)(1) in which the affected person was a party, the affected person may use information in the affected person's possession that is otherwise confidential under this section in that civil action.

(3) Data, documents, records, or information which are otherwise available from original sources are not confidential and are not immune from discovery from the original source under this section or use in a civil action merely because they were acquired by the hospital.

(4) This subsection does not make confidential the outcome of a practitioner's application for medical staff membership or clinical privileges, nor does it make confidential the list of clinical privileges requested by the practitioner or the list of clinical privileges that were approved. However, the practitioner's application for medical staff membership or clinical privileges, and all supporting documentation submitted or requested for the application are confidential. Nevertheless, the application itself may be obtained from the physician requesting privileges or the practice where the physician works as an employee or an independent contractor.

(5) If a practitioner is the subject of a disciplinary proceeding or fair hearing, this subsection does not, subject to the provisions of the medical staff bylaws, prohibit the practitioner from receiving data, documents, records, and information relating to this practitioner that is relevant to the proceeding or fair hearing, even if the data, documents, records, and information are otherwise confidential under this section. Such a disclosure to a practitioner in a disciplinary proceeding or fair hearing must not be considered a waiver of any privilege or confidentiality provided for in subsection (A)(1). The practitioner must not, however, without the written consent of the hospital, publish to any third party, other than legal counsel or a person retained for the purposes of representing the practitioner in a disciplinary proceeding or fair hearing, the data, documents, records, or information that were disclosed to him as part of the disciplinary proceeding or fair hearing.

(6) There is nothing in this section which makes any part of a patient's medical record confidential from the patient, including any redactions, corrections, supplements, or amendments to the patient's record, whether electronic or written.

(B) The confidentiality provisions of subsection (A) do not prevent committees appointed by the Department of Health and Environmental Control from issuing reports containing solely nonidentifying data and information.

(C) Nothing in this section affects the duty of a hospital licensed by the Department of Health and Environmental Control to report accidents or incidents pursuant to the department's regulations. However, anything reported pursuant to the department's regulations must not be considered a waiver of any privilege or confidentiality provided in subsection (A).

(D) Any data, documents, records or information that is reported to or reviewed by the joint commission or other accrediting bodies must not be considered a waiver of any privilege or confidentiality provided for in subsection (A).

(E) Any data, documents, records, or information of an action by a hospital to suspend, revoke, or otherwise limit the medical staff membership or clinical privileges of a practitioner that is submitted to the South Carolina Board of Medical Examiners pursuant to a report required by Section 44-7-70, or the National Practitioner Data Bank must not be considered a waiver of any privilege or confidentiality provided for in subsection (A).

(F) An affected person may file a civil action to assert a claim of confidentiality before a court of competent jurisdiction and file a motion to request the court to issue an order to enjoin a hospital from releasing data, documents, records, or information to the department, the South Carolina Board of Medical Examiners, the National Practitioner Data Bank, and the joint commission or other accrediting bodies that are not required by law or regulation to be released by a hospital. The data, documents, records, or information in controversy must be filed under seal with the court having jurisdiction over the pending action and are subject to judicial review. If the court finds that a party acted unreasonably in unsuccessfully asserting the claim of confidentiality under this subsection, the court shall assess attorney's fees against that party.

(G) For purposes of this section, an "affected person" means a person, other than a patient, who is a subject of a proceeding enumerated in subsection (A)(1).

HISTORY: 2012 Act No. 275, Section 1, eff June 26, 2012.

Editor's Note

2012 Act No. 275, Section 3, provides as follows: "This act take effect upon approval by the Governor and applies to any investigative action undertaken as provided herein where the underlying event giving rise to the investigation occurs on or after the effective date."

**SECTION 44-7-394.** Assertion and defense of confidentiality claims.

(A) If a hospital or affected person asserts a claim of confidentiality over documents pursuant to Section 44-7-392, and the party seeking the documents objects, then upon motion to the court having jurisdiction over the pending action the court shall review the documents under seal to determine if any of the documents are subject to discovery. The court may order production of the documents to the requesting party. If the court finds that a hospital or affected person acted unreasonably in unsuccessfully asserting the claim of confidentiality, the court may assess attorney's fees against that party for any fees incurred by the requesting party in obtaining the documents.

Further, a party to a medical or hospital malpractice case shall not offer testimony of a person who was a witness to the medical or hospital care that is the subject of the medical or hospital malpractice case if their testimony would be inconsistent with a prior written, electronic, video, or audio statement of fact submitted by the person and that is confidential under Section 44-7-392, unless such prior inconsistent statement of fact is first produced to all parties in the medical or hospital malpractice case. Upon request by a party, a privilege log shall be provided by a hospital to all parties in the medical or hospital malpractice case identifying any prior written, electronic, video, or audio statements of fact relating to the medical or hospital care that is the subject of the medical or hospital malpractice case that were given by a witness who is identified in discovery and may testify at trial. Upon motion of any party, a prior statement of fact, whether written, electronic, video, or audio, that is confidential under Section 44-7-392, may be reviewed by the court in camera to determine whether the prior statement of fact is inconsistent with the trial testimony offered in the medical or hospital malpractice case. If the court concludes that the prior statement of fact is inconsistent, the court shall order that the prior written statement of fact be produced to the moving party.

(B) For purposes of this section an "affected person" means a person, other than a patient, who is a subject of a proceeding enumerated in Section 44-7-392(A)(1).

(C) If the court orders a hospital or affected person to produce documents to a third party under this section, the hospital or affected person shall have the right to immediately appeal that order, and the filing of the appeal shall stay the enforcement of the order compelling the production.

HISTORY: 2012 Act No. 275, Section 1, eff June 26, 2012.

Editor's Note

2012 Act No. 275, Section 3, provides as follows: "This act take effect upon approval by the Governor and applies to any investigative action undertaken as provided herein where the underlying event giving rise to the investigation occurs on or after the effective date."

Title 44—Health, CHAPTER 7-HOSPITALS, TUBERCULOSIS CAMPS AND HEALTH SERVICES DISTRICTS, ARTICLE 4—**HEALTH CARE COOPERATION ACT**

Title 44—Health, CHAPTER 7-HOSPITALS, TUBERCULOSIS CAMPS AND HEALTH SERVICES DISTRICTS, ARTICLE 11—**HOSPITAL REVENUE BOND ACT**

**SECTION 44-7-2410.** Citation of article.

This article may be cited as the "Hospital Infections Disclosure Act".

HISTORY: 2006 Act No. 293, Section 1, eff May 31, 2006.

**SECTION 44-7-2420.** Definitions.

As used in this article:

(1) "Department" means the Department of Health and Environmental Control.

(2) "Hospital" means a facility organized and administered to provide overnight medical or surgical care or nursing care of illness, injury, or infirmity and may provide obstetrical care, and in which all diagnoses, treatment, or care is administered by or under the direction of persons currently licensed to practice medicine, surgery, or osteopathy and is licensed by the department as a hospital.

"Hospital" may include residential treatment facilities for children and adolescents in need of mental health treatment which are physically a part of a licensed psychiatric hospital. This definition does not include facilities that are licensed by the Department of Social Services.

(3) "Hospital acquired infection" means a localized or systemic condition that:

(a) results from adverse reaction to the presence of an infectious agent or agents or its toxin or toxins; and

(b) was not present or incubating at the time of admission to the hospital.

HISTORY: 2006 Act No. 293, Section 1, eff May 31, 2006.

**SECTION 44-7-2430.** Collection of data; reporting by individual hospitals; appointment of advisory committee; adoption of methodology for collecting and analyzing data.

(A)(1) Individual hospitals shall collect data on hospital acquired infection rates for the specific clinical procedures as recommended by the advisory committee and defined by the department, including the following categories:

- (a) surgical site infections;
- (b) ventilator associated pneumonia;
- (c) central line related bloodstream infections; and
- (d) other categories as provided under subsection (D).

(2) Hospitals also shall report completeness of certain selected infection control processes, as recommended by the advisory committee and defined by the department, according to accepted standard definitions.

(B)(1) Hospitals shall submit reports at least every six months on their hospital acquired infection rates to the department. Reports must be submitted in a format and at a time as provided for by the department. Data in these reports must cover a period ending not earlier than one month prior to submission of the report. These reports must be made available to the public at each hospital and through the department. The first report must be submitted before February 1, 2008. Subsequent reports must be submitted at least every six months on dates determined by the department. When compiling its reports, the department may combine data from multiple reporting periods in order to better demonstrate hospital acquired infection rates.

(2) If the hospital is a division or subsidiary of another entity that owns or operates other hospitals, or related facilities, the report must be for the specific division or subsidiary and not for the other entity.

(C)(1) The Board of Health and Environmental Control shall appoint an advisory committee that must have an equal number of members representing all involved parties. The board shall seek recommendations for appointments to the advisory committee from organizations that represent the interests of hospitals, consumers, businesses, purchasers of health care services, physicians, and other professionals involved in the research and control of infections.

(2) The advisory committee shall assist the department in the development of all aspects of the department's methodology for collecting, analyzing, and disclosing the information collected under this article, including collection methods, formatting, and methods and means for release and dissemination of this information.

(3) In developing the methodology for collecting and analyzing the infection rate data, the department and advisory committee shall consider existing methodologies and systems for data collection, such as the Centers for Disease Control and Prevention's National Healthcare Safety Network; however, the department's discretion to adopt a methodology is not limited or restricted to any existing methodology or system. The data collection and analysis methodology must be disclosed to the public prior to any public disclosure of hospital acquired infection rates.

(4) The department and the advisory committee shall evaluate on a regular basis the quality and accuracy of hospital information reported under this article and the data collection, analysis, and dissemination methodologies.

(D) The department may, after consultation with the advisory committee, require hospitals to collect data on hospital acquired infection rates in categories additional to those set forth in subsection (A).

HISTORY: 2006 Act No. 293, Section 1, eff May 31, 2006; 2010 Act No. 165, Section 1, eff May 11, 2010.

**Effect of Amendment**

The 2010 amendment, in subsection (B)(1), added the last two sentences relating to subsequent reports and combination of data; and in subsection (C)(1) substituted "Board of Health and Environmental Control" for "commissioner of the department" in the first sentence and "board" for department" in the second sentence.

**SECTION 44-7-2440.** Annual reports and quarterly bulletins; contents; publicizing of reports.

(A) The department annually shall submit to the General Assembly a report summarizing the hospital reports submitted pursuant to Section 44-7-2430 and shall publish the annual report on its website. The first annual report must be submitted and published before February 1, 2009. Subsequent annual reports to the General Assembly must be submitted before April sixteenth of each year. The department may issue quarterly informational bulletins summarizing all or part of the information submitted in the hospital reports.

(B) All reports issued by the department must be risk adjusted.

(C) The annual report must compare the risk adjusted hospital acquired infection rates, collected under Section 44-7-2430, for each individual hospital in the State. The department, in consultation with the advisory committee, shall make this comparison as easy to comprehend as possible. The report also must include an executive summary, written in plain language, that must include, but is not limited to, a discussion of findings, conclusions, and trends concerning the overall state of hospital acquired infections in the State, including a comparison to prior years. The report may include policy recommendations, as appropriate.

(D) The department shall publicize the report and its availability as widely as practical to interested parties including, but not limited to, hospitals, health care providers, media organizations, health insurers, health maintenance organizations, purchasers of health insurance, consumer or patient advocacy groups, and individual consumers. The annual report must be made available to any person upon request and the department may charge a fee for such copies, not to exceed the actual cost of the copy of the report.

(E) No hospital report or department disclosure may contain information identifying a patient, employee, or licensed health care professional in connection with a specific infection incident.

(F) The department, after consultation with the advisory committee, may phase-in the reporting requirements of this section.

HISTORY: 2006 Act No. 293, Section 1, eff May 31, 2006; 2008 Act No. 353, Section 2, Pt 5.E.1, eff July 1, 2008; 2010 Act No. 165, Section 2, eff May 11, 2010.

**Effect of Amendment**

The 2008 amendment added subsection (F).

The 2010 amendment, in subsection (A), added the third sentence relating to subsequent annual reports, deleted "at its discretion," before "summarizing" in the fourth sentence, and made other nonsubstantive changes.

**SECTION 44-7-2450. Protection of patient confidentiality; reporting accidents or incidents.**

(A) It is the intent of the General Assembly that a patient's right of privilege or confidentiality must not be violated in any manner. Patient social security numbers and any other information that could be used to identify an individual patient must not be released notwithstanding any other provision of law to the contrary.

(B) Nothing in this section affects the duty of a facility or activity licensed by the Department of Health and Environmental Control to report accidents or incidents pursuant to the department's regulations. However, anything reported pursuant to the department's regulations must not be considered to waive any privilege or confidentiality provided in subsection (A).

HISTORY: 2006 Act No. 293, Section 1, eff May 31, 2006.

**SECTION 44-7-2460. Ensuring compliance with article and regulations; civil monetary penalties; promulgation of regulations.**

(A) The department shall ensure and enforce compliance with this article and regulations promulgated pursuant to this article by the imposition of civil monetary penalties and as a condition of licensure or permitting under this chapter pursuant to Section 44-7-320.

(B) The department may promulgate regulations as necessary to carry out its responsibilities under this article.

HISTORY: 2006 Act No. 293, Section 1, eff May 31, 2006; 2010 Act No. 165, Section 3, eff May 11, 2010.

**Effect of Amendment**

The 2010 amendment rewrote subsection (A) to include the imposition of civil monetary penalties.

**SECTION 44-7-3110. Lease and sale of certain assets; terms and conditions.**

The General Assembly authorizes and grants to the Board of Trustees of the Medical University of South Carolina authority to enter into reasonable agreements to transfer the management and operations of the Medical University Hospital to one or more private operators, including authority to:

(A) Lease certain Medical University Hospital land, together with all easements, rights, privileges, and appurtenances appertaining thereto, and all of the buildings, structures, fixtures, and other improvements existing and situated on that land, all as described in Section 44-7-3120; and

(B) Sell furniture, fixtures, equipment, accounts receivable, and other incidental assets associated with or employed in the operation of the Medical University Hospital on the land.

Provided, however, that the following terms and conditions must be observed and included and accepted in the agreements:

(1) The term of the lease and any extensions may not exceed a total aggregate period of thirty years.

(2) The leased premises may be used only for the operation of hospitals and clinics, and for other uses reasonably related to hospitals, clinics, and health care, provided that those operations and uses are consistent with all Joint Commission on Accreditation and Healthcare Organizations standards.

(3) Any private operator or operators chosen by the Medical University of South Carolina's Board of Trustees to operate the Medical University Hospital shall not transfer, sell, lease, or assign control of the Medical University Hospital, or of the entity operating or controlling the Medical University Hospital or of any of its related real estate or other assets, to any other private operator without the prior express written approval of the Medical University of South Carolina Board of Trustees and without compliance with the same terms and conditions provided in this article. Prior to any such transfer, sale, lease, or assignment of control, the Medical University of South

Carolina shall have the right of first refusal and be given sufficient time to consider and decide whether to exercise the right of first refusal.

(4) Any private operator or operators chosen by the Medical University of South Carolina's Board of Trustees to operate the Medical University Hospital must provide indigent care in the same manner as is being provided by the Medical University of South Carolina through the operation of this Medical University Hospital and its clinical programs.

(5) The Medical University of South Carolina and the State of South Carolina must be protected from any tort liability arising from the private operation of the Medical University Hospital by the private operator, unless and except to the extent the tort liability is caused by or attributed to the Medical University of South Carolina or the State of South Carolina, or both. The agreement will require the operator of the Medical University Hospital to acquire and keep in effect sufficient insurance policies to provide a reasonable amount and type of coverage and naming the Medical University of South Carolina as an additional insured.

(6) The name and logo of the Medical University of South Carolina and its affiliates shall not be used by any private operator to market and promote health care services.

(7) The proceeds from this lease and from the sale of these assets must be used for the retirement of outstanding indebtedness incurred to finance Medical University Hospital facilities, and all other revenues and payments received from or in connection with this lease or sale must be dedicated solely for use of the Medical University of South Carolina's business and operations as the Board of Trustees of the Medical University of South Carolina may direct, subject to review by the appropriate bodies of state governments.

(8) All agreements, the manner in which all agreements are made and the implementation of all agreements must comply with all applicable laws.

(9) Access for any person or group to use the services of the Medical University Hospital and clinical services shall not be limited, restricted, denied, or allowed in a discriminatory manner that is prohibited by law; nor shall such access be denied based on lack of participation or membership in a particular health plan or network.

(10) The Medical University of South Carolina shall have access at all times to all records of all patients treated at the Medical University Hospital, and all patients shall have access at all times to their own records.

Provided, further, that the lease and sale may not be finalized until the State Fiscal Accountability Authority or Department of Administration, as applicable, is satisfied that the consideration paid by the private operator or operators for the agreements authorized by this article reflects a fair and reasonable value to the State of South Carolina, based upon either the net book value of the hospital, capitalization of income from operation of the hospital over a period of years, the net present value of future cash flow of the hospital, a direct comparison to a comparable transaction, or some other financially sound and general practiced method of business evaluation.

The State Fiscal Accountability Authority or Department of Administration, as applicable, is directed to cause the lease and purchase agreements regarding the Medical University Hospital to contain provisions requiring and ensuring compliance with the terms and conditions stated above. To assist the board in performing this function, the Medical University of South Carolina is required to provide, at its expense, any information, studies, evaluations, agreements, reports, or other data requested by the State Fiscal Accountability Authority or Department of Administration, as applicable, including any such items with regard to University Medical Associates or any of its employees, officers, and affiliates. The approval requirement for the transaction authorized in this act shall be governed by the provisions of Section 1-11-65 of the 1976 Code, and compliance with the provisions of this act is exclusive and shall satisfy the approval requirements of any and all other statutory provisions requiring the review and/or approval of any agency, department, or division.

No lease or other agreement pursuant to this article shall be valid unless and until the provisions of this article have been complied with fully and the State Fiscal Accountability Authority or Department of Administration, as applicable, has certified that the provisions of this article have been complied with fully.

HISTORY: 1996 Act No. 390, Section 1.

**SECTION 44-7-3120.** Legal description of land and improvements.

The legal description of the land and improvements thereon referenced in Section 44-7-3110(A) is as follows:

All that certain property and parcels of land in Charleston County together with improvements thereon lying on the north side of Albert B. Sabin Street, between Ashley Avenue and Jonathan Lucas Street consisting of the MUSC Teaching Hospital and the MUSC Children's Hospital but saving and excepting the Clinical Sciences Building and the Storm Eye Institute;

Together with a rectangular parcel located on the south side of Albert B. Sabin Street containing certain fuel oil tanks;

Together with the Psychiatric Institute located on the west side of President Street and the playground area located to the rear of such institute but saving and excepting the auditorium, the lobby area, and the University Services Building.

The above referenced properties are as shown on a survey prepared by Forsburg Engineering & Surveying, Inc., to be recorded and reference is made thereto for a description of the metes and bounds thereof.

HISTORY: 1996 Act No. 390, Section 1.

**SECTION 44-7-3130.** Nature of University Medical Associates (UMA).

Notwithstanding any other provision of law to the contrary, University Medical Associates (UMA) is a public body as defined by Chapter 4, Title 30 (the Freedom of Information Act) for purposes of the act and the provisions of the act apply to records maintained by UMA.

HISTORY: 1996 Act No. 390, Section 1.

**SECTION 44-7-3140.** Employee grievances.

Upon approval of the proposed sale or lease of MUSC's facilities and assets to HCA, HCA shall take the steps necessary to create an employee grievance committee for the review of all employee disciplinary actions and terminations by HCA. The grievance procedure must provide that the final decision in any grievance involving a former MUSC employee rests with the board of directors of MUSC and that the final decision in grievances involving HCA employees rests with the official designated by HCA.

HISTORY: 1996 Act No. 390, Section 2.

**SECTION 44-7-3150.** Consultation required.

Notwithstanding any other provision of law, the State Fiscal Accountability Authority or Department of Administration, as applicable, must consult the South Carolina Commission on Higher Education prior to granting authorization to effectuate the transaction provided for in this article.

HISTORY: 1996 Act No. 390, Section 3.

**SECTION 44-7-3160.** Personal profiting prohibited.

Notwithstanding any other provision of law to the contrary, upon approval of the proposed lease and sale of Medical University of South Carolina facilities and assets, no one who is currently an employee of MUSC or UMA may personally profit from the transaction by accepting compensation or other financial incentives from the purchasing and/or leasing company if that individual played a substantial role in the negotiation process. As used in this section "substantial role" means a role where one is providing direct advice to the members of a negotiating team or being a member of a negotiating team.

HISTORY: 1996 Act No. 390, Section 4.

**SECTION 44-7-3170.** Shared participation permitted.

No condition of any lease or agreement shall restrict MUSC employees to shared participation with one company's health care third party providers.

HISTORY: 1996 Act No. 390, Section 5.

**SECTION 44-7-3180.** Valuation of purchase upon default or expiration of lease.

At the time of default by Columbia HCA or end of the lease, MUSC shall not be required to purchase the Medical Center as a going concern but rather at the appraised value of the tangible assets owned by the lessee as personal property inventory.

HISTORY: 1996 Act No. 390, Section 6.

**SECTION 44-7-3190.** Written consent requirement for discontinuation or transfer of inpatient clinical service.

Any discontinuation or transfer of any inpatient clinical service offered at the Medical Center shall be with the prior written consent of the MUSC Board of Trustees.

HISTORY: 1996 Act No. 390, Section 7.

**SECTION 44-7-3200.** UMA agreements subject to review and approval; agreements must not conflict.

All agreements between University Medical Associates and any of its servants, agents, and subsidiaries and partners are subject to review and approval by the Board of Trustees of the Medical University of South Carolina and the terms of any such agreements shall not conflict with the terms and conditions of the lease authorized by this section.

HISTORY: 1996 Act No. 390, Section 8.

**SECTION 44-7-3210.** Co-payment for members of the General Assembly.

Notwithstanding any other provision of law to the contrary, including any provision of the Annual General Appropriations Act for FY 1996-97, members of the General Assembly must pay any co-payment or deductible as may be applicable for receiving services at a hospital facility in this State whether or not their services are provided by the MUSC hospital or its successor in interest.

HISTORY: 1996 Act No. 390, Section 9.

**SECTION 44-7-3220.** Indigent patient services.

Notwithstanding any other provision of law to the contrary, upon approval of the proposed sale or lease of MUSC's facilities and assets, MUSC must maintain the current level of services currently offered to indigent patients at Charleston Memorial Hospital unless the MUSC Board of Trustees approves otherwise.

HISTORY: 1996 Act No. 390, Section 10.

**SECTION 44-7-3230.** Guarantee of financial obligations.

Notwithstanding any other provision of law to the contrary, any financial obligation under the agreements entered into by a subsidiary corporation must be unconditionally guaranteed by the ultimate parent corporation of the purchaser/tenant.

HISTORY: 1996 Act No. 390, Section 11.

**SECTION 44-7-3410.** Citation of article.

This article may be cited as the "Lewis Blackman Hospital Patient Safety Act".

HISTORY: 2005 Act No. 146, Section 1, eff upon approval (became law without the Governor's signature on June 8, 2005).

**SECTION 44-7-3420.** Definitions.

For purposes of this article:

(1) "Clinical staff" means persons who work in a hospital whose duties include the personal care or medical treatment of patients. "Clinical staff" includes, but is not limited to, credentialed physicians, physicians' assistants, nurses, nursing aides, medical technicians, therapists, and other individuals involved in the personal care or medical treatment of patients.

(2) "Clinical trainees" means persons who are receiving health care professional training in a hospital, either paid or unpaid, students or licensed professionals, whose training includes the personal care or medical treatment of patients. "Clinical trainees" includes, but is not limited to, resident physicians, medical students, nursing students, and other students and individuals in health care professional training in a hospital.

(3) "Credentialed caregiver" means a nurse practitioner or physician's assistant who is licensed to care for patients within his or her scope of practice.

(4) "Credentialed physician" means a licensed physician who has completed his or her postgraduate medical training who has medical staff privileges at a hospital.

(5) "Attending physician" means a licensed physician who has completed his or her postgraduate medical training and who has medical staff privileges at a hospital and who has primary responsibility for a patient's care while the patient is in the hospital.

(6) "Designee" means a credentialed physician or a credentialed caregiver whom a patient's attending physician has designated to care for the patient in the absence of the attending physician.

(7) "Medical student" means an individual enrolled in a program culminating in a degree in medicine.

(8) "Patient" means an individual who is being treated by a physician in a hospital and includes a patient's representative or an individual allowed by law to make health care decisions for a patient who is a minor or who is unable to consent to health care treatment for himself or herself, or both.

(9) "Resident physician" means an individual who is participating in any graduate medical education program and whose relationship to the patient is under the auspices of the medical education program.

(10) "Intern" means an individual who is an advanced student or graduate in medicine gaining supervised practical experience.

HISTORY: 2005 Act No. 146, Section 1, eff upon approval (became law without the Governor's signature on June 8, 2005).

**SECTION 44-7-3430.** Identification badges.

All clinical staff, clinical trainees, medical students, interns, and resident physicians of a hospital shall wear badges clearly stating their names, using at a minimum either first or last names with appropriate initials, their departments, and their job or trainee titles. All clinical trainees, medical students, interns, and resident physicians must be explicitly identified as such on their badges. This information must be clearly visible and must be stated in terms or abbreviations reasonably understandable to the average person, as recognized by the Department of Health and Environmental Control.

HISTORY: 2005 Act No. 146, Section 1, eff upon approval (became law without the Governor's signature on June 8, 2005); 2006 Act No. 364, Section 2, eff June 9, 2006.

**Effect of Amendment**

The 2006 amendment in the first sentence added "using at a minimum either first or last names with appropriate initials,".

**SECTION 44-7-3440.** Written information to be provided to patient.

Except in emergency admissions, a hospital shall provide to each patient prior to, or at the time of the patient's admission to the hospital for inpatient care or outpatient surgery, written information describing the general role of clinical trainees, medical students, interns, and resident physicians in patient care. The written information must also notify the patient that the attending physician is the person responsible for the patient's care while the patient is in the hospital and that the patient's attending physician may change during the patient's hospitalization depending on the type of care or services required for the patient. The written information must also contain the information described in Section 44-7-3450. The written material must also state generally whether medical students, interns, or resident physicians may be participating in a patient's care, may be making treatment decisions for the patient, or may be participating in or performing, in whole or in part, any surgery on the patient. This document must be separate from the general consent for treatment.

HISTORY: 2005 Act No. 146, Section 1, eff upon approval (became law without the Governor's signature on June 8, 2005).

**SECTION 44-7-3450.** Right of patient to contact attending physician; nurse's duty to assist; mechanism for resolution of patient's personal medical care concerns.

(A) If at any time a patient requests that a nurse call his or her attending physician regarding the patient's personal medical care, the nurse shall place a call to the attending physician or his or her designee to inform him or her of the patient's concern. If the patient is able to communicate with and desires to call his or her attending physician or designee, upon the patient's request, the nurse must provide the patient with the telephone number and assist the patient in placing the call. A nurse or other clinical staff to whom such a request is made or who receives multiple requests may notify his or her immediate supervisor for assistance.

(B) Each hospital must provide a mechanism, available at all times, through which a patient may access prompt assistance for the resolution of the patient's personal medical care concerns.

For purposes of this section, "mechanism" means a telephone number, beeper number, or other means of allowing a patient to independently access the patient assistance system and must not be construed as requiring a patient to request information or assistance in order to access the system; however, a clinical staff member or clinical trainee must promptly access the system on behalf of a patient if a patient requests such assistance. A description of this mechanism and the method for accessing it must be included in the written material described in Section 44-7-3440.

(C) The hospital must establish procedures for the implementation of the mechanism, providing for initiation of contact with administrative or supervisory clinical staff who shall promptly assess, or cause to be assessed, the urgent patient care concern and cause the patient care concern to be addressed.

HISTORY: 2005 Act No. 146, Section 1, eff upon approval (became law without the Governor's signature on June 8, 2005).

**SECTION 44-7-3455.** Mental and specialized alcohol or drug abuse treatment hospitals exemption.

The provisions of this article do not apply to hospitals owned or operated by the Department of Mental Health or by specialized hospitals licensed exclusively for treatment of alcohol or drug abuse and which are under contract with the Department of Alcohol and Other Drug Abuse Services.

HISTORY: 2005 Act No. 146, Section 1, eff upon approval (became law without the Governor's signature on June 8, 2005); 2007 Act No. 29, Section 1, eff upon approval (became law without the Governor's signature on May 16, 2007).

**Effect of Amendment**

The 2007 amendment added the exemption for alcohol and drug abuse treatment hospitals.

**SECTION 44-7-3460.** Administration and enforcement of article.

The Department of Health and Environmental Control shall administer and enforce the provisions of this article in accordance with procedures and penalties provided in law and regulation.

HISTORY: 2005 Act No. 146, Section 1, eff upon approval (became law without the Governor's signature on June 8, 2005).

**SECTION 44-7-3470.** Civil cause of action; other claim.

This article does not create a civil cause of action; however, this article must not be construed to preclude a claim that may have otherwise been asserted under common law or any other provision of law.

HISTORY: 2005 Act No. 146, Section 1, eff upon approval (became law without the Governor's signature on June 8, 2005).

**SECTION 44-9-70.** Administration of Federal funds; development of mental health clinics.

The State Department of Mental Health is hereby designated as the State's mental health authority for purposes of administering Federal funds allotted to South Carolina under the provisions of the National Mental Health Act, as amended. The State Department of Mental Health is further designated as the State agency authorized to administer minimum standards and requirements for mental health clinics as conditions for participation in Federal-State grants-in-aid under the provisions of the National Mental Health Act, as amended, and is authorized to promote and develop community mental health outpatient clinics. Provided, that nothing in this article shall be construed to prohibit the operation of outpatient mental health clinics by the South Carolina Medical College Hospital in Charleston. Provided, further,

that nothing herein shall be construed to include any of the functions or responsibilities now granted the Department of Health and Environmental Control, or the administration of the State Hospital Construction Act (Hill-Burton Act), as provided in the 1976 Code of Laws and amendments thereto.

HISTORY: 1962 Code Section 32-920.3; 1964 (53) 2078.

**SECTION 44-21-80.** Regional tertiary level developmental evaluation centers.

(A) The Department of Pediatrics of the Medical University of South Carolina, the University Pediatrics of the University Affiliated Program of the University of South Carolina, and the Children's Hospital of the Greenville Hospital System, are each hereby authorized, as agents of the State of South Carolina, to fulfill the role of Regional Tertiary Level Developmental Evaluation Centers providing comprehensive developmental assessment and treatment services for children with developmental disabilities, significant developmental delays, or behavioral or learning disorders.

(B) As developmental evaluation centers, the above named institutions shall provide a seamless continuum of developmental services, including medically necessary diagnostic and treatment services for the purpose of correcting or ameliorating physical or mental illnesses and conditions which, left untreated, would negatively impact the health and quality of life of South Carolina's children. Further, these centers shall work collectively with the teaching, training, and research entities of each institution, extending the state's efforts to prepare professionals to work in the field of developmental medicine, while lending expertise to the research efforts in this field.

(C) The developmental evaluation centers shall be involved in research, planning, and needs assessment of issues related to developmental disabilities and shall be committed to develop a regionalized system of community-based, family-centered care for children with developmental and behavioral disabilities. In so doing, the centers shall serve as primary points of entry for developmental evaluation services and as regional coordinators for the delivery of the services and are encouraged to affiliate with other providers thus enhancing the availability of high quality services for the children of South Carolina.

HISTORY: 1996 Act No. 458, Part II, Section 86; 2011 Act No. 47, Section 3, eff June 7, 2011.

Editor's Note

2011 Act No. 47, Section 13, provides as follows: "SECTION 13. In Sections 1 through 6 of this act, the terms 'intellectual disability' and 'person with intellectual disability' have replaced and have the same meanings as the former terms 'mental retardation' and 'mentally retarded'."

Effect of Amendment

The 2011 amendment reenacted this section with no apparent change.

**SECTION 44-36-20.** Advisory committee; membership; duties; prohibition against compensation.

(A) The [University of South Carolina] School of Public Health shall appoint an advisory committee to assist in maintaining this [Alzheimer's Disease] registry which must include, but is not limited to, a representative of:... (9) Medical University of South Carolina;...

(B) The advisory committee shall assist the registry in:

- (1) defining the population to be included in the registry including, but not limited to, establishing criteria for identifying patient subjects;
- (2) developing procedures and forms for collecting, recording, analyzing, and disseminating data;
- (3) developing protocols and procedures to be disseminated to and used by health care providers in identifying subjects for the registry;
- (4) developing procedures for approving research projects or participation in research projects.

(C) Members of the advisory committee are not entitled to mileage, per diem, subsistence, or any other form of compensation.

HISTORY: 1990 Act No. 532, Section 1; 1993 Act No. 181, Section 1101; 1995 Act No. 75, Section 1.

**SECTION 44-36-330.** Advisory council; membership; compensation of members.

(A) The Alzheimer's Disease and Related Disorders Resource Coordination Center must be supported by an advisory council appointed by the Lieutenant Governor including, but not limited to, representatives of:...(9) Medical University of South Carolina;...

(B) Members of the advisory council are not entitled to mileage, per diem, subsistence, or any other form of compensation.

HISTORY: 1994 Act No. 326, Section 1; 1994 Act No. 326, Section 3; 2012 Act No. 218, Section 1, eff June 7, 2012.

Effect of Amendment

The 2012 amendment inserted "Lieutenant" in subsection (A).

**SECTION 44-38-30.** Head and Spinal Cord Injury Information System Council; establishment and purpose; composition; election of chairman; appointment of advisors; compensation and expenses.

(A) There is the South Carolina Head and Spinal Cord Injury Information System Council established for the purpose of overseeing the daily activities of the system which shall be under the Head and Spinal Cord Injury Division of the Department of Disabilities and Special Needs. The council is composed of the following ex officio members or their designees: the chairman, Developmental Disabilities Council, Office of the Governor, the chairman of the Joint Committee to Study the Problems of Persons with Disabilities, the State Director of the State Department of Mental Health, the Commissioner of the Department of Vocational Rehabilitation, the Director of the State Department of

Disabilities and Special Needs, the Director of the South Carolina Department of Health and Environmental Control, the Director of the South Carolina Department of Health and Human Services, Dean of the University of South Carolina School of Medicine, the Dean of the Medical University of South Carolina, the Executive Director of the South Carolina Hospital Association, one representative from each of the head injury advocacy organizations, and one individual with a spinal cord injury. The council shall elect a chairman who may appoint such other nonvoting members who may serve in an advisory capacity to the council, including representatives from the private service delivery sector.

(B) Members of the council shall receive no compensation, including subsistence, per diem, or mileage for service on the council.

HISTORY: 1992 Act No. 457, Section 1; 1993 Act No. 181, Section 1102.

**SECTION 44-38-510. Spinal Cord Injury Research Board.**

(A) The South Carolina Spinal Cord Injury Research Board is created for the purpose of administering the spinal cord injury research fund created pursuant to Section 14-1-211. The board is composed of seven members who must be residents of this State and appointed by the Governor upon recommendation of the President of the Medical University of South Carolina, as follows: two members who are medical doctors from the staff or faculty of the Medical University of South Carolina; two members who are medical doctors specializing or significantly engaged in treatment of spinal cord injuries in South Carolina; two members who have a spinal cord injury or who have a family member with a spinal cord injury; and one at-large member who is a medical doctor and a member of the South Carolina Medical Association.

(B) The terms of board members shall be four years, except that the Governor must stagger the initial appointments to the board so that one of the two members who are medical doctors from the staff or faculty of the Medical University of South Carolina shall be appointed for a two-year term; one of the two members who are medical doctors specializing or significantly engaged in treatment of spinal cord injuries in South Carolina shall be appointed for a two-year term; one of the two members who have a spinal cord injury or who have a family member with a spinal cord or head injury shall be appointed for a two-year term; and the at-large member who is a medical doctor and a member of the South Carolina Medical Association shall serve a three-year term. All subsequent appointments shall be for four-year terms.

(C) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies. A member who serves two consecutive four-year terms shall not be reappointed for two years after completion of those terms.

(D) A majority of the membership of the board shall constitute a quorum.

(E) The board shall elect, by a majority vote, a chairman who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The chairman shall be elected or reelected for each calendar year. The board shall have such other organization as deemed necessary and approved by the board.

(F) Meetings of the board shall be held at least twice a year but may be held more frequently as deemed necessary, subject to call by the chairman or by request of a majority of the board members. Board meetings shall concern, among other things, policy matters relating to spinal cord injury research projects and programs, research progress reports, authorization of projects and financial plans, and other matters necessary to carry out the intent of this section.

(G) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

(H) Board members shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of duties.

(I) The board shall be attached to the Medical University of South Carolina for meetings, staff, and administrative purposes.

(J) The board shall set forth guidelines and standards for allocation of these funds.

(K) Nothing in this article prohibits the board from allocating funds for spinal cord research projects at other institutions other than MUSC as long as the receiving institution shares the research statistics with each medical institution in this State.

HISTORY: 2000 Act No. 390, Section 2.

**SECTION 44-38-630. Membership of Council; officers of council; compensation.**

(A) The members of the South Carolina Brain Injury Leadership Council should have knowledge or expertise in the area of brain injury or related services. The council shall be comprised of representatives of the following agencies and organizations, shall be appointed by the director of the agency or organization and shall serve ex officio:...(9) Medical University of South Carolina;...

(B) Council members shall include persons who are survivors of traumatic brain injury, family members or legal guardians of these persons, health care professionals, representatives of service provider entities, or other interested parties knowledgeable about brain injuries. Membership shall meet requirements of the State Advisory Board designated by the federal Traumatic Brain Injury Act.

(C) Officers of the council shall be as follows: chairperson, vice chairperson, and secretary. Council officers are to be elected at the final quarterly council meeting of the year, and shall serve a two year term starting the next calendar year.

(D) Council members shall be appointed with consideration given to statewide geographic and demographic representation. When an appointed vacancy on the council exists, nominations to fill the vacancy may be received from members of the council by the secretary.

(E) Members and officers of the council are not entitled to mileage, per diem, subsistence, or any other form of compensation.

HISTORY: 2013 Act No. 63, Section 1, eff June 13, 2013.

**SECTION 44-39-20.** Establishment of Diabetes Initiative of South Carolina Board; purpose; members; terms; filling vacancies; election of chair; meetings; expenses.

(A) There is established within the Medical University of South Carolina the Diabetes Initiative of South Carolina Board. The purpose of this board is to establish a statewide program of education, surveillance, clinical research, and translation of new diabetes treatment methods to serve the needs of South Carolina residents with diabetes mellitus. The provisions of this chapter and the initiatives undertaken by the board supplement and do not supplant existing programs and services provided to this population.

(B) The board consists of:

(1) the following officials or their designees: (a) the President of the Medical University of South Carolina;...

(2) a representative of the Office of the Governor, to be appointed by the Governor; and

(3) six representatives appointed by the President of the Medical University of South Carolina, three of whom must be from the general public and one each from the Centers of Excellence Council, the Outreach Council, and the Surveillance Council, all of whom must be persons knowledgeable about diabetes and its complications.

(C) The board may elect nonvoting members and honorary members.

(D) A member of the board is elected for a three-year term. A vacancy on the board must be filled for the remainder of the unexpired term in the manner of original appointment.

(E) The board shall elect from its members a chair for a term of three years.

(F) The board shall meet at least quarterly or more frequently upon the call of the chairman. A member of the board not employed by the State or a political subdivision of the State must receive per diem, subsistence, and mileage as provided by law for members of state boards, commissions, and committees while engaged in the work of the board.

HISTORY: 1994 Act No. 497, Part II, Section 46A; 2008 Act No. 256, Section 1, eff June 4, 2008; 2010 Act No. 195, Section 1, eff May 28, 2010.

**Effect of Amendment**

The 2008 amendment, in subparagraph (B)(1)(e), substituted "vice president of the Southeastern Division" for "President of the South Carolina Affiliate" of the American Diabetes Association; deleted paragraph (B)(3) requiring that a member of the Joint Legislative Committee on Health Care Planning and Oversight be appointed by the chairman; and redesignated paragraph (B)(4) as (B)(3).

The 2010 amendment in subsection (B)(1), added item (b) relating to the Dean of the University of South Carolina, added item (k) relating to the chair of the Endocrinology Division, added item (l) relating to the President of the Hospital Association, and redesignated the remaining items accordingly; rewrote subsection (B)(3); added subsection (C), relating to election of nonvoting and honorary members; redesignated the remaining subsections; in subsection (D) inserted the first sentence, relating to the term of a board member; in subsection (E) substituted "three" for "two"; and made other non substantive changes.

**SECTION 44-39-30.** Powers and duties of board.

The powers and duties of the Diabetes Initiative of South Carolina Board are to:

(1) annually assess the effects of diabetes mellitus in South Carolina, and the status of education, clinical research, and translation of new diabetes treatment methods in South Carolina;

(2) oversee all operations of the Center of Excellence Advisory Committees, and the Diabetes Outreach Council including:

(a) reviewing annual reports;

(b) establishing annual budgets;

(c) setting annual priorities;

(3) make annual budget requests to the General Assembly to support the activities of the Diabetes Initiative of South Carolina Board;

(4) conduct diabetes surveillance activities including:

(a) obtaining data and maintaining a statewide data base

(b) analyzing data and reviewing trends on mortality and morbidity in diabetes;

(c) developing means to and disseminating important data to professionals and the public;

- (d) developing proposals for grant funding.
- (5) submit an annual report to the Governor and the General Assembly;
- (6) other activities necessary to carry out the provisions of this chapter.

HISTORY: 1994 Act No. 497, Part II, Section 46A.

**SECTION 44-39-40.** Establishment of Diabetes Center of Excellence; powers; duties; functions; advisory committee; council.

(A) A Diabetes Center of Excellence is established at the Medical University of South Carolina. The center shall develop and implement programs of professional education, specialized care, and clinical research in diabetes and its complications, in accordance with priorities established by the Diabetes Initiative of South Carolina Board. The Center of Excellence must submit an annual report to the Diabetes Initiative of South Carolina Board.

(B) The activities of the center must be overseen and directed by the Center of Excellence Advisory Committee. The council consists of members appointed by the president of the Medical University of South Carolina. The functions of the council include:

- (1) reviewing programs in professional education, specialized care, and clinical research developed by the Center;
- (2) assisting in the development of proposals for grant funding for the center's activities;
- (3) preparing an annual report and budget proposal for submission to the Diabetes Initiative of South Carolina Board.

HISTORY: 1994 Act No. 497, Part II, Section 46A.

**SECTION 44-39-50.** Establishment of Diabetes Outreach Council; powers; duties; functions.

(A) There is created in the Medical University of South Carolina the Diabetes Outreach Council with three members appointed by the president of the university.

(B) The Diabetes Outreach Council shall oversee and direct efforts in patient education and primary care including:

- (1) promoting adherence to national standards of education and care;
- (2) ongoing assessment of patient care costs and reimbursement issues for persons with diabetes in South Carolina;
- (3) preparing an annual report and budget proposal for submission to the Diabetes Initiative of South Carolina Board.

HISTORY: 1994 Act No. 497, Part II, Section 46A.

**SECTION 44-40-30.** Creation, purpose, and membership of South Carolina Agent Orange Advisory Council; compensation of voting members.

There is created the South Carolina Agent Orange Advisory Council to assist and advise the South Carolina Department of Health and Environmental Control in its duties and functions as provided in this chapter and to assist and advise the Veterans Affairs Division of the Governor's Office in its duties and functions as provided in Section 25-11-70. The council is composed of five voting members and five nonvoting ex officio members. The voting members must be veterans who served in Vietnam, Cambodia, Laos, or Thailand. Voting members are appointed by the Governor for terms of four years and until their successors are appointed and qualify. The Governor shall designate a chairman who shall serve for a term of two years. Vacancies on the council are filled by appointment in the same manner as the original appointment for the remainder of the unexpired term. Voting members of the council are paid the usual per diem, mileage, and subsistence as provided by law for members of boards, commissions, and committees. The following shall serve as ex officio members without voting rights:...

- (3) one faculty member of the Medical University of South Carolina with expertise in a field relevant to the purpose of the council;...

HISTORY: 1986 Act No. 521, Section 1; 1991 Act No. 248, Section 6; 1993 Act No. 181, Section 1104.

**SECTION 44-43-70.** Bone marrow donor programs established; purpose; dissemination of information; recruitment of donors.

(A) Bone marrow donor programs are established within the Medical University of South Carolina and within the University of South Carolina, School of Medicine. The purpose of each program is to educate citizens of the State about:

- (1) the need for bone marrow donors;
- (2) the procedures required to become registered as a potential bone marrow donor, including the procedures for determining the person's tissue type; and
- (3) the medical procedures a donor must undergo to donate bone marrow.

(B) Special efforts must be made to educate and recruit minorities to volunteer as potential bone marrow donors. Dissemination of information and recruitment of bone marrow donors may be accomplished through use of the press, radio, and television, through the placement of educational materials in appropriate health care facilities, blood banks, and state and local agencies, and through any other means of public dissemination. The Medical University of South Carolina and the University of South Carolina, School of Medicine, in conjunction with the Department of Motor Vehicles, shall make educational materials available at all places where drivers' licenses are issued or renewed.

HISTORY: 1992 Act No. 505, Section 1; 1993 Act No. 181, Section 1107; 1996 Act No. 459, Section 67; 1998 Act No. 289, Section 2; 2006 Act No. 334, Section 1, eff June 2, 2006.

Code Commissioner's Note

Pursuant to the direction to the Code Commissioner in 2003 Act No. 51, Section 18, "Department of Public Safety" was changed to "Department of Motor Vehicles" in subsection (B).

Effect of Amendment

The 2006 amendment reprinted this section with no apparent change.

**SECTION 44-43-80.** Paid leaves of absence to employees to donate bone marrow.

(A) An employer may grant paid leaves of absence to an employee who seeks to undergo a medical procedure to donate bone marrow. As used in this section, "employer" means a person or entity that employs twenty or more employees at least at one site within this State and includes an individual, corporation, partnership, association, nonprofit organization, group of persons, state, county, city, or other governmental subdivision. "Employee" means a person who performs services for hire for an employer for an average of twenty or more hours a week and includes all individuals employed at a site owned or operated by an employer but does not include an independent contractor.

(B) The combined length of paid leaves of absence requested by an employee must be determined by the employee but may not exceed forty work hours unless the employer agrees to a longer period of time. The employer may require verification by a physician of the purpose and length of each paid leave of absence requested by the employee to donate bone marrow. If there is a medical determination that the employee does not qualify as a bone marrow donor, the paid leave of absence granted to the employee before that medical determination is not forfeited.

(C) An employer may not retaliate against an employee for requesting or obtaining a paid leave of absence as provided by this section.

(D) This section does not prevent an employer from providing a paid leave of absence for bone marrow donations in addition to leave allowed under this section. This section does not affect an employee's rights with respect to any other employment benefit.

HISTORY: 1992 Act No. 505, Section 1; 2006 Act No. 334, Section 1, eff June 2, 2006.

Effect of Amendment

The 2006 amendment reprinted this section with no apparent change.

**SECTION 44-43-365.** Search of South Carolina Organ and Tissue Donor Registry; examination to ensure medical suitability of part; minor donors; removal of part.

(A) When a hospital refers an individual at or near death to a procurement organization, the organization shall cause a reasonable search to be made of the records of the South Carolina Organ and Tissue Donor Registry to ascertain whether the individual has made an anatomical gift.

(B) A procurement organization must be allowed reasonable access to information in the records of the South Carolina Organ and Tissue Donor Registry to ascertain whether an individual at or near death is a donor.

(C) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(D) Unless prohibited by law other than this article, at any time after a donor's death, the person to which a part passes under Section 44-43-350 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(E) Unless prohibited by law other than this article, an examination under subsection (C) or (D) may include an examination of all medical and dental records of the donor or prospective donor.

(F) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(G) Upon referral by a hospital under subsection (A), a procurement organization shall make a reasonable search for any person listed in Section 44-43-340 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it promptly shall advise the other person of all relevant information.

(H) Subject to Sections 44-43-350(I) and 44-43-405, the rights of the person to which a part passes under Section 44-43-350 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this article, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under Section 44-43-350, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary

mutilation.

(I) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(J) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

HISTORY: 2009 Act No. 4, Section 2, eff May 6, 2009.

**SECTION 44-43-370.** Agreements or affiliations between hospitals and procurement organizations.

Each hospital in this State shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

HISTORY: 1962 Code Section 32-716; 1969 (56) 625; 2006 Act No. 334, Section 1, eff June 2, 2006; 2009 Act No. 4, Section 2, eff May 6, 2009.

Effect of Amendment

The 2006 amendment redesignated subsections (a) to (c) as subsections (A) to (C) and made nonsubstantive and conforming amendments.

The 2009 amendment rewrote this section.

**SECTION 44-43-395.** Resolution of conflict between anatomical gift and declaration or advance health care directive.

(A) For purposes of this section:

(1) "Advance health care directive" means a power of attorney for health care or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health care decision for the prospective donor.

(2) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

(3) "Health care decision" means any decision regarding the health care of the prospective donor.

(B) If a prospective donor has a declaration or advance health care directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive, or, if none or the agent is not reasonably available, another person authorized by law other than this article to make health care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The conflict must be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under Section 44-43-340. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contraindicated by appropriate end-of-life care.

HISTORY: 2009 Act No. 4, Section 2, eff May 6, 2009.

**SECTION 44-43-510.** Board for distribution and delivery of dead human bodies; composition.

The faculty members of the departments of anatomy and surgery of the Medical University of South Carolina and the University of South Carolina, School of Medicine, or any other colleges or schools of this State authorized by law to teach medical science and issue diplomas, constitute a board for the distribution and delivery of dead human bodies as and for the purpose provided in this article.

HISTORY: 1962 Code Section 9-501; 1952 Code Section 9-501; 1942 Code Section 3443; 1932 Code Section 3443; Civ. C. '22 Section 1052; Civ. C. '12 Section 929; 1909 (26) 166; 1952 (47) 1875; 1998 Act No. 289, Section 7; 2006 Act No. 334, Section 1, eff June 2, 2006.

Effect of Amendment

The 2006 amendment substituted "faculty members of the departments of anatomy and surgery" for "professors of anatomy, the professors of surgery, and the demonstrators of anatomy".

**SECTION 44-43-520.** Adoption of rules and regulations; records.

The board may adopt rules and promulgate regulations for its government and the proper discharge of its functions. The board shall keep a record of its proceedings and particularly of all bodies received and distributed. These records must be open at all times to the inspection of each member of the board and the Attorney General and the solicitor of each circuit in the State.

HISTORY: 1962 Code Section 9-502; 1952 Code Section 9-502; 1942 Code Sections 3443, 3444; 1932 Code Sections 3443, 3444; Civ. C. '22 Sections 1052, 1053; Civ. C. '12 Sections 929, 930; 1909 (26) 166; 2006 Act No. 334, Section 1, eff June 2, 2006.

Effect of Amendment

The 2006 amendment made nonsubstantive changes.

**SECTION 44-43-530.** Dead bodies available to board; notification of availability.

Each officer, agent, and servant of every city in the State and of every almshouse, prison, morgue, hospital, jail, or other public institution in cities having charge or control of any dead human body that is required to be buried at the public expense and every officer or other person having charge or control of the body of any person upon whom the sentence of death for crime has been executed under the law shall notify the board, or the person or persons as may, from time to time, be designated by the board or the board's authorized officer or agent, whenever and as soon as a body comes to the person's possession, charge, or control and shall, without fee or reward, deliver the body and permit the board and its agents, and physicians and surgeons as may, from time to time, be designated by the board, to take and remove the body to be used for the advancement of medical science.

HISTORY: 1962 Code Section 9-503; 1952 Code Section 9-503; 1942 Code Section 3445; 1932 Code Section 3445; Civ. C. '22 Section 1054; Civ. C. '12 Section 931; 1909 (26) 166; 2006 Act No. 334, Section 1, eff June 2, 2006.

Effect of Amendment

The 2006 amendment deleted the reference to giving bond and made nonsubstantive changes throughout.

**SECTION 44-43-540.** Dead bodies not available to board.

Notice is not required to be given and a body must not be delivered if a person claiming to be, and satisfying the authorities in charge of the body that he is, of kin or related by marriage to the deceased claims the body for burial and pays the burial expenses; and notice is not required to be given for the body to be delivered if the deceased was a traveler who died suddenly.

HISTORY: 1962 Code Section 9-504; 1952 Code Section 9-504; 1942 Code Section 3445; 1932 Code Section 3445; Civ. C. '22 Section 1054; Civ. C. '12 Section 931; 1909 (26) 166; 2006 Act No. 334, Section 1, eff June 2, 2006.

Effect of Amendment

The 2006 amendment made nonsubstantive changes.

**SECTION 44-43-550.** Distribution of bodies.

The bodies received must be distributed by the board to and among medical colleges and schools of the State and physicians and surgeons as the board may designate. The colleges and schools first must be supplied with bodies needed for lectures and demonstration. The remaining bodies must be distributed equitably among the physicians and surgeons; however, in equitable distribution of the bodies, the physicians and surgeons of the city where the death of the person took place have prior right to receive the body. The board, instead of by themselves or through their agents receiving and delivering bodies, may, from time to time, either directly or by their officers or agents, designate physicians and surgeons to receive the bodies and the number each shall receive. For the purpose of the distribution contemplated by this section, a body must be held, subject to the order of the board or its authorized agent, in the city where death occurs not less than twenty-four hours.

HISTORY: 1962 Code Section 9-505; 1952 Code Section 9-505; 1942 Code Section 3446; 1932 Code Section 3446; Civ. C. '22 Section 1055; Civ. C. '12 Section 932; 1909 (26) 166; 2006 Act No. 334, Section 1, eff June 2, 2006.

Effect of Amendment

The 2006 amendment made nonsubstantive changes.

**SECTION 44-43-560.** Conveyance of bodies.

The board may employ a carrier or carriers for conveyance of bodies, which must be well enclosed in a suitable case and carefully deposited, free from public observation. Every carrier shall obtain a receipt by name or, if the person be unknown, by a description for each body delivered by the carrier and deposit the receipt with the board or its authorized agent. After the bodies have been sufficiently used for the purposes of instruction, the bodies must be decently and respectfully disposed of by the university, college, physicians, or surgeons, as the case may be, receiving them.

HISTORY: 1962 Code Section 9-506; 1952 Code Section 9-506; 1942 Code Section 3447; 1932 Code Section 3447; Civ. C. '22 Section 1056; Civ. C. '12 Section 933; 1909 (26) 166; 2006 Act No. 334, Section 1, eff June 2, 2006.

Effect of Amendment

The 2006 amendment, at the end of the first sentence, substituted "board or its authorized agent" for "secretary of the board"; in the second sentence, substituted "the bodies must be decently and respectfully disposed of" for "they shall be decently interred"; and made nonsubstantive changes throughout.

**SECTION 44-43-710.** Consent; who may give consent [*Post-Mortem Examinations*].

**SECTION 44-43-720.** Consent required for certain autopsies and postmortem examinations; use of body parts restricted; form of consent.

**SECTION 44-43-730.** Right to have autopsy performed where patient dies in a hospital or health care facility.

**SECTION 44-43-910.** Definitions.

As used in this article:

(1) "Hospital" means a hospital licensed, accredited, or approved under the laws of this State and includes a hospital operated by the United States or the State or its subdivisions, although not required to be licensed under state law.

(2) "Potential organ or tissue donor" means a person who has died or is dying.

(3) "Organ and Tissue Procurement Organization" means the organ procurement organization designated to perform organ recovery services in South Carolina by the United States Department of Health and Human Services which also has the capability to procure tissue.

HISTORY: 1991 Act No. 29, Section 1; 1998 Act No. 289, Section 8; 2006 Act No. 334, Section 1, eff June 2, 2006; 2009 Act No. 4, Section 3, eff May 6, 2009.

Effect of Amendment

The 2006 amendment, in item (3), added "or tissue" to the term being defined and added the clause at the end of the sentence starting with "or any tissue, including"; deleted item (4) defining "Potential tissue donor"; and redesignated item (5) as item (4) and rewrote it.

The 2009 amendment deleted item (1) defining brain death; redesignated items (2) to (4) as items (1) to (3); and at the end of item (2) defining potential organ or tissue donor, deleted "in circumstances that give rise to a reasonable medical belief that the person will meet the medical criteria for donation of at least one organ including, but not limited to, the heart, lung, liver, pancreas, and kidneys or any tissue including, but not limited to, heart valves, eyes, bone, cartilage, skin, ligaments, tendons, and fascia".

**SECTION 44-43-920.** Organ and tissue donor policies and continuing education.

A hospital shall establish policies on organ and tissue donation, as well as on related continuing education, in accordance with applicable federal and state laws and regulations.

HISTORY: 1991 Act No. 29, Section 1; 1998 Act No. 289, Section 8; 2006 Act No. 334, Section 1, eff June 2, 2006; 2009 Act No. 4, Section 3, eff May 6, 2009.

Effect of Amendment

The 2006 amendment rewrote this section.

The 2009 amendment made no apparent changes.

**SECTION 44-43-930.** Notification of organ procurement organization.

When death is imminent or has occurred, the hospital shall notify the organ procurement organization in a timely manner in accordance with applicable federal and state laws and regulations.

HISTORY: 1991 Act No. 29, Section 1; 1998 Act No. 289, Section 8; 2006 Act No. 334, Section 1, eff June 2, 2006; 2009 Act No. 4, Section 3, eff May 6, 2009.

Effect of Amendment

The 2006 amendment rewrote this section.

The 2009 amendment made no apparent changes.

**SECTION 44-43-940.** Collaboration in support of donation process.

All relevant hospital administration and staff shall collaborate with the organ and tissue procurement organization in a cooperative effort to support and promote the donation process.

HISTORY: 1991 Act No. 29, Section 1; 1998 Act No. 289, Section 8; 2006 Act No. 334, Section 1, eff June 2, 2006; 2009 Act No. 4, Section 3, eff May 6, 2009.

Effect of Amendment

The 2006 amendment rewrote this section.

The 2009 amendment made no apparent changes.

**SECTION 44-43-945.** Determination of appropriateness of donation; contacting person authorized to give consent.

(A) If upon referral of a potential organ or tissue donor, the organ and tissue procurement organization determines that the donation is not appropriate based on established medical criteria, this determination must be noted by hospital personnel on the patient's record. Within two hours of this determination and the deceased patient's next-of-kin designating a funeral director, the hospital shall notify the funeral director of this designation and when the body of the deceased will be made available to the funeral director.

(B) If the organ and tissue procurement organization determines that the patient is a suitable candidate for organ or tissue donation, a representative of the organ and tissue procurement organization shall contact the appropriate person authorized to consent to the donation pursuant to Section 44-43-340.

(C) Discretion and sensitivity to family circumstances and religious beliefs must be used in all contacts with family members regarding organ and tissue donation.

HISTORY: 1998 Act No. 289, Section 8; 2006 Act No. 334, Section 1, eff June 2, 2006; 2009 Act No. 4, Section 3, eff May 6, 2009.

Effect of Amendment

The 2006 amendment, in subsection (A), in the first sentence substituted "or tissue donor, the organ and tissue procurement organization" for ", tissue, eye donation, or any combination of these, the South Carolina Donor Referral Network"; and in the third sentence, substituted "organ and tissue procurement organization" for "Donor Referral Network" in three places and deleted "eye" following "tissue" in two places; and, in subsection (B), deleted ", and eye" following "tissue,".

The 2009 amendment designated the third sentence of subsection (A) as subsection (B) and redesignated subsection (B) as subsection (C); in subsection (A), in the second sentence deleted "or within two hours of a patient's death" following "determination"; and, in subsection (B), deleted "or both," following "tissue donation" and "or a person designated by the organ and tissue procurement organization" following "procurement organization" and substituted "44-43-340" for "44-43-330 to ascertain if the deceased is an organ or tissue donor, or both, and if not, to inform the person about and the procedures for

organ and tissue donation".

**SECTION 44-43-950. Consent.**

As provided in Section 44-43-340, persons in the stated order of priority may give consent for organ or tissue donation.

HISTORY: 1991 Act No. 29, Section 1; 1992 Act No. 306, Section 7; 1998 Act No. 289, Section 8; 2006 Act No. 334, Section 1, eff June 2, 2006; 2009 Act No. 4, Section 3, eff May 6, 2009.

Effect of Amendment

The 2006 amendment at the end substituted "organ or tissue donation" for "organ, tissue, or eye donation, or any combination of these donations".

The 2009 amendment substituted "44-43-340" for "44-43-330".

**SECTION 44-43-960. Permission of, or referral by, medical examiner or coroner.**

If a death is under the jurisdiction of the coroner or medical examiner, as provided in Section 17-5-530, written or verbal permission must be obtained by the organ and tissue procurement organization from the coroner or medical examiner before organ or tissue recovery. A coroner or medical examiner should refer to the designated organ and tissue procurement organization in South Carolina as a potential donor a person whose death occurs outside of a hospital.

HISTORY: 1991 Act No. 29, Section 1; 1998 Act No. 289, Section 8; 2001 Act No. 73, Section 6, eff July 20, 2001; 2006 Act No. 334, Section 1, eff June 2, 2006; 2009 Act No. 4, Section 3, eff May 6, 2009.

Effect of Amendment

The 2001 amendment changed the reference from "Section 17-5-260" to "17-5-530".

The 2006 amendment added references to "the organ and tissue procurement organization" in two places and deleted "Donor Referral Network" following "South Carolina".

The 2009 amendment in the second sentence substituted "should" for "shall".

**SECTION 44-43-970. Exclusive agency for receipt of referrals and donations.**

(A) LifePoint, Inc. within the territory designated pursuant to federal law, is the exclusive agency to receive potential organ donor referrals and organ donations and tissue referrals and tissue donations so long as this entity remains and is certified by the Centers for Medicare and Medicaid Services and abides by the regulations of the Organ Procurement Transplantation Network and the United Network for Organ Sharing or its successor.

(B) LifePoint, Inc. annually by April first shall submit a report to the General Assembly concerning its activities and the incidence of organ and tissue donation.

HISTORY: 1991 Act No. 29, Section 1; 1998 Act No. 289, Section 8; 2006 Act No. 334, Section 1, eff June 2, 2006; 2009 Act No. 4, Section 3, eff May 6, 2009.

Effect of Amendment

The 2006 amendment, in subsection (A), substituted "LifePoint, Inc." for "The South Carolina Organ Procurement Agency," added "and tissue referrals and tissue donations" and substituted "Centers for Medicare and Medicaid Services" for "Health Care Financing Administration"; rewrote subsection (B), deleting references to the American Red Cross Southeastern Tissue Services and the South Carolina Organ Procurement Agency; deleted subsection (C) relating to the South Carolina Eye Bank; and deleted subsection (D) relating to donations through Section 44-43-340.

The 2009 amendment made no apparent changes.

**SECTION 44-43-985. Fees.**

The organ and tissue procurement organization may not assess a charge, fee, or cost against another procurement agency for referral of an organ or tissue donor. However, reasonable charges for related services pursuant to contractual relationships are permissible.

HISTORY: 1998 Act No. 289, Section 8; 2006 Act No. 334, Section 1, eff June 2, 2006; 2009 Act No. 4, Section 3, eff May 6, 2009.

Effect of Amendment

The 2006 amendment rewrote the first sentence and added the second sentence relating to permissible charges.

The 2009 amendment made no apparent changes.

**SECTION 44-43-1000. Documentation required in medical records of patients identified as potential donors.**

The following must be documented in the medical records of patients identified as potential organ or tissue donors:

- (1) why a family is not contacted to request organ or tissue donation;
- (2) when a family is contacted to request organ or tissue donation and the outcome of the contact;
- (3) disposition of a referral to a procurement agency, including acceptance or rejection by the agency. The appropriate procurement agency shall notify the referring hospital of the disposition;
- (4) other documentation as may be required by federal or state law or regulation.

HISTORY: 1991 Act No. 29, Section 1; 1998 Act No. 289, Section 8; 2006 Act No. 334, Section 1, eff June 2, 2006; 2009 Act No. 4, Section 3, eff May 6, 2009.

Effect of Amendment

The 2006 amendment in the introductory paragraph and items (1) and (2) deleted ", or eye" following "tissue".  
The 2009 amendment made no apparent changes.

**SECTION 44-43-1010.** Costs pertaining to donation paid by procurement agency.

All hospital and physician charges following declaration of death that pertain to organ and tissue donation must be paid by the appropriate procurement agency and must not be charged to the donor's estate. Procurement costs incurred by the agency must not be charged to the donor's estate.

HISTORY: 1991 Act No. 29, Section 1; 1998 Act No. 289, Section 8; 2006 Act No. 334, Section 1, eff June 2, 2006; 2009 Act No. 4, Section 3, eff May 6, 2009.

Effect of Amendment

The 2006 amendment deleted in the first sentence "in the Donor Referral Network" following "agency".  
The 2009 amendment in the first sentence deleted "brain" preceding "death".

**SECTION 44-43-1015.** Death record reviews.

Each hospital shall work collaboratively with the organ and tissue procurement organization in conducting periodic death record reviews.

HISTORY: 1998 Act No. 289, Section 8; 2006 Act No. 334, Section 1, eff June 2, 2006; 2009 Act No. 4, Section 3, eff May 6, 2009.

Effect of Amendment

The 2006 amendment rewrote this section to shift responsibility for the reviews from the Donor Referral Network to the hospitals.  
The 2009 amendment made no apparent changes.

**SECTION 44-43-1370.** Uses of resources. [*Dontae Life South Carolina*]

...(3) encouraging the incorporation of organ and tissue donation education into the medical and nursing school curriculums of the Medical University of South Carolina and the University of South Carolina, School of Medicine; if funds are provided to a university for this educational purpose, the university annually shall conduct a survey to determine if attitudes of its students and graduates have been altered by the curriculum. The results of the survey must be submitted to Donate Life;...

**SECTION 44-61-30.** Standards and regulations for improvement of emergency medical services; creation and membership of Emergency Medical Services Advisory Council.

**SECTION 48-45-40.** Membership; terms.

The membership of the consortium consists of The Citadel, the College of Charleston, Clemson University, the Medical University of South Carolina, South Carolina State College, the University of South Carolina, and the Department of Natural Resources. These members are designated as charter members.

The terms of the members are perpetual, and a majority of the charter members may vote the admission of a new member into the consortium.

HISTORY: 1978 Act No. 643, Section 4; 1987 Act No. 71, Section 2; 1993 Act No. 181, Section 1237.

**SECTION 59-48-20.** Board of trustees; appointment; term of office; compensation.

...(B) The board of trustees also shall include the following six members:... (2) the provost or vice president for academic affairs from each of the following higher education research institutions, ex officio, or his designee:

- (a) Clemson University;
- (b) the University of South Carolina; and
- (c) the Medical University of South Carolina; and...

**SECTION 59-101-10.** Designation of State colleges and universities.

There are universities and colleges as follows: one located in the City of Columbia, styled the University of South Carolina; another in or near the Town of Orangeburg, styled South Carolina State University; Clemson University; Winthrop University; another styled The Citadel, the Military College of South Carolina; the College of Charleston; another in or near the Town of Greenwood, styled Lander University; another in or near the City of Florence, styled Francis Marion University; the Medical University of South Carolina, and another in or near the City of Conway styled Coastal Carolina University. They are separate and distinct institutions, each under its separate board of trustees or visitors.

HISTORY: 1962 Code Section 22-1; 1952 Code Section 22-1; 1942 Code Section 5697; 1932 Code Section 5697; Civ. C. '22 Section 2765; Civ. C. '12 Section 1836; 1906 (25) 16; 1913 (28) 188; 1920 (31) 968; 1952 (47) 1875; 1954 (48) 1722; 1988 Act No. 510, Section 4; 2000 Act No. 254, Section 1.

**SECTION 59-101-40.** Presidents of student bodies may be ex officio members of boards of trustees.

Notwithstanding any other provisions of law relating to the composition of the various boards of trustees of State-supported institutions of higher learning, the president of the student body of each of these institutions may be, ex officio, a nonvoting member of the board of trustees of the institution he attends and represents.

The term of office of the student body president shall be contemporaneous with his term as president.

HISTORY: 1962 Code Section 22-1.1; 1972 (57) 2395.

**SECTION 59-101-50.** Enrollment preference given to residents.

The colleges and other institutions of learning of this State supported in whole or in part by the State shall receive as students those applicants residing within the State in preference to those residing without; provided, however, that the applications of those residing within the State shall be filed with the president or secretary of such college or institution of learning at least thirty days before the opening of such college or institution.

HISTORY: 1962 Code Section 22-2; 1952 Code Section 22-2; 1942 Code Section 5708; 1932 Code Section 5708; Civ. C. '22 Section 2776; 1917 (30) 339.

**SECTION 59-101-55.** State appropriated funds restriction.

State appropriated funds shall not be used to provide out-of-state subsidies to students attending state-supported institutions of higher learning.

HISTORY: 2011 Act No. 74, Pt VI, Section 10, eff August 1, 2011.

**SECTION 59-101-80.** Degree of licentiate of instruction.

The universities and colleges of this State may provide a course of study, to be approved by the State Board of Education, the completion of which by a student will entitle him to the degree of licentiate of instruction and they may issue a diploma showing the degree has been conferred.

HISTORY: 1962 Code Section 22-4; 1952 Code Section 22-4; 1942 Code Section 5698; 1932 Code Section 5698; Civ. C. '22 Section 2766; Civ. C. '12 Section 1837; Civ. C. '02 Section 1258; 1898 (22) 764.

**SECTION 59-101-90.** Suspending exercises for Christmas and New Year's Day.

All State colleges and universities shall suspend exercises for a period of not exceeding ten days, including the time required for going from and returning to such colleges and universities, such period to include Christmas Day and New Year's Day.

HISTORY: 1962 Code Section 22-5; 1952 Code Section 22-5; 1942 Code Section 5699; 1932 Code Section 5699; Civ. C. '22 Section 2768; Civ. C. '12 Section 1839; 1906 (25) 42.

**SECTION 59-101-100.** Display of United States and State flags.

The State Superintendent of Education shall make such rules and regulations, not inconsistent with the National Flag Code, for the display of the flag of the United States of America and the display of the State flag on the grounds of educational institutions supported, in whole or in part, by funds derived from this State. The person at the head of any educational institution in the State shall display the flag of the United States of America and the State flag on the grounds of educational institutions supported, in whole or in part, by funds derived from this State. The person at the head of any educational institution in the State shall display the flag of the United States of America and the State flag at such times and at such places and under such restrictions and rules as he may be directed to observe by the State Superintendent of Education.

HISTORY: 1962 Code Section 22-6; 1952 Code Section 22-6; 1942 Code Section 5705; 1939 (41) 298; 1965 (54) 244.

**SECTION 59-101-110.** Display of State flag on buildings of State University and State colleges.

The State flag shall be displayed daily, except in rainy weather, from a staff upon one building of the University of South Carolina and of each State college. The officer or officers in charge of such buildings shall purchase suitable flags and cause them to be displayed, the expense to be borne out of the funds provided for maintenance.

HISTORY: 1962 Code Section 22-7; 1952 Code Section 22-7; 1942 Code Section 5703; 1932 Code Sections 5703, 5705; Civ. C. '22 Sections 2772, 2773; Civ. C. '12 Sections 1842, 1843; 1910 (26) 753; 1922 (32) 779.

**SECTION 59-101-120.** Charge for diplomas.

At no State institution of higher learning shall any graduate be charged more than the actual cost for his diploma. But a graduate from any such institution of higher learning may pay a greater price for his diploma if such graduate should elect to do so.

HISTORY: 1962 Code Section 22-9; 1952 Code Section 22-9; 1942 Code Section 5712-2; 1933 (38) 273; 1934 (38) 1291; 1972 (57) 2604; 1981 Act No. 178, Part II, Section 24.

**SECTION 59-101-130.** High schools shall report to Superintendent of Education; institutions of higher learning shall report to high schools. On or before May first of each calendar year, every high school which issues a State high school diploma shall submit to the State Superintendent of Education in such form as he may prescribe the following data:

- (1) The number of high school graduates that entered the freshman class of an institution of higher learning, either in or out of this State, for whom a first semester report has been received.
- (2) A breakdown showing all courses passed by such group.
- (3) A breakdown showing all courses failed by such group.

Every high school shall seek diligently to obtain such data from out-of-State institutions of higher learning. Any high school which fails to file a report or files a false report shall lose its accreditation.

Every institution of higher learning in this State shall submit to the State high school from which each freshman was graduated a report on the first semester accomplishments of each freshman.

HISTORY: 1962 Code Section 22-10; 1952 Code Section 22-10; 1947 (45) 317; 1962 (52) 1719.

**SECTION 59-101-140.** Tabulation of reports.

After such reports have been received, the State Superintendent of Education shall cause them to be tabulated so as to show the academic performance of graduates from the respective high schools who entered institutions of higher learning. When such tables have been prepared, they shall be included in the annual report of the State Superintendent of Education as presented to the General Assembly. The State Superintendent of Education shall acquaint the proper officials of the institutions of higher learning with the requirements of Section 59-101-130.

HISTORY: 1962 Code Section 22-11; 1952 Code Section 22-11; 1947 (45) 317; 1962 (52) 1719.

**SECTION 59-101-150.** Approval of new programs.

No new program shall be undertaken by any State-supported institution of higher learning without the approval of the Commission or the General Assembly.

HISTORY: 1962 Code Section 22-11.1; 1973 (58) 691.

**SECTION 59-101-170.** Liability insurance.

All institutions of higher learning in the State are authorized to procure liability insurance in amounts deemed reasonable and necessary by their respective boards of trustees for the benefit and protection of employees who may be liable to third persons who are injured or killed or whose property is damaged as a result of negligence of the employee in the performance of his or her regularly assigned duties. Provided, that such insurance shall not include physicians' and dentists' professional (malpractice) liability insurance coverage.

The premiums on all insurance contracts as herein authorized shall be paid from funds of the institution concerned and shall be considered a part of the general expense of that institution.

Actions brought for damages or injury covered by the insurance authorized by this section shall be brought directly against the individuals insured by such policies and neither the State nor the particular institution concerned shall be a party to such action nor shall any provision of this section be construed as a waiver of the State's general immunity from liability and suit.

HISTORY: 1962 Code Section 22-14; 1968 (55) 2855.

**SECTION 59-101-180.** Sale and disposal of real property.

The governing body for each state-supported college and university shall review the real property titled in the name of its institution to determine if such property is in excess of the institution's anticipated needs and is available for disposal. All real properties determined to be in excess may be disposed of with the approval of the State Fiscal Accountability Authority or the Department of Administration, as appropriate, and the governing body for the college or university. The proceeds of such sales are to be disposed of as follows:

- (1) if the property was acquired as a gift, or through tuition, student fees or earned income, the proceeds may be retained by the selling institution for use in accord with established needs;
- (2) if the property was acquired through state appropriations, state capital improvement bonds, or formula funds, the proceeds shall revert to the state general fund.

The responsibility for providing any necessary documentation including, but not limited to, documenting the fund source of any real property proposed for sale rests with each respective institution.

HISTORY: 1962 Code Section 22-14.1; 1968 (55) 2855; 1998 Act No. 419, Part II, Section 10B.

**SECTION 59-101-185.** Governing boards of state institutions of higher learning authorized to maintain financial management and accounting systems.

Authority to maintain financial management and accounting systems is delegated to the Board of Trustees or Boards of Visitors of the following state institutions of higher learning: The University of South Carolina, Clemson University, The Medical University of South Carolina, The Citadel, Winthrop University, South Carolina State University, Francis Marion University, The College of Charleston, Lander University, and Coastal Carolina University. Such systems shall provide financial information to the Comptroller General's Statewide Accounting and Reporting System (STARS) in the format and level of detail as prescribed by the Comptroller General.

HISTORY: 1982 Act No. 466, Part II, Section 8; 2000 Act No. 254, Section 2.

**SECTION 59-101-187.** Events recognizing academic and research excellence; funding sources.

Pursuant to a written policy adopted by the governing board of a public institution of higher learning, as defined in Section 59-103-5, the

institution may expend funds from the sources listed in this section for events which recognize academic and research excellence and noteworthy accomplishments of members of the faculty and staff, students, and distinguished guests of the institution. Sources of the funds for these expenditures include only:

- (1) revenues derived from athletics or other student contests;
- (2) the activities of student organizations;
- (3) the operations of canteens and bookstores; and
- (4) approved private practice plans and all nonappropriated state funds.

The expenditures of funds from these sources pursuant to the written policy of the board for the purposes stated in this section are considered to meet the public purpose test for the expenditure of public funds. A copy of the written policy adopted by the board must be forwarded to the Commission on Higher Education.

HISTORY: 1999 Act No. 70, Section 1.

**SECTION 59-101-190.** Deans' Committee on Medical Education.

There is created a Deans' Committee on Medical Education consisting of nine members as follows:

- (1) President, University of South Carolina or his designee;
- (2) President, Medical University of South Carolina or his designee;
- (3) Dean or acting dean, School of Medicine, University of South Carolina;
- (4) Dean or acting dean, School of Medicine, Medical University of South Carolina;
- (5) two members appointed by the Commission on Higher Education, one of whom must be a physician with experience in medical education and one of whom must be a representative of the business community;
- (6) three members of the Area Health Education Consortium medical education director's committee, who shall represent graduate medical education, to be appointed by the Commission on Higher Education.

The terms of the members selected under items (5) and (6) above shall be for four years and until their successors are appointed and qualify. In making these appointments, the Commission on Higher Education, to the extent possible, shall ensure geographic representation of all regions of the State. Vacancies shall be filled in the manner of original appointment.

The Deans' Committee on Medical Education may also contain nonvoting members invited to attend meetings by the committee on an ad hoc basis. The chairmanship of the deans' committee shall alternate between the Dean of the School of Medicine of the University of South Carolina and the Dean of the College of Medicine of the Medical University of South Carolina. The term of the chairman shall be two years, and the committee at its first meeting after the effective date of this provision shall determine by majority vote the person who will first serve as chairman. Meetings shall be held at least quarterly during each year.

The purpose of the committee is to ensure and coordinate the development and implementation of a strategic plan for effective and efficient medical education, research, and related clinical service programs to best meet the needs of the State of South Carolina. Adoption of the strategic plan shall require at least one vote of a member representing USC and MUSC and a total of at least seven votes of the entire committee. Any strategic plan approved by the deans' committee also must be approved by the Commission on Higher Education if it contains any proposal for the consolidation, elimination, or change of medical education programs.

The committee shall report to the Commission on Higher Education through the commission's Committee on Academic Affairs. The deans' committee shall provide oversight of the Area Health Education Consortium and the consortium of teaching hospitals by reviewing and approving its strategic plan and budget. The Commission on Higher Education shall furnish adequate meeting space and professional and secretarial assistance for the committee.

HISTORY: 1976 Act No. 709, Part II, Section 6; 2000 Act No. 323, Section 1.

**SECTION 59-101-195.** Maximum compensation of medical school physicians and employees.

The maximum compensation of any physician or other employee of a medical school of the State of South Carolina shall be approved in advance annually by the President or the Board of Trustees of that medical school. All compensation must be approved by someone other than the recipient thereof. Compensation shall include all remuneration obtained, through a professional service organization or otherwise, with use of state owned facilities, equipment or supplies.

HISTORY: 1990 Act No. 323, Section 1.

**SECTION 59-101-197.** Reporting requirement of financial information for medical school receiving state appropriation.

(A) For purposes of this section "affiliate" means any entity controlled by or under common control with another entity, whether through ownership, interlocking boards or officers, charter, bylaws, or otherwise and including each professional staff office or practice of each medical school receiving an appropriation from the State, and each trust or foundation which has as one of its significant purposes the support of a medical school receiving an appropriation from the State.

(B) Not later than September first of each year, each medical school receiving an appropriation from the State shall provide to the General Assembly a written report setting forth:

- (1) for the prior fiscal year the total compensation paid or accrued by the medical school and its affiliates, including cash, fringe benefits,

retirement accounts or arrangements, deferred compensation accounts or arrangements, consultant's, director's, and trustee's fees and honoraria, from all sources to or for each officer, dean, department chairman, and each of the fifty most highly compensated physicians employed by or utilizing the facilities of the medical school or its affiliates;

(2) a description of each element of the compensation;

(3) the source of each element of the compensation; and

(4) the number of out-of-state students and the total number of students in each academic program.

HISTORY: 1995 Act No. 72, Section 1.

**SECTION 59-101-200.** Hazing prohibited; penalties.

(A) For purposes of this section:

(1) "Student" means a person enrolled in a state university, college, or other public institution of higher learning.

(2) "Superior student" means a student who has attended a state university, college, or other public institution of higher learning longer than another student or who has an official position giving authority over another student.

(3) "Subordinate student" means a person who attends a state university, college, or other public institution of higher learning who is not defined as a "superior student" in subitem (2).

(4) "Hazing" means the wrongful striking, laying open hand upon, threatening with violence, or offering to do bodily harm by a superior student to a subordinate student with intent to punish or injure the subordinate student, or other unauthorized treatment by the superior student of a subordinate student of a tyrannical, abusive, shameful, insulting, or humiliating nature.

(B) Hazing at all state supported universities, colleges, and public institutions of higher learning is prohibited. When an investigation has disclosed substantial evidence that a student has committed an act or acts of hazing, the student may be dismissed, expelled, suspended, or punished as the president considers appropriate.

(C) The provisions of this section are in addition to the provisions of Article 6, Chapter 3 of Title 16.

(D) The provisions of Section 30-4-40(a)(2) and 30-4-70(a)(1) continue to apply to hazing incidents.

HISTORY: 1994 Act No. 328, Section 1.

**SECTION 59-101-210.** Institutional reports of certain violations; contents; availability; redress for violations.

(A)(1) Beginning with the 2016-2017 academic year, a public institution of higher learning, excluding technical colleges, shall maintain a report of actual findings of violations of the institution's Conduct of Student Organizations by fraternity and sorority organizations formally affiliated with the institution.

(2) The report of actual findings of violations of the Conduct of Student Organizations is required for offenses involving:

(a) alcohol;

(b) drugs;

(c) sexual assault;

(d) physical assault; and

(e) hazing.

(3) The report of actual findings of violations must contain:

(a) the name of the organization;

(b) when the organization was charged with misconduct;

(c) the dates on which the citation was issued or the event occurred;

(d) the date the investigation was initiated;

(e) a general description of the incident, the charges, findings, and sanctions placed on the organization; and

(f) the date on which the matter was resolved.

(4) The report must include no personal identifying information of the individual members and shall be subject to the requirements of the Family Education Rights and Privacy Act (FERPA), 20 U.S.C. 1232g.

(5) The institution shall update this report at least forty-five calendar days before the start of the fall and spring academic semesters.

(6) The institution shall provide reports required under this section on its Internet website in a prominent location. The webpage that contains this report must include a statement notifying the public:

(a) of the availability of additional information related to findings, sanctions, and organizational sanction completion;

(b) where a member of the public may obtain the additional information that is not protected under the Family Education Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; and

(c) that the institution is required to provide this additional information pursuant to the South Carolina Freedom of Information Act.

(7) The institution shall furnish a printed notice of the nature and availability of this report and the website address where it can be found to attendees at student orientation.

(8) The institution shall maintain reports as they are updated for four years. Information that is four years old may be removed from the record by the institution as it updates its records.

(B) A public institution of higher learning shall submit to the Commission on Higher Education a statement within fourteen calendar days that the reports have been updated as required in subsection (A)(4). The commission shall publish on their webpage a link to the institution's updated reports.

(C) A member of the public who believes that an institution is not complying with the information disclosure required under this section may seek relief as provided for under the South Carolina Freedom of Information Act.

HISTORY: 2016 Act No. 265 (H.4521), Section 2, eff June 29, 2016.

Repeal

2016 Act No. 265, Section 4 provides that Act 265 expires June 29, 2019, unless extended or reenacted.

Editor's Note

2016 Act No. 265, Sections 1, 3, and 4, provide as follows: "SECTION 1. This act must be known and may be cited as the 'Tucker Hipps Transparency Act'."

"SECTION 3. Each public institution of higher learning shall compile an initial report and make it available to the public and online before the beginning of the 2016-2017 academic year. This initial report must include the information outlined in Section 59-101-210 beginning with data after December 31, 2012. If a university cannot comply with this requirement by the 2016-2017 academic year, they may apply for a one-year waiver but all public institutions must be compliant by the 2017-2018 academic year.

"SECTION 4. This act expires three years after its effective date, unless extended or reenacted by the General Assembly by law."

**SECTION 59-101-280.** Colleges and universities to emphasize teaching as career opportunity.

Colleges and universities of this State shall emphasize teaching as a career opportunity and those institutions with teacher education programs should make the preparation of teachers a fundamental part of the institution's mission. These colleges and universities should allocate resources appropriate for support of this mission, support of professional development programs for practicing teachers and teacher education faculties to include technology training. Greater attention should be given to attracting diversity in race and ethnicity in faculties and students. Opportunities also should be developed to provide students interested in a teaching career with opportunities to tutor other students. All teacher education programs should strengthen alliances with K-12 education to increase the clinical opportunities for their students and to become more responsive to the needs of practicing teachers. Closer alliances also should be established with the business community and should integrate critical workforce skills into content and methods courses. Teacher education faculties should provide teacher candidates with a variety of effective teaching practices to ensure the state's diverse student population achieve at high levels of learning.

HISTORY: 1984 Act No. 512, Part II, Section 9, Division II, Subdivision C, Subpart 1, Section 1(B); 2001 Act No. 39, Section 1.

**SECTION 59-101-285.** Governing board meeting attendance requirements for board members.

Notwithstanding any other provision of law or special provision applicable to a particular institution, a member of the governing board of an institution of higher learning as defined in Section 59-103-5 must attend at least two-thirds of the regular and special meetings of the board during any calendar year or a vacancy in that office is deemed to exist as of January first of the next year which shall be filled in the manner provided by law. The chairman of that board when a violation of this section occurs shall report the violation to the appointing or electing authority within thirty days after the close of the calendar year in which the violation occurred. The member of the governing board who missed such meetings thereby causing the vacancy is ineligible for reelection or reappointment to that board for a period of ten years thereafter.

Time effective

HISTORY: 2002 Act No. 250, Section 2.

**SECTION 59-101-290.** Notification of risk of contracting certain diseases if living on-campus.

(A) A public institution of higher learning shall notify incoming students, or the parent or guardian of an incoming student under the age of eighteen, of the risk of contracting meningococcal disease and Hepatitis B if living in on-campus student housing.

(B) A public institution of higher learning shall include vaccination against meningococcal disease and Hepatitis B as recommended immunization in health and medical information provided to students or prospective students and parents or guardians.

(C) A private institution of higher learning may elect to be governed by this section and at any time may, in its sole discretion, remove itself from such governance.

HISTORY: 2002 Act No. 317, Section 1.

**SECTION 59-101-335.** Authorization to establish penalties and bonds for traffic and parking violations; availability of schedule of penalties and bonds for such offenses.

The governing boards of all state-supported colleges, universities, and technical schools shall be authorized to establish penalties and bonds for traffic and parking violations occurring on property which is owned, leased, supervised, or otherwise controlled by the institution. A schedule of penalties and bonds for such offenses shall be available for inspection during normal business hours at the institution at a location designated by the board.

HISTORY: 1995 Act No. 145, Part II, Section 81.

**SECTION 59-101-340.** Allocation of funds appropriated for the "Cutting Edge: Research Investment Initiative".

Twenty-five percent of funds appropriated by the General Assembly for the "Cutting Edge: Research Investment Initiative" must be allocated to the state's senior public colleges. If the number of quality proposals for funding submitted by the senior colleges does not require the full allocation, the balance of the allocation must be distributed by the Commission on Higher Education to the state's public universities.

HISTORY: 1989 Act No. 189, Part II, Section 44.

**SECTION 59-101-345.** Authority to reallocate funds between Palmetto Fellows Program and need-based grants; priority to students in custody of Department of Social Services.

In instances where the equal division of the appropriated funds between need-based grants and the Palmetto Fellows Program exceeds the capacity to make awards in either program, the Commission on Higher Education has the authority to reallocate the remaining funds between the two programs. Public and independent higher education institutions must give first priority for need-based grants to children and young adults in the custody of the State Department of Social Services. Institutions and the Commission on Higher Education shall accept written verification from the Department of Social Services that the child or young adult is in the custody of the Department of Social Services, and must provide the maximum amount allowed by law for that need-based grant.

HISTORY: 2002 Act No. 356, Section 1, Part II.E.

**SECTION 59-101-350.** Commission on Higher Education annual report; submission of information by educational institutions for inclusion in report; alumni surveys.

(A) The Commission on Higher Education shall submit an annual report to the Governor and to the General Assembly. The annual report must be published before January fifteenth of each year and presented in a readable format so as to easily compare with peer institutions in South Carolina and other Southern Regional Education Board states the state's public, post-secondary institutions. Prior to publication, the Commission on Higher Education shall distribute a draft of the report to all public, post-secondary institutions and shall allow comment upon the draft report. The Commission on Higher Education shall develop and adopt a format for the report and shall ensure consistent reporting and collecting of the data in the report by the institutions.

(B) Each four-year, post-secondary institution shall submit to the commission the following information for inclusion in the report, with the South Carolina Department of Corrections' students identified and reported separately:

- (1) the number and percentage of accredited programs and the number and percentage of programs eligible for accreditation;
- (2) the number and percentage of undergraduate and graduate students who completed their degree program;
- (3) the percent of lower division instructional courses taught by full-time faculty, part-time faculty, and graduate assistants;
- (4) the percent and number of students enrolled in remedial courses and the number of students exiting remedial courses and successfully completing entry-level curriculum courses;
- (5) the percent of graduate and upper division undergraduate students participating in sponsored research programs;
- (6) placement data on graduates;
- (7) the percent change in the enrollment rate of students from minority groups and the change in the total number of minority students enrolled over the past five years;
- (8) the percent of graduate students who received undergraduate degrees at the institution, within the State, within the United States, and from other nations;
- (9) the number of full-time students who have transferred from a two-year, post-secondary institution and the number of full-time students who have transferred to two-year, post-secondary institutions;
- (10) student scores on professional examinations with detailed information on state and national means, passing scores, and pass rates, as available, and with information on such scores over time, and the number of students taking each exam;

(11) assessment information for the institution's Title II of the federal Higher Education Act of 1998 report that collects and analyzes data on applicant qualifications and the performance of the candidates and graduates;

(12) appropriate information relating to each institution's role and mission to include policies and procedures to ensure that academic programs support the economic development needs in the State by providing a technologically skilled workforce;

(13) any information required by the commission in order for it to measure and determine the institution's standard of achievement in regard to the performance indicators for quality academic success enumerated in Section 59-103-30.

(C) Each two-year, post-secondary institution shall submit to the commission the following information for inclusion in the report:

(1) the number and percentage of accredited programs and the number and percentage of programs eligible for accreditation;

(2) the number and percentage of undergraduate students who completed their degree program;

(3) the percent of courses taught by full-time faculty members, part-time faculty, and graduate assistants;

(4) placement rate on graduates;

(5) the percent change in the enrollment rate of students from minority groups, the number of minority students enrolled, and the change in the total number of minority students enrolled over the past five years;

(6) the number of students who have transferred into a four-year, post-secondary institution and the number of students who have transferred from four-year, post-secondary institutions;

(7) appropriate information relating to the institution's role and mission to include policies and procedures to ensure that academic programs support the economic development needs in the State by providing a technologically skilled workforce;

(8) any information required by the commission in order for it to measure and determine the institution's standard of achievement in regard to the performance indicators for quality academic success enumerated in Section 59-103-30.

(D) The commission also shall develop with the cooperation of the public, post-secondary institutions, a uniform set of questions to be included in surveys to be used by each public, post-secondary institution in determining alumni satisfaction. The survey instruments must address the issues of overall satisfaction, satisfaction with major instruction, impact of general education, and current societal participation of alumni. Every two years the graduating class of three years prior must be surveyed by each institution using appropriate statistical techniques. Information from these surveys must be included every two years in the annual report as required herein.

(E) The commission shall make no funding decision, capital outlay decision, distribution or certification on behalf of any public, post-secondary institution that has not submitted the information required pursuant to this section.

(F) After discussions with the institutions, the Commission on Higher Education in consultation with the House Education and Public Works Committee and the Senate Education Committee shall develop the format for the higher education report as required herein.

(G) The Commission on Higher Education also is required in the annual report to report on the progress of institutions of higher education in implementing assessment programs, in their achievement of effectiveness goals, and on each institution's standard of achievement in regard to the performance indicators for academic success established in Section 59-103-30.

(H) The report required by this section must be filed in magnetic media form if the information is available in that form.

HISTORY: 1992 Act No. 255, Section 1; 1996 Act No. 359, Section 11; 2001 Act No. 38, Section 1.

**SECTION 59-101-395.** Refund of tuition and academic fees when activated for military service; opportunity to complete courses.

(A) When any person is activated for full-time military service during a time of national crisis and, therefore, is required to cease attending a public institution of higher learning without completing and receiving a grade in one or more courses, the assistance provided in this section is required with regard to courses not completed. A complete refund of tuition and academic fees as are assessed against all students at the institution shall be granted to the student. The refund shall be distributed proportionately to the student after considering other resources received by the student for paying applicable tuition and fee charges. The proportionate distribution shall take into account appropriate federal and state regulations governing resources received by the student. Proportionate refunds of room and board, if applicable, and other special fees which were paid to the institution must be provided to the student, based on the date of withdrawal. If an institution contracts for room and board services covered by fees which have been paid by and refunded to the student, the contractor shall provide a pro rata refund to the institution. If the institution has a policy of repurchasing textbooks, students must be offered the maximum price, based on condition, for the textbooks associated with the courses.

(B) When a student is required to cease attendance because of such military activation without completing and receiving a grade in one or

more courses, the institution shall provide a reasonable opportunity for completion of the courses after deactivation.

HISTORY: 2002 Act No. 330, Section 1.

**SECTION 59-101-410.** Loan of endowment funds and auxiliary enterprise funds.

(A) As used in this section, "auxiliary enterprise funds" means athletics revenues and funds derived from bookstore, licensing, vending, concessions, and food service operations.

(B) The governing boards of all state-supported colleges, universities, and technical schools may lend from time to time their endowment funds and auxiliary enterprise funds, including interest derived therefrom, currently on deposit with the State Treasurer's Office to separately chartered not-for-profit legal entities whose existence is primarily providing financial assistance and other support to the institution and its educational program. The governing boards of all state-supported colleges, universities, and technical schools also may lend from time to time their future endowment funds and auxiliary enterprise funds received, including interest derived therefrom, currently on deposit with the State Treasurer's Office to separately chartered not-for-profit legal entities whose existence is primarily to provide financial assistance and other support to the institution and its educational program, provided however, that all of these funds must first be recorded with the State Treasurer's Office. Income from the loan of auxiliary funds as provided in this section must be used solely for scholarship purposes. The loans must be in accordance with such terms and conditions as determined by the respective institution's governing body.

HISTORY: 1998 Act No. 419, Part II, Section 9A.

**SECTION 59-101-420.** Annual reporting of out-of-state undergraduate student population and policy.

Any public institution of higher education is required to annually report the number of out-of-state undergraduate students in attendance at the respective university for the fall and spring semester. Each university will also be required to report an out-of-state undergraduate student policy and how that policy was enacted by each university. The report will be required to be submitted to the Governor and each member of the General Assembly no later than September fifteenth of each year for the latest completed school year.

HISTORY: 2004 Act No. 187, Section 15, eff March 17, 2004.

Code Commissioner's Note

At the direction of the Code Commissioner, this section was codified as Section 51-101-420.

**SECTION 59-101-430.** Unlawful aliens; eligibility to attend public institution of higher learning; development of process for verifying lawful presence; eligibility for public benefits on basis of residence.

(A) An alien unlawfully present in the United States is not eligible to attend a public institution of higher learning in this State, as defined in Section 59-103-5. The trustees of a public institution of higher learning in this State shall develop and institute a process by which lawful presence in the United States is verified. In doing so, institution personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

(B) An alien unlawfully present in the United States is not eligible on the basis of residence for a public higher education benefit including, but not limited to, scholarships, financial aid, grants, or resident tuition.

HISTORY: 2008 Act No. 280, Section 17, eff June 4, 2008.

**SECTION 59-101-610.** Use of funds for lump-sum bonus plans.

A public institution of higher learning may spend federal and other nonstate appropriated sources of revenue to provide lump-sum bonuses at levels outlined in a plan approved by the governing body of the respective public institution of higher learning and according to guidelines established in the plan. The public institution of higher learning must maintain documentation to show that the use of federal funds for this purpose is in compliance with federal law. This payment is not a part of the employee's base salary and is not earnable compensation for purposes of employee and employer contributions to the respective retirement systems.

HISTORY: 2005 Act No. 143, Section 1, eff June 7, 2005.

**SECTION 59-101-620.** Educational fee waivers.

A public institution of higher learning may offer educational fee waivers to no more than four percent of the undergraduate student body.

HISTORY: 2005 Act No. 143, Section 1, eff June 7, 2005.

**SECTION 59-101-630.** Funding research grant positions.

Notwithstanding any other provision of law, and in recognition and support of the opportunities for economic development presented through the expansion of research activities, a public institution of higher learning may establish research grant positions funded by federal grants, public charity grants, private foundation grants, research grants, medical school practice plans, individual private gifts, externally generated revenue for service or testing activities, and grant generated revenue or a combination of these, without regard to the authorized number of full-time equivalency (FTE) positions allocated to the public institution of higher learning, provided that:

(1) state appropriated funds must not be used to fund any portion of research grant positions. FTE positions funded solely or partially by

state or other funding sources shall remain subject to the number of FTE positions authorized for each public institution of higher learning;

(2) research grant positions shall not occupy FTE positions;

(3) research grant positions may be established using other funds during the proposal development or pre-award stages of grant funding in anticipation of specific grant or project funding;

(4) research grant positions may be established for multiple years; however, research grant positions are limited to and may not exist beyond the duration of the funding for the project or grant or any subsequent renewal. At the discretion of the public institution of higher learning other funds may be used to fund continued employment between the expiration of one grant and the subsequent renewal of the same or similar grant or the award of an additional grant. When funding for the project or grant ends or is insufficient to continue payments under the conditions of the project or grant, research grant employees must be terminated and these positions must cease to exist. Research grant employees are exempt from the provisions of Sections 8-17-310 through 8-17-380;

(5) persons occupying research grant positions may be eligible for all benefits, not to exceed those benefits available to covered state employees, provided that funds are available within the grant or project or by use of grant-generated revenue;

(6) persons occupying research grant positions are employed at-will and do not have grievance rights afforded to covered state employees or faculty of the respective public institution of higher learning. Research grant employees are not entitled to compensation beyond the date of termination, other than for the part of the project or grant that has been performed; and

(7) discretionary determinations by a public institution of higher learning as to whether to hire an employee pursuant to this section are final and not subject to administrative or judicial appeal.

HISTORY: 2005 Act No. 143, Section 1, eff June 7, 2005.

**SECTION 59-101-640.** Graduate assistant health insurance.

A public institution of higher learning may offer and fund, from any source of revenue other than state approved sources, health insurance to full-time graduate assistants according to a plan approved by the governing body of the respective public institution of higher learning.

HISTORY: 2005 Act No. 143, Section 1, eff June 7, 2005.

**SECTION 59-101-650.** Eminent domain.

The board of trustees of a public institution of higher learning is vested with the power of eminent domain. The authority granted in this section applies only to private lands. The lands condemned must be used by the public institution of higher learning in the performance of its functions in the acquisition, construction, and operation of facilities for the public institution of higher learning, and is subject to the approval of the State Fiscal Accountability Authority or the Department of Administration, as appropriate.

HISTORY: 2005 Act No. 143, Section 1, eff June 7, 2005.

**SECTION 59-101-660.** Annual audit and quality review process; negotiation with preapproved public accountant firms.

A public institution of higher learning may negotiate for its annual audit and quality review process with reputable certified public accountant firms selected from a list preapproved by the State Auditor's office.

HISTORY: 2005 Act No. 143, Section 1, eff June 7, 2005.

**SECTION 59-101-670.** Transaction register of funds expended; contents; posting on website; procurement card statement information; redaction; technical consultation.

(A) Each public institution of higher learning shall maintain a transaction register that includes a complete record of all funds expended, from whatever source for whatever purpose. The register must be prominently posted on the institution's Internet website and made available for public viewing and downloading.

(1)(a) The register must include for each expenditure:

(i) the transaction amount;

(ii) the name of the payee;

(iii) the identification number of the transaction; and

(iv) a description of the expenditure, including the source of funds, a category title, and an object title for the expenditure.

(b) The register must include all reimbursements for expenses, but must not include an entry for salary, wages, or other compensation paid to individual employees.

(c) The register must not include a social security number.

(d) The register must be accompanied by a complete explanation of any codes or acronyms used to identify a payee or an expenditure.

(e) At the option of the public institution, the register may exclude any information that can be used to identify an individual employee or student.

(f) This section does not require the posting of any information that is not required to be disclosed under Chapter 4, Title 30.

(2) The register must be searchable and updated at least once a month. Each monthly register must be maintained on the Internet website for at least three years.

(B) Each public institution of higher learning shall be responsible for providing on its Internet website a link to the Internet website of any agency, other than the individual institution, that posts on its Internet website the institution's monthly state procurement card statements or monthly reports containing all or substantially all of the same information contained in the monthly state procurement card statements. The link must be to the specific webpage or section on the website of the agency where the state procurement card information for the institution can be found. The information posted may not contain the state procurement card number.

(C) Any information that is expressly prohibited from public disclosure by federal or state law or regulation must be redacted from any posting required by this section.

(D) In the event any public institution of higher learning has a question or issue relating to technical aspects of complying with the requirements of this section or the disclosure of public information under this section, it shall consult with the Office of Comptroller General, which may provide guidance to the public institution.

HISTORY: 2011 Act No. 74, Pt II, Section 2.A, eff August 1, 2011.

Editor's Note

2011 Act No. 74, Section 2.C., provides as follows: "This SECTION takes effect upon approval by the Governor, and public institutions of higher learning to which this SECTION applies shall have one year from the effective date of this act to comply with its requirements."

**SECTION 59-103-5. Definitions.**

For purposes of this chapter (1) "public higher education" shall mean state-supported education in the post-secondary field, including comprehensive and technical education; (2) "public institution of higher learning" shall mean any state-supported-post-secondary educational institution and shall include technical and comprehensive educational institutions.

HISTORY: 1978 Act No. 410, Section 1.

**SECTION 59-103-10. State Commission on Higher Education created; membership.**

There is created the State Commission on Higher Education. The commission shall consist of fifteen members appointed by the Governor. The membership must consist of one at-large member to serve as chairman, one representative from each of the congressional districts, three members appointed from the State at large, three representatives of the public colleges and universities, and one representative of the independent colleges and universities of South Carolina.

The membership of the Commission on Higher Education must be as follows:

(1) Ten members, seven to represent each of the congressional districts of this State appointed by the Governor upon the recommendation of a majority of the senators and a majority of the members of the House of Representatives comprising the legislative delegation from the district and three members appointed from the State at large upon the advice and consent of the Senate. Each representative of a congressional district must be a resident of the congressional district he represents. In order to qualify for appointment, the representatives from the congressional districts and those appointed at large must have experience in at least one of the following areas: business, the education of future leaders and teachers, management, or policy. A member representing the congressional districts or appointed at large must not have been, during the succeeding five years, a member of a governing body of a public institution of higher learning in this State and must not be employed or have immediate family members employed by any of the public colleges and universities of this State. These members must be appointed for terms of four years and shall not serve on the commission for more than two consecutive terms. However, the initial term of office for a member appointed from an even-numbered congressional district shall be two years.

If the boundaries of the congressional districts are changed, members serving on the commission shall continue to serve until the expiration of their current terms, but successors to members whose terms expire must be appointed from the newly defined congressional districts. If a congressional district is added, the commission must be enlarged to include a representative from that district.

(2) Three members to serve ex officio to represent the public colleges and universities appointed by the Governor with the advice and consent of the Senate. It shall not be a conflict of interest for any voting ex officio member to vote on matters pertaining to their individual college or university. One member must be serving on the board of trustees of one of the public senior research institutions, one member must be serving on the board of trustees of one of the four-year public institutions of higher learning, and one member must be a member of one of the local area technical education commissions or the State Board for Technical and Comprehensive Education to represent the State Board for Technical and Comprehensive Education. These members must be appointed to serve terms of two years with terms to rotate among the institutions.

(3) One ex officio member to represent the independent colleges and universities by the Governor upon the advice and consent of the Senate. The individual appointed must be serving as a member of the Advisory Council of Private College Presidents. This member must be appointed for a term of two years and shall serve as a nonvoting member.

(4) One at-large member to serve as chairman appointed by the Governor with the advice and consent of the Senate. This member must be appointed for a term of four years and may be reappointed for one additional term; however, he may serve only one term as chairman.

The Governor, by his appointments, shall assure that various economic interests and minority groups, especially women and blacks, are fairly represented on the commission and shall attempt to assure that the graduates of no one public or private college or technical college are dominant on the commission. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term. All members of the commission shall serve until their successors are appointed and qualify.

HISTORY: 1978 Act No. 410, Section 2; 1988 Act No. 629, Section 2; 1995 Act No. 137, Section 1; 1996 Act No. 359, Section 1; 2012 Act No. 176, Section 6, eff May 25, 2012.

Editor's Note

2012 Act No. 176, Sections 18 and 19, provide as follows:

"SECTION 18. Notwithstanding any other provision of law to the contrary, any person elected or appointed to serve, or serving, as a member of any board or commission to represent a Congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board or commission from the district which loses a resident member as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires.

"SECTION 19. In the event that elections for incumbent university board of trustees' seats whose terms are expiring this year are not held prior to June 30, 2012, current board members will retain their seats until the General Assembly reconvenes and holds elections."

Effect of Amendment

The 2012 amendment in the first paragraph, substituted "fifteen" for "fourteen", and removed the word "six" before the phrase "congressional districts"; substituted "ten" for "nine" and "seven" for "six" in item (1); and made other nonsubstantive changes.

**SECTION 59-103-15.** Higher education mission and goals.

(A)(1) The General Assembly has determined that the mission for higher education in South Carolina is to be a global leader in providing a coordinated, comprehensive system of excellence in education by providing instruction, research, and life-long learning opportunities which are focused on economic development and benefit the State of South Carolina.

(2) The goals to be achieved through this mission are:

- (a) high academic quality;
- (b) affordable and accessible education;
- (c) instructional excellence;
- (d) coordination and cooperation with public education;
- (e) cooperation among the General Assembly, Commission on Higher Education, Council of Presidents of State Institutions, institutions of higher learning, and the business community;
- (f) economic growth;
- (g) clearly defined missions.

(B) The General Assembly has determined that the primary mission or focus for each type of institution of higher learning or other post-secondary school in this State is as follows:

(1) Research institutions

- (a) college-level baccalaureate education, master's, professional, and doctor of philosophy degrees which lead to continued education or employment;
- (b) research through the use of government, corporate, nonprofit-organization grants, or state resources, or both;
- (c) public service to the State and the local community;

(2) Four-year colleges and universities

- (a) college-level baccalaureate education and selected master's degrees which lead to employment or continued education, or both, except for doctoral degrees currently being offered;
- (b) doctoral degree in Marine Science approved by the Commission on Higher Education;
- (c) limited and specialized research;
- (d) public service to the State and the local community;

(3) Two-year institutions-branches of the University of South Carolina

- (a) college-level pre-baccalaureate education necessary to confer associates' degrees which lead to continued education at a four-year or research institution;
- (b) public service to the State and the local community;

(4) State technical and comprehensive education system

- (a) all post-secondary vocational, technical, and occupational diploma and associate degree programs leading directly to employment or maintenance of employment and associate degree programs which enable students to gain access to other post-secondary education;
- (b) up-to-date and appropriate occupational and technical training for adults;
- (c) special school programs that provide training for prospective employees for prospective and existing industry in order to enhance the economic development of South Carolina;
- (d) public service to the State and the local community;
- (e) continue to remain technical, vocational, or occupational colleges with a mission as stated in item (4) and primarily focused on technical education and the economic development of the State.

HISTORY: 1996 Act No. 359, Section 2; 2012 Act No. 213, Section 1, eff June 7, 2012.

Effect of Amendment

The 2012 amendment rewrote subsection (B)(2).

**SECTION 59-103-17.** Interstate reciprocity for postsecondary distance education.

(A) The Commission on Higher Education may enter into interstate reciprocity agreements, including, but not limited to, the State Authorization Reciprocity Agreement, that authorize accredited degree-granting institutions of higher education that offer postsecondary distance education to do so through such reciprocity agreements. The commission shall administer these agreements and shall approve or disapprove participation in these agreements by accredited degree-granting institutions of higher education in this State. The commission may assume and exercise all powers, duties, and responsibilities associated with and required under the terms of an interstate reciprocity agreement.

(B) The commission may develop policies, procedures, or regulations necessary for the implementation of this section, including the establishment of fees to be paid by participating institutions to cover direct and indirect administrative costs incurred by the commission. Participation in interstate reciprocity agreements shall be voluntary to eligible institutions of higher education in this State.

(C) Nothing in this section may be construed to prohibit institutions of higher education in this State that do not participate in any interstate reciprocity agreement entered into by the commission from offering postsecondary distance education.

(D) Nothing in this section may be construed to prohibit or reduce the commission's authority over institutions of higher education offering distance education in this State if the institution is not a participant in the interstate reciprocity agreement in which the commission participates.

HISTORY: 2016 Act No. 146 (H.4639), Section 1, eff March 14, 2016.

**SECTION 59-103-20.** Studies of institutions of higher learning.

The commission shall meet regularly and shall have the authority and responsibility for a coordinated, efficient, and responsive higher education system in this State consistent with the missions of each type of institution as stipulated in Section 59-103-15. In meeting this responsibility and in performing its duties and functions, the commission shall coordinate and collaborate at a minimum with the Council of Presidents of State Institutions, the council of board chairs of the various public institutions of higher learning, and the business community. The commission also is charged with examining the state's institutions of higher learning relative to both short and long-range programs and missions which include:

(a) the role of state-supported higher education in serving the needs of the State and the roles and participation of the individual institutions in the statewide program;

(b) enrollment trends, student costs, business management practices, accounting methods, operating results and needs, and capital fund requirements;

(c) the administrative setup and curriculum offerings of the several institutions and of the various departments, schools, institutes, and services within each institution and the respective relationships to the services and offerings of other institutions;

(d) areas of state-level coordination and cooperation with the objective of reducing duplication, increasing effectiveness, and achieving economies and eliminating sources of friction and misunderstanding;

(e) efforts to promote a clearer understanding and greater unity and good will among all institutions of higher learning, both public and private, in the interest of serving the educational needs of the people of South Carolina on a statewide level.

HISTORY: 1962 Code Section 22-15.7; 1962 (52) 1956; 1967 (55) 261; 1996 Act No. 359, Section 3.

**SECTION 59-103-25.** Publication of legislation; standing committees.

The commission shall compile and publish legislation applicable to it so that the relationships among the commission, the governing bodies of public institutions of higher education, the General Assembly and the executive branches of government may be more clearly established and understood.

The commission shall create from among its membership such standing committees as it may deem necessary. The creation of the

committees and their duties shall be prescribed by a two-thirds vote of the membership of the commission. Special committees may be created and their duties prescribed by a majority vote of the membership of the commission.

HISTORY: 1978 Act No. 410, Section 5.

**SECTION 59-103-30.** Critical success factors and performance indicators.

(A) The General Assembly has determined that the critical success factors, in priority order, for academic quality in the several institutions of higher learning in this State are as follows:

- (1) Mission Focus;
- (2) Quality of Faculty;
- (3) Classroom Quality;
- (4) Institutional Cooperation and Collaboration;
- (5) Administrative Efficiency;
- (6) Entrance Requirements;
- (7) Graduates' Achievements;
- (8) User-friendliness of the Institution;
- (9) Research Funding.

(B) The General Assembly has determined that whether or not an institution embodies these critical success factors can be measured by the following performance indicators as reflected under the critical success factors below:

(1) Mission Focus

- (a) expenditure of funds to achieve institutional mission;
- (b) curricula offered to achieve mission;
- (c) approval of a mission statement;
- (d) adoption of a strategic plan to support the mission statement;
- (e) attainment of goals of the strategic plan.

(2) Quality of Faculty

- (a) academic and other credentials of professors and instructors;
- (b) performance review system for faculty to include student and peer evaluations;
- (c) post-tenure review for tenured faculty;
- (d) compensation of faculty;
- (e) availability of faculty to students outside the classroom;
- (f) community and public service activities of faculty for which no extra compensation is paid.

(3) Instructional Quality

- (a) class sizes and student/teacher ratios;
- (b) number of credit hours taught by faculty;
- (c) ratio of full-time faculty as compared to other full-time employees;
- (d) accreditation of degree-granting programs;
- (e) institutional emphasis on quality teacher education and reform.

(4) Institutional Cooperation and Collaboration

- (a) sharing and use of technology, programs, equipment, supplies, and source matter experts within the institution, with other institutions, and with the business community;
- (b) cooperation and collaboration with private industry.

(5) Administrative Efficiency

- (a) percentage of administrative costs as compared to academic costs;
- (b) use of best management practices;
- (c) elimination of unjustified duplication of and waste in administrative and academic programs;
- (d) amount of general overhead costs.

(6) Entrance Requirements

- (a) SAT and ACT scores of student body;
- (b) high school class standing, grade point averages, and activities of student body;
- (c) post-secondary nonacademic achievements of student body;
- (d) priority on enrolling in-state residents.

(7) Graduates' Achievements

- (a) graduation rate;
- (b) employment rate for graduates;
- (c) employer feedback on graduates who were employed or not employed;
- (d) scores of graduates on post-undergraduate professional, graduate, or employment-related examinations and certification tests;
- (e) number of graduates who continued their education;

(f) credit hours earned of graduates.

(8) User-Friendliness of Institution

- (a) transferability of credits to and from the institution;
- (b) continuing education programs for graduates and others;
- (c) accessibility to the institution of all citizens of the State.

(9) Research Funding

- (a) financial support for reform in teacher education;
- (b) amount of public and private sector grants.

(C) The commission, when using the critical success factors for the purpose of funding recommendations for institutions of higher learning, is required to use objective, measurable criteria.

(D) Critical success factors developed and used for the purpose of funding recommendations shall be those which are directly related to the missions of the particular type of institution as outlined in Section 59-103-15(B) and not those factors which are not relevant to the success factors of the particular type of institution.

HISTORY: 1996 Act No. 359, Section 4.

**SECTION 59-103-35.** Submission of budget; new and existing programs.

All public institutions of higher learning shall submit annual budget requests to the commission in the manner set forth in this section. The State Board for Technical and Comprehensive Education shall submit an annual budget request to the commission representing the total requests of all area-wide technical and comprehensive educational institutions. The budget submitted by each institution and the State Board for Technical and Comprehensive Education must include all state funds, federal grants, tuition, and fees other than funds derived wholly from athletic or other student contests, from the activities of student organizations, from approved private practice plans, and from the operation of canteens and bookstores which may be retained by the institutions and be used as determined by the respective governing boards, subject to annual audit by the State. Fees established by the respective governing boards for programs, activities, and projects not covered by appropriations or other revenues may be retained and used by each institution as previously determined by the respective governing boards, subject to annual audit by the State. The budget request for the public higher education system shall be submitted by the commission to the Governor and appropriate standing committees of the General Assembly in conjunction with the preparation of the annual general appropriations act for the applicable year.

Supplemental appropriations requests from any public institution of higher education must be submitted first to the commission. If the commission does not concur in the requests, the affected institution may request a hearing on the requests before the appropriate committee of the General Assembly. The commission may appear at the hearing and present its own recommendations and findings to the same committee. The provisions of this paragraph do not apply to any capital improvement projects funded in whole or in part prior to July 30, 1996.

No new program may be undertaken by any public institution of higher education without the approval of the commission. The provisions of this chapter apply to all college parallel, transferable, and associate degree programs of technical and comprehensive education institutions. All other programs and offerings of technical and comprehensive education institutions are excluded from this chapter.

HISTORY: 1978 Act No. 410 Section 8; 1988 Act No. 629, Section 3; 1993 Act No. 178, Section 37; 1996 Act No. 359, Section 5.

**SECTION 59-103-36.** Military students included in count of full-time students.

Military students in the senior colleges and universities of this State shall be included in the count of full-time equivalent students for the purpose of determining the appropriation of each institution. The Commission on Higher Education and the Revenue and Fiscal Affairs Office may make whatever audit adjustments are necessary to carry out this intent.

HISTORY: 1981 Act No. 152, Section 1.

**SECTION 59-103-40.** Council of presidents of State institutions of higher learning.

The Commission shall establish a council of presidents consisting of the presidents of the State institutions of higher learning. The council of presidents shall appoint a chairman and such other officers and committees as it may see fit. It shall meet at least four times a year, of which two meetings will be held jointly with the Commission. The council of presidents shall establish committees consisting of qualified personnel representing the various State-supported institutions of higher learning, either upon request of the Commission or upon its own initiative, to investigate, study and report to the Commission on such subjects as:

- (a) Academic planning
- (b) Business and financial coordination
- (c) Library utilization and coordination.

HISTORY: 1962 Code Section 22-15.8; 1962 (52) 1956; 1967 (55) 261.

**SECTION 59-103-45.** Additional duties and functions of commission regarding public institutions of higher learning.

In addition to the powers, duties, and functions of the Commission on Higher Education as provided by law, the commission, notwithstanding any other provision of law to the contrary, shall have the following additional duties and functions with regard to the various public institutions of higher education:

- (1) establish procedures for the transferability of courses at the undergraduate level between two-year and four-year institutions or schools;
- (2) coordinate with the State Board of Education in the approval of secondary education courses for the purpose of determining minimum college entrance requirements, and define minimum academic expectations for prospective post-secondary students, communicate these expectations to the State Board of Education, and work with the state board to ensure these expectations are met;
- (3) review minimum undergraduate admissions standards for in-state and out-of-state students;
- (4)(a) develop standards for determining how well an institution has met or achieved the performance indicators for quality academic success as enumerated in Section 59-103-30, and develop mechanisms for measuring the standards of achievement of particular institutions. These standards and measurement mechanisms shall be developed in consultation and cooperation with, at a minimum but not limited to, the Council of Presidents of State Institutions, the chairmen of the governing boards of the various institutions and the business community;
- (b) base the higher education funding formula in part on the achievement of the standards set for these performance indicators including base-line funding for institutions meeting the standards of achievement, incentive funding for institutions exceeding the standards of achievement, and reductions in funding for institutions which do not meet the standards of achievement, provided that each institution under the formula until July 1, 1999, must receive at least its fiscal year 1996-1997 formula amount;
- (c) promulgate regulations to implement the provisions of subitems (a) and (b) above and submit such regulations to the General Assembly for its review pursuant to the Administrative Procedures Act not later than the beginning of the 1997 Session of the General Assembly.
- (d) develop a higher education funding formula based entirely on an institution's achievement of the standards set for these performance indicators, this formula to be used beginning July 1, 1999. This new funding formula also must be contained in regulations promulgated by the commission and submitted to the General Assembly for its review in accordance with the Administrative Procedures Act;
- (5) reduce, expand, or consolidate any institution of higher learning including those which do not meet the standards of achievement in regard to the performance indicators for quality academic success enumerated in Section 59-103-30, and beginning July 1, 1999, close any institution which does not meet the standards of achievement in regard to the performance indicators for quality academic success enumerated in Section 59-103-30. The process to be followed for the closure, reduction, expansion, or consolidation of an institution under this item (5) shall be as promulgated in regulations of the commission which shall be submitted to and approved by the General Assembly;
- (6) review and approve each institutional mission statement to ensure it is within the overall mission of that particular type of institution as stipulated by Section 59-103-15 and is within the overall mission of the State;
- (7) ensure access and equity opportunities at each institution of higher learning for all citizens of this State regardless of race, gender, color, creed, or national origin within the parameters provided by law.

HISTORY: 1995 Act No. 137, Section 2; 1996 Act No. 359, Section 6.

**SECTION 59-103-55.** Representation of four-year colleges on commission councils, advisory groups, committees and task forces. Each four-year campus of each state-supported public institution of higher learning, as defined in Section 59-103-5, shall have equal representation on all formal and informal councils, advisory groups, committees, and task forces of the commission. Independent four-year colleges shall have representation on all formal and informal committees and commissions dealing with higher education statewide issues.

HISTORY: 2002 Act No. 356, Section 1, Part II.A.

**SECTION 59-103-60.** Recommendations to Governor's Office and General Assembly. The commission shall make such recommendations to the Governor's Office and the General Assembly as to policies, programs, curricula, facilities, administration, and financing of all state-supported institutions of higher learning as may be considered desirable. The House Ways and Means Committee, the Senate Finance Committee, and the Office of the Governor may refer to the commission for investigation, study, and report any requests of institutions of higher learning for new or additional appropriations for operating and for other purposes and for the establishment of new or expanded programs.

HISTORY: 1962 Code Section 22-15.9; 1962(52) 1956, 1967(55) 261; 1978 Act No. 410, Section 7; 1995 Act No. 137, Section 3; 1996 Act No. 359, Section 7.

**SECTION 59-103-65.** Close of institution; reallocation of funds. If an institution beginning July 1, 1999, is closed by the commission, the institution shall be treated as a terminated agency under Section 1-20-30 and as such terminated in the manner provided therein. However, any remaining funds shall not revert to the general fund as provided in Section 1-20-30 but instead shall be reallocated to higher education funding through use of the higher education funding

formula in the manner the commission shall provide.

HISTORY: 1996 Act No. 359, Section 8.

**SECTION 59-103-100.** Federal and private research grants not to be limited.

The provisions of this chapter shall not be construed to limit federal and private grants which are made for research and are not connected with teaching programs.

HISTORY: 1978 Act No. 410, Section 7A.

**SECTION 59-103-110.** Approval for new construction; exemptions.

No public institution of higher learning shall be authorized to construct or purchase any new permanent facility at any location other than on a currently approved campus or on property immediately contiguous thereto unless such new location or purchase of improved or unimproved real property has been approved by the commission.

HISTORY: 1978 Act No. 410, Section 9; 1996 Act No. 359, Section 9.

**SECTION 59-103-130.** Colleges and universities to emphasize teaching as career opportunity.

The Commission on Higher Education shall adopt guidelines whereby the publicly supported colleges and universities of this State shall emphasize teaching as a career opportunity and provide students interested in a teaching career with opportunities to tutor other students.

HISTORY: 1984 Act No. 512, Part II, Section 9, Division II, Subdivision C, Subpart 1, Section 1(D).

**SECTION 59-103-150.** Early retirement plans for faculty of public institutions of higher learning.

(A) As long as there is no impact on state appropriations and subject to approval by the governing body of the public institution of higher education, the institution may implement an early retirement plan for its faculty to accomplish the following objectives:

- (1) reallocate institutional resources;
- (2) provide an equitable method to increase the flexibility of the institution to effect cost-saving measures;
- (3) foster intellectual renewal;
- (4) provide increased opportunities for promotion of a younger faculty;
- (5) improve the opportunity to recruit qualified women and minorities.

(B) An early retirement plan may include provisions for institutions to pay:

- (1) actuarial costs required by Sections 9-1-1850 and 9-11-60;
- (2) health, dental, and life insurance costs;
- (3) incentive payments;
- (4) the costs of single premium annuity plans to provide supplemental benefits.

HISTORY: 1987 Act No. 100, Section 1.

**SECTION 59-103-160.** English Fluency in Higher Learning Act.

(A) This section may be cited as the English Fluency in Higher Learning Act.

(B) The following words and phrases when used in this section have the meanings given to them unless the context clearly indicates otherwise:

"Instructional faculty" means every member of a public institution of higher learning whose first language is not English, other than visiting faculty but including graduate teaching assistants, who teaches one or more undergraduate credit courses at a campus of that institution within this State except:

- (1) courses that are designed to be taught predominately in a foreign language;
- (2) student participatory and activity courses such as clinics, studios, and seminars;
- (3) special arrangement courses such as individualized instruction and independent study courses; and
- (4) continuing education courses.

(C) Each public institution of higher learning shall establish policies to:

- (1) ensure that the instructional faculty whose second language is English possess adequate proficiency in both the written and spoken English language. Student and faculty input is required in establishing these policies.
- (2) provide students with a grievance procedure regarding an instructor who is not able to write or speak the English language.

(D)(1) Each institution of higher learning must submit its policy or amendments to the Commission on Higher Education within six months from the effective date of this section. Any amendments to the policy must be promptly forwarded to the commission. The commission shall notify the chairmen of the Senate and House Education Committees of those institutions not submitting plans and any amendment to the commission.

(2) Each institution of higher learning must report annually to the Commission on Higher Education and the chairmen of the Senate and House of Representatives Education Committees grievances filed by students under the requirement of subsection (C)(2) and the disposition of those grievances.

HISTORY: 1991 Act No. 27, Section 1.

**SECTION 59-104-10.** Admission standards; adoption of admission policies.

(A) In consultation and coordination with the public institutions of higher learning in this State, the State Commission on Higher Education shall ensure that minimal admissions standards are maintained by the institutions.

The commission, with the institutions, shall monitor the effect of compliance with admissions prerequisites that are effective at the institution.

(B) The boards of trustees of each public institution of higher learning, excluding the State Board for Technical and Comprehensive Education, shall adopt admission policies reflecting the desired mix of in-state and out-of-state enrollment appropriate for each institution. Changes in the policies affecting the mix of in-state and out-of-state enrollment must be approved by the board of trustees of the affected institution. The boards shall submit the policies to the commission by July 1, 1989, and any subsequent changes to the policies must be submitted to the commission. These admission policies and standards shall be reviewed by the commission as provided in Section 59-103-45(3). For purposes of this section enrollment must be calculated on a full-time equivalency basis with the equivalent of one full-time student being a student enrolled for thirty credit hours in an academic year. Out-of-state students mean students who are not eligible for in-state rates for tuition and fees under Chapter 112 of Title 59.

HISTORY: 1988 Act No. 629, Section 1; 1996 Act No. 359, Section 10.

**SECTION 59-104-230.** Endowed professorships program.

The Commission on Higher Education shall request state funds and establish procedures to implement a program of endowed professorships at senior public institutions of higher learning to enable the institutions to attract or retain productive faculty scholars who are making or show promise of making substantial contributions to the intellectual life of the State.

Each professorship must be supported by the income from an endowment fund created especially for that purpose. Half of the corpus of each fund must be provided by the commission through this program, and half must be provided by the institution from private funds specifically donated for this purpose.

The State Treasurer shall establish a separate fund consisting of any funds appropriated for all endowed professorships plus accrued interest received. Any amount remaining in the established fund at the end of any fiscal year must be carried forward to the next fiscal year to be used for endowed professorships. Funds in the specified amounts to support each endowment may be transferred by the commission to each eligible institution.

HISTORY: 1988 Act No. 629, Section 1; 1996 Act No. 359, Section 10.

**SECTION 59-104-260.** Commission shall encourage development of joint programs.

The Commission on Higher Education shall encourage the development of joint programs that take advantage of the strengths of the public colleges and universities and discourage the development of independent competitive programs. The programs must be developed through planning and cooperation among the institutions in both academic and nonacademic areas.

HISTORY: 1988 Act No. 629, Section 1; 1996 Act No. 359, Section 10.

**SECTION 59-104-410.** Research Investment Fund created.

A Research Investment Fund is created to establish or expand research programs in public institutions of higher learning in this State which are related to the continued economic development of South Carolina. The fund must consist of appropriations to the State Commission on Higher Education which it allocates to the institutions for research. The funds must be apportioned among the three senior universities and the four-year colleges in a manner that takes into account the previous year's expenditures of externally generated funds for research by the institutions as reported to the commission. However, the commission may make exceptions to accommodate economic development opportunities in any area of the State.

HISTORY: 1988 Act No. 629, Section 1; 1996 Act No. 359, Section 10.

**SECTION 59-104-420.** Criteria for use of fund.

(A) The fund must be used for research which:

- (1) has a direct, positive impact on economic development, education, health, or welfare in this State;
- (2) has an existing base in faculty expertise, resources, and facilities;
- (3) serves to improve the quality of undergraduate and graduate education for South Carolina citizens in accordance with the institutions' stated missions as given in the commission's master plan and as developed by the institution and approved by the commission as provided in Section 59-103-45(5).

(B) The fund must not be used for capital construction projects.

HISTORY: 1988 Act No. 629, Section 1; 1996 Act No. 359, Section 10.

**SECTION 59-104-430.** Comprehensive reports to be made at the end of fiscal year.

At the end of each fiscal year, comprehensive reports must be made to the Commission on Higher Education on the expenditures of funds and the results realized from the research programs. At the end of two fiscal years and each fiscal year after that, the commission shall reexamine the process of appropriating funds for research and the results obtained from the expenditures and recommend changes and alterations in the funding of research by the State if the changes are considered advisable by the commission.

HISTORY: 1988 Act No. 629, Section 1; 1996 Act No. 359, Section 10.

**SECTION 59-104-440.** Allocation of funds.

(A) With the exception of the University of South Carolina, Clemson University, and the Medical University of South Carolina, institutions seeking financial support from the fund for research projects shall submit proposals to the commission for its review and approval.

(B) The portion of the fund allocated to the three senior universities excepted in subsection (A) must be distributed in a manner that takes into account the previous year's expenditures of externally generated funds for research which each university reported to the commission.

(C) No funds allocated under the provisions of this chapter nor matching funds received pursuant to terms of this chapter may be used to increase an institution's future years' formula funding as computed by the Commission on Higher Education.

HISTORY: 1988 Act No. 629, Section 1; 1996 Act No. 359, Section 10.

**SECTION 59-104-650.** Institutional effectiveness program.

(A) The goals for maintaining an effective system of quality assessment by institutions of higher learning in South Carolina are to:

- (1) assure that a system for measuring institutional achievement in regard to the performance indicators for quality academic success as contained in Section 59-103-30 is in effect on every public college and university campus in this State;
- (2) provide a vehicle for disseminating the results of these measurements to the constituents within the State;
- (3) provide data relative to the effectiveness of each institution that can be used to initiate curriculum, programmatic, or policy changes within the institution necessary to meet the standards for these performance indicators.

(B) The process by which these goals must be attained is as follows:

- (1) Each institution of higher learning is responsible for maintaining a system to measure institutional achievement in regard to the performance indicators for quality academic success in accord with provisions, procedures, and requirements developed by the Commission on Higher Education. The system for measuring such institutional achievement must include, but is not limited to, a description of criteria by which such institutional achievement is being assessed.
- (2) As a part of South Carolina's statewide planning process, each institution shall provide the commission with an annual report on the results of its institutional achievement program.
- (3) The commission shall prepare a report that must include results of institutional achievement, including student assessment programs. Information from private colleges and universities must be included for those institutions that voluntarily provide the information to the commission.

HISTORY: 1988 Act No. 629, Section 1; 1996 Act No. 359, Section 10.

**SECTION 59-104-660.** State-supported institutions to establish procedures and programs to measure student achievement.

(A) All state-supported institutions of higher learning shall establish their own procedures and programs to measure student achievement which must include, but are not limited to, the performance indicators contained in Section 59-103-30(B)(6) and (7). The procedures and programs must be submitted to the Commission on Higher Education as part of the plan for measuring institutional achievement and must:

- (1) derive from institutional initiatives, recognizing the diversity of South Carolina public colleges and universities, the tradition of institutional autonomy, and the capacity of faculty and administrators to identify their own problems and solve them creatively;
- (2) be consistent with each institution's mission and educational objectives;
- (3) involve faculty in setting the standards of achievement, selecting the measurement instruments, and analyzing the results;
- (4) follow student progress through the curriculum, as appropriate;
- (5) include follow-up of graduates.

(B) As part of their annual report on institutional achievement, all state-supported colleges and universities shall describe their progress in developing assessment programs and submit information on student achievement to the commission.

HISTORY: 1988 Act No. 629, Section 1; 1996 Act No. 359, Section 10.

**SECTION 59-105-10.** Short title.

This act is known and may be cited as the "South Carolina Campus Sexual Assault Information Act".

HISTORY: 2002 Act No. 310, Section 1.

**SECTION 59-105-20. Definitions.**

As used in this act:

(1) "Campus" means a building or property:

- (a) owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes;
- (b) owned or controlled by a student organization recognized by the institution including, but not limited to, fraternity, sorority, and cooperative houses;
- (c) controlled by the institution but owned by a third party.

(2) "Campus sexual assault" means a sexual assault that occurs on campus.

(3) "Institution of higher learning" or "institution" means a public two-year or four-year college, community or junior college, technical school, or university located in this State, and also any private two-year or four-year college, community or junior college, technical school, or university located in this State which elects to be governed by this chapter.

(4) "Student" means an individual who is enrolled in an institution of higher learning on a full-time or part-time basis.

HISTORY: 2002 Act No. 310, Section 1.

**SECTION 59-105-30. Purpose.**

The serious nature and consequences of sexual assault and the particular problems caused by sexual assault within a campus community prompt the General Assembly to encourage institutions of higher learning to develop, with input from students, faculty, and staff, a comprehensive sexual assault policy to address prevention and awareness of sexual assault and to establish procedures that address campus sexual assaults. The General Assembly further encourages institutions of higher learning to make all reasonable efforts to support a student who is the victim of a sexual assault in a full report of the sexual assault to appropriate law enforcement authorities, including institutional and local police, and to make all reasonable efforts to provide assistance to and to cooperate with the student as the report is investigated and resolved.

HISTORY: 2002 Act No. 310, Section 1.

**SECTION 59-105-40. Campus sexual assault policy; development and implementation; contents; private right of action; distribution.**

(A) Not later than one hundred twenty days after the effective date of this act, each institution of higher learning must establish and implement a written campus sexual assault policy regarding at least:

- (1) the institution's campus sexual assault programs, aimed at prevention and awareness of sexual assaults; and
- (2) the procedures followed by the institution once a sexual assault occurs and is reported.

(B) The policy described in subsection (A) must address at least all the following areas:

- (1) education programs to promote the prevention and awareness of sexual assault;
- (2) possible sanctions following the final determination of an institutional disciplinary procedure regarding a sexual assault;
- (3) procedures a student follows if a sexual assault occurs, including the persons to be contacted, the importance of preserving evidence of the criminal sexual assault, and the authorities to whom the alleged offense must be reported;
- (4) procedures for institutional disciplinary action in cases of alleged sexual assault, including a clear statement that both the accuser and the accused:

(i) have the same opportunities to have support persons or legal counsel, if the institution's policy allows the presence of outside legal counsel, present during an institutional disciplinary proceeding; and

(ii) must be informed of the outcome of an institutional disciplinary proceeding brought alleging a sexual assault.

(5) notification to a student of the right to notify proper law enforcement authorities, including institutional and local police, and of the option to be assisted by representatives of the institution in notifying law enforcement authorities if the student chooses;

(6) notification of a student of existing medical, advocacy, counseling, mental health, and student services for victims of sexual assault, both on campus and in the community;

(7) notification of a student of options for, and available assistance in, changing academic and living situations after an alleged campus sexual assault, if requested by the victim and if the changes are reasonably available.

(C) This action does not expand or reduce a private right of action of a person to enforce the provisions of this act.

(D) Each institution of higher learning must distribute to students, faculty, and staff the written campus sexual assault policy required by this chapter by printing the policy in one or more of the institution's publications made widely available to students, such as the institution's catalog, student handbook, or staff handbook. Each institution of higher learning must include on admissions and employment applications a notification that a copy of the institution's campus sexual assault policy is available upon request. In addition, the institution's law enforcement personnel, security personnel, and counseling center must make the written policy available to a student who reports being a victim of a sexual assault involving another student or occurring on campus.

HISTORY: 2002 Act No. 310, Section 1.

**SECTION 59-105-50.** Information relating to procedures for institutional disciplinary proceedings to be made available. In addition to the publication required by Section 59-105-40, each institution of higher learning must make available to all students a description of the jurisdiction, procedures, and time deadlines of institutional disciplinary proceedings.

HISTORY: 2002 Act No. 310, Section 1.

**SECTION 59-105-60.** Model sexual assault policy. The Commission on Higher Education shall develop, print, and distribute a model sexual assault policy for institutions of higher learning, which complies with the requirements herein. The model policy shall be distributed to all institutions of higher learning in the State for their use as a reference in formulating their sexual assault policy.

HISTORY: 2002 Act No. 310, Section 1.

**SECTION 59-106-10.** Short title. This act is known and may be cited as the "South Carolina Campus Sex Crimes Prevention Act".

HISTORY: 2002 Act No. 310, Section 2.

**SECTION 59-106-20.** Annual security reports; inclusion of statement as to obtaining information concerning registered sex offenders. Each institution of higher education must include a statement in their annual security report which advises the campus community where law enforcement information concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address. For purposes of this chapter, the annual security report means the report published pursuant to Section 485 of the Higher Education Act of 1965 as amended (20 U.S.C. Section 1092(f)). This information must be included in reports beginning in 2003.

HISTORY: 2002 Act No. 310, Section 2.

**SECTION 59-106-30.** Institution of higher education. For purposes of this chapter, "institution of higher education" means any two-year or four-year college, community or junior college, technical school, or university located in this State.

HISTORY: 2002 Act No. 310, Section 2.

**SECTION 59-107-10.** Institutions to which chapter is applicable; "State institution" defined. The several state-supported institutions of higher learning, within the contemplation of this chapter, are declared to be:

The University of South Carolina,  
Clemson University, in Clemson,  
The Citadel,  
The Medical University of South Carolina,  
Winthrop University,  
South Carolina State University,  
Francis Marion University,  
Lander University,  
The College of Charleston,  
Coastal Carolina University,  
Technical Education Colleges and Centers.

Hereafter in this chapter such institutions shall be denoted by the term "state institution".

HISTORY: 1962 Code Section 22-21; 1953 (48) 169; 1954 (48) 1722; 1966 (54) 2263; 1974 (58) 2608; 1977 Act No. 249, Pt II, Section 1; 1979 Act No. 107, Section 1; 2000 Act No. 254, Section 3.

**SECTION 59-107-20.** Tuition fees required at State institutions. Tuition fees (as such term is defined in Section 59-107-30) shall be required to be paid in such amount or amounts and under such conditions as the respective Board of Trustees, Area Commissions or, for any Technical Education College or Center not governed or supervised by an Area Commission, the State Board for Technical and Comprehensive Education, of such state institutions shall prescribe, with the approval of the State Fiscal Accountability Authority, hereafter in this chapter referred to as the "State Fiscal Accountability Authority". The provisions of this section shall not be construed as requiring uniformity of tuition fees at such state institutions nor shall they preclude a higher scale for non-residents of South Carolina.

HISTORY: 1962 Code Section 22-22; 1953 (48) 169; 1966 (54) 2263; 1977 Act No. 249, Pt II, Section 2.

**SECTION 59-107-30.** Remittance and application of tuition fees.

All tuition fees received by any State institution shall be remitted from time to time to the State Treasurer under such regulations as he shall prescribe. The State Treasurer shall apply the same as directed by this chapter. For all purposes of this chapter the term "tuition fees" shall include those fees charged by any State institution for tuition, matriculation and registration. The term "tuition fees" shall not include sums charged for enrolling in courses or classes offered at any summer school term or in any special seminar, nor shall the term relate to or include fees levied or charged for purposes other than for the purposes of this chapter.

HISTORY: 1962 Code Section 22-23; 1953 (48) 169; 1960 (51) 1779; 1966 (54) 2263.

**SECTION 59-107-40.** Application for funds for permanent improvements and other expenses; content of application.

The respective Boards of Trustees, Area Commissions, through the State Board for Technical and Comprehensive Education, or the State Board for Technical and Comprehensive Education for any Technical Education College or Center not governed and supervised by an Area Commission of such state institutions may make application to the State Fiscal Accountability Authority or the Department of Administration, as appropriate, for funds to be used for any one or more of the following purposes: (a) to construct, reconstruct, maintain, improve, furnish and refurnish the buildings and other permanent improvements for such state institutions, (b) to defray the costs of acquiring or improving land needed as sites for such improvements or for the campus of any such state institution, (c) to reimburse such institution for expenses incurred in anticipation of the issuance of such bonds, or (d) to refund state institution bonds heretofore issued for such institutions and which shall on such occasion be outstanding. Such application shall contain:

- (1) A description of the improvement sought, or the amount of outstanding bonds it wishes to have refunded;
- (2) An estimate of cost, or an estimate of the money required to effect the refunding;
- (3) A statement establishing the aggregate sum received from tuition fees for the fiscal year immediately preceding the fiscal year in which such application is dated;
- (4) The schedule of tuition fees in effect;
- (5) A suggested maturity schedule for bonds issued pursuant to this chapter; and
- (6) A statement showing the unmatured state institution bonds theretofore issued for such state institution.

The application shall contain an agreement upon the part of the Board of Trustees, Area Commission, or State Board for Technical and Comprehensive Education that such schedule of tuition fees shall be revised from time to time and whenever necessary to provide the annual principal and interest requirements on the proposed bonds and on all outstanding state institution bonds issued for such state institution.

HISTORY: 1962 Code Section 22-24; 1953 (48) 169; 1954 (48) 1708; 1961 (52) 476; 1963 (53) 583; 1966 (54) 2263; 1977 Act No. 249, Pt II, Section 3; 1991 Act No. 65, Section 1.

**SECTION 59-107-50.** Authority of State Fiscal Accountability Authority as to applications.

The State Fiscal Accountability Authority may approve, in whole or in part, or modify in any way that it sees fit any application made by any Board of Trustees, Area Commission, or by the State Board for Technical and Comprehensive Education of any of the state institutions and may direct the application of the principal proceeds of any bonds, issued pursuant to this chapter for such purpose if it shall have found:

- (1) That a definite and immediate need therefor exists, or, in the event that the issuance of refunding bonds is sought, that it is to the advantage of the institution to effect the refunding of its outstanding bonds;
- (2) That a satisfactory and proper schedule of tuition fees is in effect at such State institution;
- (3) That the annual debt service on all state institution bonds issued for such state institution, including the bonds then proposed to be issued, shall not exceed ninety percent of the sums received by such state institution of higher learning from tuition fees for the preceding fiscal year;
- (4) That the Board of Trustees, Area Commission, or State Board for Technical or Comprehensive Education of the state institution has agreed that such schedule of tuition fees may be revised from time to time and whenever necessary to provide not less than the sum needed to pay the annual principal and interest requirements on the proposed bonds and on all outstanding state institution bonds issued for such state institution.

HISTORY: 1962 Code Section 22-25; 1953 (48) 169; 1957 (50) 138; 1961 (52) 476; 1966 (54) 2263; 1976 Act No. 582, Section 1; 1977 Act No. 249, Pt II, Section 4; 1991 Act No. 65, Section 2.

**SECTION 59-107-60.** Request for issuance of State institution bonds.

Upon making the finding required of it by Section 59-107-50, the State Fiscal Accountability Authority shall transmit to the Governor and to the State Treasurer a request for the issuance of State institution bonds. Such request shall set forth:

- (1) The name of the State institution seeking funds, the amount of its application, and the annual principal and interest requirements on all outstanding State institution bonds issued for such State institution;
- (2) A statement that the State Fiscal Accountability Authority has made the findings required of it by Section 59-107-50, and the extent to which it has approved or modified the original application;
- (3) The proposed maturity schedule of the bonds;
- (4) The anticipated interest cost for each year during the life of the bonds;
- (5) The anticipated aggregate annual principal and interest requirements for the bonds;
- (6) The numbers and maturity dates of the bonds which shall be subject to redemption prior to their stated maturities;
- (7) The proposed redemption premium schedule;
- (8) The sum received by such state institution from tuition fees for the fiscal year preceding the fiscal year in which the application was made pursuant to Section 59-107-40; and
- (9) The tuition fee schedule in effect at such State institution.

HISTORY: 1962 Code Section 22-26; 1953 (48) 169; 1966 (54) 2263; 1991 Act No. 65, Section 3.

**SECTION 59-107-70.** Governor and State Treasurer empowered to authorize issuance of bonds.

It shall be the duty of the Governor and the State Treasurer to examine the request mentioned in Section 59-107-60, and if they shall jointly approve it, and, for themselves, determine that the schedule of tuition fees in force at such state institution will, upon the basis of the sum received by such state institution from tuition fees for the fiscal year preceding the fiscal year in which the application made pursuant to Section 59-107-40, produce funds sufficient to meet the principal and interest requirements on the proposed bonds and on all outstanding state institution bonds issued for such state institution, and provide the margin for such principal and interest requirements to the extent required by paragraph (3) of Section 59-107-50, they shall be empowered to provide for the issuance of state institution bonds in the amount approved by the State Fiscal Accountability Authority.

HISTORY: 1962 Code Section 22-27; 1953 (48) 169; 1966 (54) 2263; 1991 Act No. 65, Section 4.

**SECTION 59-107-80.** Single issue of bonds may cover several applications.

If it shall happen that more than one application by State institutions shall receive the approvals required by Sections 59-107-50 to 59-107-70, at approximately the same time, the State institution bonds in an amount equal to the aggregate of the approved applications may be issued as a single issue.

HISTORY: 1962 Code Section 22-28; 1953 (48) 169.

**SECTION 59-107-90.** Maximum amount of outstanding bonds.

The maximum amount of annual debt service on all outstanding state institution bonds for each state institution shall not exceed ninety percent of the sums received by such state institution from tuition fees for the preceding fiscal year, as provided in Section 13(6)(b) of Article X of the South Carolina Constitution.

HISTORY: 1962 Code Section 22-29; 1953 (48) 169; 1957 (50) 404; 1961 (52) 476; 1966 (54) 2263; 1967 (55) 689; 1968 (55) 3049; 1976 Act No. 582, Section 2; 1979 Act No. 194, Part I, Section 8; 1995 Act No. 145, Part II, Section 109; 1998 Act No. 419, Part II, Section 56; 1999 Act No. 40, Section 1.

**SECTION 59-107-100.** Full faith, credit and taxing power of State pledged to pay bonds.

For the payment of the principal and interest on all state institution bonds, whose issuance is authorized by this chapter, there shall be pledged the full faith, credit, and taxing power of the State, and in addition, the revenues derived from the tuition fees received by the particular institution of higher learning for which such state institution bonds are issued must also be pledged.

HISTORY: 1962 Code Section 22-30; 1953 (48) 169; 1991 Act No. 65, Section 5.

**SECTION 59-107-110.** Negotiability and registration.

State institution bonds issued pursuant to this chapter may be in the form of negotiable coupon bonds, payable to bearer, with the privilege to the holder of having them registered in his name on the books of the State Treasurer as to principal only, or as to both principal and interest, and such principal, or both principal and interest, as the case may be, thus made payable to the registered holder, subject to such conditions as the State Treasurer may prescribe. State institution bonds so registered as to principal in the name of the holder may thereafter be registered as payable to bearer and made payable accordingly.

State institution bonds may also be issued as fully registered bonds with both principal and interest thereof made payable only to the registered holder. Such fully registered bonds shall be subject to transfer under such conditions as the State Treasurer may prescribe. Such fully registered bonds may, if the proceedings authorizing their issuance so provide, be convertible into negotiable coupon bonds with the attributes set forth in the first paragraph of this section.

HISTORY: 1962 Code Section 22-31; 1953 (48) 169; 1957 (50) 138, 404.

**SECTION 59-107-120.** Denominations of bonds; interest rate; maturity; redemption.

The state institution bonds must be in the denomination of one thousand dollars or in any multiple thereof. They shall bear interest, payable semiannually, at a rate or rates not exceeding the maximum interest rate specified in the State Fiscal Accountability Authority's request for the issuance of the state institution bonds. Each issue of state institution bonds shall mature in annual series or installments,

the last of which shall mature not more than twenty years after the date of the bonds. The installments or series may be equal or unequal in amount. The state institution bonds may, in the discretion of the State Fiscal Accountability Authority, be made subject to redemption at par and accrued interest, plus such redemption premium as it may approve, and on such occasions as may be specified in the request for the issuance of the state institution bonds. State institution bonds may not be redeemable before maturity unless they contain a statement to that effect.

HISTORY: 1962 Code Section 22-32; 1953 (48) 169; 1957 (50) 138, 404; 1961 (52) 476; 1966 (54) 2263; 1984 Act No. 337, Section 1.

**SECTION 59-107-140.** Bonds exempt from taxes.

The bonds authorized by this chapter and all interest to become due thereon shall have the tax-exempt status prescribed by Section 12-1-60.

HISTORY: 1962 Code Section 22-34; 1953 (48) 169.

**SECTION 59-107-150.** Bonds as legal investments.

It shall be lawful for all executors, administrators, guardians, fiduciaries and sinking fund commissions to invest any moneys in their hands in State institution bonds.

HISTORY: 1962 Code Section 22-35; 1953 (48) 169.

**SECTION 59-107-160.** Sale of bonds.

State institution bonds may be privately placed if the terms and conditions of such disposition shall be approved by resolution duly adopted by the State Fiscal Accountability Authority and the terms of such proposal meet the financial test prescribed in the second paragraph of this section.

All other state institution bonds shall be sold by the Governor and the State Treasurer upon sealed proposals, after publication of notice of the sale one or more times at least ten days before the sale in a newspaper of general circulation in the State and also in a financial paper published in New York City which regularly publishes notices of sale of state or municipal bonds. In all calls for bids, the right shall be reserved to reject all bids and readvertise for the sale of the bonds. Upon the opening of bids the Governor and the State Treasurer shall determine the most advantageous bid, and if such bid produces principal and interest payments on such proposed issue which are in compliance with the provisions outlined in paragraph (3) of Section 59-107-50, they may award the state institution bonds on such bid, at a price not less than par and accrued interest to the date of delivery. For the purpose of bringing about a successful sale of such bonds, the State Fiscal Accountability Authority may do all things ordinarily and customarily done in connection with the sale of state or municipal bonds. All expenses incident to the sale of the bonds shall be paid from the proceeds of the bonds.

HISTORY: 1962 Code Section 22-36; 1953 (48) 169; 1957 (50) 138; 1961 (52) 476; 1965 (54) 148; 1991 Act No. 65, Section 6.

**SECTION 59-107-170.** Deposit and use of proceeds of bonds.

The proceeds of sale of state institution bonds must be received by the State Treasurer and placed in a fund to the credit of the State Fiscal Accountability Authority subject to withdrawal on their order, except that all accrued interest received must be used by the State Treasurer to discharge the first installment of interest coming due. On the occasion that he receives the proceeds of state institution bonds from the purchaser, the State Treasurer shall segregate the proceeds for the account of the state institution or institutions for which the bonds are issued. The purchasers of the state institution bonds are not liable for the application of the proceeds of the bonds to the purposes for which they are intended.

HISTORY: 1962 Code Section 22-37; 1953 (48) 169; 2004 Act No. 184, Section 7, eff March 15, 2004.

**Effect of Amendment**

The 2004 amendment, in the first sentence, substituted "the State Treasurer" for "him" preceding "to discharge" and deleted the final clause which read ", and any premium shall be used to discharge the first installment of principal coming due on such bonds", and substituted "must" for "shall" throughout.

**SECTION 59-107-180.** Tuition fees placed in special fund to pay bonds; application of surplus.

Immediately following the issuance of state institution bonds, the State Treasurer shall segregate into a special fund all tuition fees of the state institution for which state institution bonds have been issued and shall apply such special fund to the payment of the principal, interest, and redemption premium, if any, on all bonds issued pursuant to this chapter for such institution; provided, however, that in the event the monies on deposit in such special fund at any time shall exceed all payments of principal and interest due in the then current fiscal year, plus the maximum annual debt service requirements in any succeeding fiscal year of all state institution bonds outstanding for such institution that were issued prior to March 1, 1991, plus any additional amount described in the last sentence of this section, the State Treasurer shall thereupon establish within the special fund created by this section separate funds for each issuance of state institution bonds for such state institution to be designated "special debt service and reserve funds", and (1) shall deposit in the special debt service and reserve fund for each issuance of state institution bonds that was issued prior to March 1, 1991, an amount equal to all payments of principal and interest due in the then current fiscal year on such issuance, plus the maximum annual debt service requirements in any succeeding fiscal year of such issuance, and (2) shall deposit in the special debt service and reserve fund for each issuance of such state institution bonds that was issued on or after March 1, 1991, an amount equal to all payments of principal and interest due on such issuance of state institution bonds in the then current fiscal year. Upon the establishment and funding of such special debt service and reserve funds for the state institution bonds for any state institution in accordance with the foregoing sentence, the State Treasurer shall apply tuition

fees later received to maintain the levels of the special debt service and reserve funds at the level required by the foregoing sentence as such level may be adjusted as current annual and maximum annual requirements vary, and may apply any remaining tuition fees and any monies still remaining in the general special fund after the complete funding of the special debt service and reserve funds: to the defeasance of state institution bonds for such institution as provided in Section 59-107-200; or to any purpose set forth in subitems (a), (b), and (c) of the first paragraph of Section 59-107-40. In the event the surplus is to be applied to the defeasance of bonds, the computation of annual debt service requirements for purposes of this section shall be made as though the bonds to be defeased had already been defeased. Notwithstanding the foregoing, it is expressly provided that the State Treasurer may increase the required level for a special debt service and reserve fund for an issuance of state institution bonds issued on or after March 1, 1991, to an amount equal to all payments of principal and interest due on such issuance of state institution bonds in the then current fiscal year plus an amount equal to all payments of principal and interest due on such issuance of state institution bonds to become due between the end of the then current fiscal year and the date at which the State Treasurer anticipates receiving sufficient deposits of tuition fees from such state institution in the ensuing fiscal year to provide an adequate cash flow to meet debt service requirements for such ensuing fiscal year.

HISTORY: 1962 Code Section 22-38; 1953 (48) 169; 1966 (54) 2263; 1976 Act No. 582, Section 3; 1991 Act No. 65, Section 7.

**SECTION 59-107-190.** Declaration of sufficiency of tuition fees to pay bonds.

The General Assembly finds that the tuition fees charged at the several State institutions, if maintained and applied in the manner prescribed by this chapter, will be sufficient to provide for the payment of the principal and interest on State institution bonds issued pursuant to this chapter, without resorting to a property tax.

HISTORY: 1962 Code Section 22-39; 1953 (48) 169.

**SECTION 59-107-200.** Defeasance of bonds; trust fund established.

Upon the direction of the State Fiscal Accountability Authority, the State Treasurer may apply all or any part of the excess, as defined in Section 59-107-180, of the special fund established pursuant to Section 59-107-180, applicable to the state institution bonds of any state institution to the defeasance of any of such bonds by establishing an irrevocable trust therefor which shall consist of either monies in an amount which shall be sufficient, or direct obligations of the United States of America, or obligations unconditionally guaranteed by the United States of America, the principal and interest on which when due will provide the sums required to pay the principal, interest, and redemption premium, if any, of the particular state institution bonds sought to be defeased. The trust fund shall be established in such manner as to designate the state institution bonds intended to be defeased. When so established, the state institution bonds shall be deemed to be defeased and shall not be deemed to be outstanding for all purposes of this chapter. Notwithstanding the establishment of the irrevocable trust fund, the obligation of the State to pay to the holders of the defeased bonds all sums due by way of principal and interest shall not be deemed to be impaired.

The General Assembly is mindful of the fact that the law in effect at the time of the issuance of any state institution bonds is a part of the contract between the State and the holders of such bonds.

It is not intended that Sections 59-107-50, 59-107-90, 59-107-180 and 59-107-200 shall impair or modify the contract existing between the State and the holders of state institution bonds now outstanding. Accordingly, the use of surplus money in the sinking funds established by Section 59-107-180 for capital improvements shall not be undertaken until all bonds outstanding on May 11, 1976 have been paid or provision for their payment has been made. It is further prescribed that in the event of a deficiency in revenues required to pay the principal or interest of any state institution bonds outstanding on May 11, 1976, resort may be had by the holders of such bonds to any special trust established to defease other state institution bonds outstanding on May 11, 1976 and, in which event, it shall become the duty of the trustees, Area Commissions, or the State Board for Technical and Comprehensive Education of the applicable state institutions to increase tuition fees to the extent necessary to restore such special Trust Fund.

HISTORY: 1962 Code Section 22-40; 1976 Act No. 582, Sections 4, 5; 1977 Act No. 249, Pt II, Section 5; 1991 Act No. 65, Section 8.

The **South Carolina Critical Needs Nursing Initiative Act** can be found in its entirety in Title 59-Education, Chapter 110-South Carolina Critical Needs Nursing Initiative Act (<http://www.scstatehouse.gov/code/t59c110.php>).

**SECTION 59-111-10.** Scholarship for winner of essay contest sponsored by Governor's Committee on Employment of Physically Handicapped.

Each year the first place winner of the essay contest sponsored by the Governor's Committee on the Employment of the Physically Handicapped shall receive a four-year scholarship from the State-supported institution of his choice, provided he is otherwise qualified. The scholarship shall be granted by the governing body of the particular institution upon certification by the Governor's Committee of the first-place winner and that the winner is in financial need. The scholarship shall provide free tuition and fees, and may be cancelled if a recipient does not maintain general scholastic and conduct standards established by the institution.

HISTORY: 1962 Code Section 22-55; 1960 (51) 2084; 1961 (52) 91.

**SECTION 59-111-15.** Tuition assistance for permanent faculty and staff.

State-supported colleges or universities and state-supported post-high school vocational or technical colleges are authorized to provide assistance for educational expenses, including the payment, reimbursement, or remission of tuition or fees, to its permanent faculty and staff. The assistance authorized by this section is not considered a prerequisite of office or employment. Permanent faculty and staff are not

entitled to assistance provided in this section for more than four credit hours a semester. The credit hours generated by individuals receiving assistance under this section may not be used in computing the higher education funding formula and may not have an impact on the level of funding an institution receives.

HISTORY: 1992 Act No. 373, Section 1.

**SECTION 59-111-20.** Free tuition for certain veterans' children.

(A) A child of a wartime veteran, upon application to and approval by the South Carolina Department of Veterans Affairs, may be admitted to any state-supported college, university, or post high school technical education institution free of tuition so long as his work and conduct is satisfactory to the governing body of the institution, if the veteran was a resident of this State at the time of entry into service and during service or has been a resident of this State for at least one year and still resides in this State or, if the veteran is deceased, resided in this State for one year before his death, and provided the veteran served honorably in a branch of the military service of the United States during a war period, as those periods are defined by Section 101 of Title 38 of the United States Code and:

- (1) was killed in action;
- (2) died from other causes while in the service;
- (3) died of disease or disability resulting from service;
- (4) was a prisoner of war as defined by Congress or Presidential proclamation during such war period;
- (5) is permanently and totally disabled, as determined by the Veterans Administration from any cause;
- (6) has been awarded the Congressional Medal of Honor;
- (7) is missing in action;
- (8) the applicant is the child of a deceased veteran who qualified under items (4) and (5); or
- (9) has been awarded the Purple Heart for wounds received in combat."

(B) The provisions of this section apply to a child of a veteran who meets the residency requirements of Chapter 112 of this title, is twenty-six years of age or younger, and is pursuing any type of undergraduate degree.

HISTORY: 1962 Code Section 22-56; 1952 Code Section 22-56; 1942 Code Section 5711; 1932 Code Section 5711; 1930 (36) 1287; 1938 (40) 1882; 1940 (41) 1911; 1941 (42) 148; 1947 (45) 41; 1965 (54) 330; 1968 (55) 2821; 1969 (56) 126; 1972 (57) 2163; 1974 (58) 2077; 1976 Act No. 727, Section 1; 1978 Act No. 445, Section 1; 1993 Act No. 151, Section 1; 2001 Act No. 39, Section 2.

**SECTION 59-111-25.** Scholarships exempted from mid-year budget reduction.

If a mid-year budget reduction is imposed by the General Assembly or the State Executive Budget Office, the Commission on Higher Education appropriations for the LIFE Scholarship, need-based Grants, and the Palmetto Fellows Scholarship are exempt.

HISTORY: 2008 Act No. 353, Section 2, Pt 1.D, eff July 1, 2009.

**SECTION 59-111-30.** South Carolina defense scholarship fund.

The South Carolina defense scholarship fund is hereby created for which the sum of one hundred twenty thousand dollars is hereby appropriated from the general fund for the fiscal year 1962-1963. Additional appropriations to the fund may be made in annual general appropriation acts. The State Fiscal Accountability Authority shall administer the fund and shall allocate to State-supported institutions of higher learning which have elected to make loans to students under the provisions of subchapter II of chapter 17 of Title 20, United States Code, Annotated, their equitable share of the funds appropriated, so as to enable the institutions to contribute to the fund created as required by Federal law, a sum equal to one ninth of the total Federal capital contributed. The allocations made to institutions of higher learning shall be deemed loans by the State to the institutions and payment on the loans shall be made as directed by the State Fiscal Accountability Authority. Interest on the loans shall not exceed three per cent per annum.

Appropriations to the South Carolina defense scholarship fund may also be used for participation as loan guarantees provided under the college reserve program of the United Student Aid Funds, Incorporated.

HISTORY: 1962 Code Section 22-57; 1962 (52) 1979; 1964 (53) 2307.

**SECTION 59-111-40.** Provisions creating South Carolina defense scholarship fund applicable to students and institutions qualifying under Health Professions Educational Assistance Act of 1963 and Nurse Training Act of 1964.

The provisions of Section 59-111-30 shall apply to students and institutions of higher learning which otherwise qualify under the Health Professions Educational Assistance Act of 1963 (P.L. 88-129) and the Nurse Training Act of 1964 (P.L. 88-851).

HISTORY: 1962 Code Section 22-58; 1965 (54) 717.

**SECTION 59-111-50.** Persons defaulting on certain student loans precluded from employment by State.

No person who has willfully defaulted on a National Direct Student Loan, a National Defense Student Loan, a Guaranteed-Federally Insured Student Loan, a Nursing Student Loan, a Health Professions Student Loan or a Law Enforcement Educational Loan shall now or hereafter be employed by the State or any of its departments, agencies or subdivisions until all defaults are cured and loan payments made current; provided, however, that if such person and his lender voluntarily enter into an agreement after default under which terms the debt will be repaid and the lender confirms this agreement in writing with the state agency, department or subdivision, the loan shall not be considered in default and the default shall be considered as cured so long as the person complies with the terms of the agreement.

HISTORY: 1980 Act No. 375, Section 1.

**SECTION 59-111-60.** Scholarship, free tuition, and other financial assistance for trustee or member of immediate family prohibited; exceptions.

(A) No person who is a member of the board of trustees or other governing body of a state institution as defined in Section 59-112-10 or member of his immediate family may receive a scholarship, free tuition, or other financial assistance except as provided in subsection (B).

"Immediate family" includes the spouse, natural or adoptive child, stepchild, or legal dependent.

(B) Nothing in subsection (A) prohibits a person from obtaining a scholarship, free tuition, or other financial assistance based on criteria applicable to all persons eligible for scholarships, free tuition, or other financial assistance.

HISTORY: 1992 Act No. 325, Section 1.

**SECTION 59-111-75.** College loan program for National Guard members.

(A) The Commission on Higher Education, in consultation with the staff of the South Carolina Student Loan Corporation, shall develop a loan repayment program through which talented and qualified state residents may attend state public or private colleges and universities for the purpose of providing incentives for enlisting or remaining in the South Carolina National Guard in areas of critical need. Areas of critical need must be defined annually for that purpose by the Commission on Higher Education in consultation with the State Adjutant General. The Commission on Higher Education shall promulgate appropriate regulations to set forth the terms of the loan repayment program. The regulations must define limitations on monetary repayment amounts, successful participation within the National Guard, successful school matriculation, and other requirements for participation in the loan repayment program. In case of failure to complete the term of enlistment, failure to participate successfully in the National Guard, noncompliance by a borrower with the terms of the loan, or failure to comply with regulations of the program, the borrower's participation in the loan repayment program may be terminated and the borrower remains subject to those provisions as provided in the loan documents. The borrower shall execute the necessary legal documents to reflect his obligation to the lending entity and the terms and conditions of the loan. The loan program, as implemented in this section, must be administered by a separate student loan provider. Of the funds appropriated by the General Assembly for the loan repayment program, these funds must be retained in a separate account and used on a revolving basis for purposes of the loan repayment program and its administration. The State Treasurer shall disburse funds from this account as requested by the Commission on Higher Education and upon warrant of the Comptroller General; provided, however, that no more than five percent of the funds annually appropriated to the Commission on Higher Education for this program may be used for the cost of administering the program. Funds in the account and earnings from it may be carried forward in succeeding fiscal years and used for the purposes of the loan repayment program. The Commission on Higher Education shall review the loan program annually and report to the General Assembly on its progress and results.

(B) Beginning with the 2007-2008 academic year, the loan repayment program established pursuant to this section may not accept new participants. Members of the National Guard who have received loans pursuant to this section before the 2007-2008 academic year may continue to receive their loans, including loans for subsequent academic years, and have their loans forgiven pursuant to the provisions under which the loan program began. Any funds remaining in the loan repayment program, provided for in subsection (A), shall be transferred to the College Assistance Program in accordance with regulations prescribed by the commission.

HISTORY: 2000 Act No. 387, Part II, Section 60; 2001 Act No. 41, Section 1; 2007 Act No. 40, Section 2, eff June 4, 2007, applicable beginning with the 2007-2008 school year.

Effect of Amendment

The 2007 amendment designated subsection (A) and added subsection (B).

**SECTION 59-111-110.** Tuition not charged children of firemen, law-enforcement officers and government employees totally disabled or killed in line of duty.

No tuition may be charged for a period of four school years by any state-supported college or university or any state-supported vocational or technical school for children of:

(1) firemen, both regularly employed and members of volunteer organized units, organized rescue squad members, members of the Civil Air Patrol, law enforcement officers, or corrections officers, as defined herein, including reserve and auxiliary units of counties or municipalities who become totally disabled or are killed in the line of duty on or after July 1, 1964;

(2) government employees who become totally disabled or are killed in the line of duty while working on state time on or after July 1, 1996, as a result of a criminal act committed against them which constitutes a felony under the laws of this State.

The tuition authorized to be paid by this section applies only to undergraduate courses or curriculum and may be paid for a period not exceeding four years, regardless of the number of state-supported colleges, universities, or state-supported vocational or technical schools the child attends.

HISTORY: 1962 Code Section 22-71; 1968 (55) 2300; 1969 (56) 659; 1971 (57) 457, 481; 2000 Act No. 281, Section 1.

**SECTION 59-111-120.** "Fireman" defined.

For the purposes of this article, a fireman shall be defined as any person performing general fire-fighting duties who is either employed by an official State, municipal or county fire department in this State, or is a member of any organized volunteer fire department within this State, whose name has been entered on an official roster of such volunteer organization prior to the time such person is totally disabled or killed in line of duty.

HISTORY: 1962 Code Section 22-72; 1968 (55) 2300.

**SECTION 59-111-130.** "Law-enforcement officer" defined.

For the purposes of this article, a law enforcement officer means a:

(1) person performing law enforcement duties at the request of and under the supervision of an official state, municipal, or county law enforcement agency in South Carolina when the person is totally disabled or killed in the line of duty;

(2) person performing law enforcement duties at the request of and under the supervision of a federal agency when the person is totally disabled or killed in the line of duty if he has been a resident of South Carolina for at least eighteen years. This item applies whether or not the law enforcement officer was disabled or killed in South Carolina or another state.

HISTORY: 1962 Code Section 22-73; 1968 (55) 2300; 1992 Act No. 459, Section 1.

**SECTION 59-111-140.** "Corrections officer" defined.

For purposes of this article a corrections officer shall be defined as any person who performs duties of security, control, or discipline over inmates at the request of and under the supervision of any official State, municipal, or county correctional institution and who was performing such duties at the time of his death or total disability.

HISTORY: 1962 Code Section 22-73.1; 1971 (57) 481.

**SECTION 59-111-145.** "Government employee" defined.

For the purposes of this article, a government employee means a person who is required to participate in the state retirement system.

HISTORY: 2000 Act No. 281, Section 2.

**SECTION 59-111-150.** "State-supported college or university" defined.

For the purposes of this article, a State-supported college or university shall be defined as any two-year or four-year college or university supported by the State of South Carolina, including colleges or universities offering postgraduate or professional courses of study.

HISTORY: 1962 Code Section 22-74; 1968 (55) 2300.

**SECTION 59-111-160.** "Total disability" defined.

For the purposes of this article, total disability shall mean the physical inability to perform work in any gainful occupation, which disability directly results from any injury received in line of duty. In cases of such total disability, the free tuition provided for herein shall be extended only while such fireman or law-enforcement officer continues to be totally disabled.

This article shall not apply to a child or children born after the first year of total disability as herein defined.

HISTORY: 1962 Code Section 22-75; 1968 (55) 2300.

**SECTION 59-111-170.** Application for free tuition.

Application for the free tuition provided for in this article shall be filed with the governing body of the institution and shall be accompanied by proof or evidence of the death or total disability of the parent of the applicant and such proof or evidence that the injury or death occurred in the line of duty as considered necessary by such governing body, which shall have sole discretion in granting or not granting free tuition.

HISTORY: 1962 Code Section 22-76; 1968 (55) 2300.

**SECTION 59-111-180.** Penalties for misrepresenting eligibility.

Any applicant who wilfully misrepresents his eligibility for the free tuition provided for under this article, or any person who knowingly aids or abets such applicant in misrepresenting his eligibility for such benefits, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars or imprisoned for not less than six months.

HISTORY: 1962 Code Section 22-77; 1968 (55) 2300.

**SECTION 59-111-310.** "Tuition" defined.

As used in this article, "tuition" shall mean the amount charged for registering for a credit hour of instruction and shall not be construed to mean any other fees or charges or costs of textbooks.

HISTORY: 1962 Code Section 22-81; 1974 (58) 2844.

**SECTION 59-111-320.** Persons age sixty and over may attend classes without payment of tuition.

State-supported colleges and universities, and institutions under the jurisdiction of the State Board for Technical and Comprehensive Education, are authorized to permit legal residents of South Carolina who have attained the age of sixty to attend classes for credit or noncredit purposes on a space available basis without the required payment of tuition, if these persons meet admission and other standards deemed appropriate by the college, university, or institution.

HISTORY: 1962 Code Section 22-82; 1974 (58) 2844; 1978 Act No. 503, Section 1; 1992 Act No. 263, Section 1; 2015 Act No. 50 (S.261), Section 1, eff June 3, 2015.

Effect of Amendment

2015 Act No. 50, Section 1, inserted ", and if these persons do not receive compensation as full-time employees".

**SECTION 59-111-330.** Rules and regulations.

The State Commission on Higher Education shall promulgate rules and regulations necessary for the implementation of the provisions of this article.

HISTORY: 1962 Code Section 22-83; 1974 (58) 2844.

**SECTION 59-111-340.** Institutions to which article applies.

The provisions of this article apply to:

- (1) those institutions enumerated in Section 59-107-10 and to the branches and extensions of those institutions;
- (2) those institutions under the jurisdiction of the State Board for Technical and Comprehensive Education.

HISTORY: 1962 Code Section 22-84; 1974 (58) 2844; 1988 Act No. 510, Section 7.

**SECTION 59-111-350.** Persons attending under article not counted in computing enrollment.

Persons attending classes under the provisions of this article, on a space available basis without payment of tuition, shall neither be counted in the computation of enrollment for funding purposes nor considered on a formula basis for the issuance of capital improvement bonds.

HISTORY: 1962 Code Section 22-85; 1974 (58) 2844; 1978 Act No. 503, Section 2.

**SECTION 59-111-360.** Proof of eligibility.

The officials of such colleges, universities or institutions charged with administration may require such proof as they deem necessary to insure that the person applying to the college, university or institution is eligible for the benefits provided by this article.

HISTORY: 1962 Code Section 22-86; 1974 (58) 2844.

**SECTION 59-112-10.** Definitions.

As used in this chapter:

A. The words "state institution" mean those post- secondary educational institutions under the jurisdiction of:

- (1) the Board of Trustees, Clemson University;
- (2) the Board of Trustees, Medical University of South Carolina;
- (3) the Board of Trustees, South Carolina State University;
- (4) the Board of Trustees, College of Charleston;
- (5) the Board of Trustees, Lander University;
- (6) the Board of Trustees, Francis Marion University;
- (7) the Board of Visitors, The Citadel;
- (8) the Board of Trustees, the University of South Carolina;
- (9) the Board of Trustees, Winthrop University;
- (10) the Board of Trustees, Coastal Carolina University;
- (11) the State Board for Technical and Comprehensive Education.

B. The word "student" shall mean any person enrolled for studies in any State Institution.

C. The word "residence" or "reside" shall mean continuous and permanent physical presence within this State, provided, that temporary absences for short periods of time shall not affect the establishment of a residence.

D. The word "domicile" shall mean a person's true, fixed, principal residence and place of habitation; it shall indicate the place where such person intends to remain, and to which such person expects to return upon leaving without establishing a new domicile in another state. For purposes of this section one may have only one legal domicile; one is presumed to abandon automatically an old domicile upon establishing a new one. Housing provided on an academic session basis for students at State Institutions shall be presumed not to be a place of principal residence, as residency in such housing is by nature temporary.

E. The words "in-state rates" shall mean charges for tuition and fees established by State Institutions for persons who are domiciled in South Carolina in accordance with this chapter; the words "out-of-state rates" shall mean charges for tuition and fees established by State Institutions for persons who are not domiciled in South Carolina in accordance with this chapter.

F. The words "independent person" shall mean a person in his majority, or an emancipated minor, whose predominant source of income is his own earnings or income from employment, investments, or payments from trusts, grants, scholarships, loans or payments of alimony or separate maintenance made pursuant to court order.

G. The words "dependent" or "dependent person" mean:

(1) one whose financial support is provided not through his own earnings or entitlements, but whose predominant source of income or support is payments from a parent, spouse, or guardian, and who qualifies as a dependent or an exemption on the federal tax return of the parent, spouse, or guardian; or

(2) one for whom payments are made, under court order, for child support and the cost of his college education by an independent person meeting the provisions of Section 59-112-20 A or B.

The words "dependent" or "dependent person" do not include a spouse or former spouse who is the recipient of alimony or separate maintenance payments made pursuant to court order.

H. The word "minor" shall mean a person who has not attained the age of eighteen years; and the words "emancipated minor" shall mean a minor whose parents have entirely surrendered the right to the care, custody and earnings of such minor and are no longer under any legal obligation to support or maintain such minor.

I. The word "parent" shall mean a person's natural or adoptive father or mother; or if one parent has custody of the child, the parent having custody; or if there is a guardian or other legal custodian of such person, then such guardian or legal custodian; provided, however, that where circumstances indicate that such guardianship or custodianship was created primarily for the purpose of conferring South Carolina domicile for tuition and fee purposes on such child or dependent person, it shall not be given such effect.

J. The word "spouse" shall mean the husband or wife of a married person.

HISTORY: 1978 Act No. 466, Section 1; 1988 Act No. 510, Section 10; 1988 Act No. 578, Section 1; 2000 Act No. 254, Section 4.

**SECTION 59-112-20.** South Carolina domicile defined for purposes of rates of tuition and fees.

South Carolina domicile for tuition and fee purposes shall be established as follows in determinations of rates of tuition and fees to be paid by students entering or attending State Institutions:

A. Independent persons who reside in and have been domiciled in South Carolina for a period of no less than twelve months with an intention of making a permanent home therein, and their dependents, may be considered eligible for in-state rates.

B. Independent persons who reside in and have been domiciled in South Carolina for fewer than twelve months but who have full-time employment in the State, and their dependents, may be considered eligible for in-state rates for as long as such independent person is employed on a full-time basis in the State.

C. Where an independent person meeting the provisions of Section 59-112-20 B above, is living apart from his spouse, or where such person and his spouse are separated or divorced, the spouse and dependents of such independent person shall have domiciliary status for tuition and fee purposes only under the following circumstances:

(1) if the spouse requesting domiciliary status for tuition and fee purposes remains domiciled in South Carolina although living apart or separated from his or her employed spouse;

(2) if the dependent requesting domiciliary status for tuition and fee purposes is under the legal custody or guardianship, as defined in Section 59-112-10 I above, of an independent person who is domiciled in this State; or if such dependent is claimed as an income tax exemption by the parent not having legal custody but paying child-support, so long as either parent remains domiciled in South Carolina.

D. The residence and domicile of a dependent minor shall be presumed to be that of the parent of such dependent minor.

E. Independent persons who reside in and are domiciled in Chatham-Effingham and Bryan County Georgia, and their dependents, may be considered eligible for in-state rates for as long as the Georgia Board of Regents offers its Georgia Tuition Program by which it grants in-state tuition to students residing in the Beaufort and Jasper county area.

HISTORY: 1978 Act No. 466, Section 2; 2008 Act No. 353, Section 2, Pt 1F, eff July 1, 2009.

Effect of Amendment

The 2008 amendment added E, effective July 1, 2009.

**SECTION 59-112-30.** Effect of change of residency.

When the domicile of a student or of the person upon whom a student is financially dependent changes after enrollment at a State Institution, tuition charges shall be adjusted as follows:

- A. Except as provided in Section 59-112-20 B above, when domicile is taken in South Carolina, a student shall not become eligible for in-state rates until the beginning of the next academic session after expiration of twelve months from date of domicile in this State.
- B. When South Carolina domicile is lost, eligibility for in-state rates shall end on the last day of the academic session in which the loss occurs; however, application of this subsection shall be at the discretion of the institution involved.
- C. Notwithstanding the other provisions of this section, any dependent person who has been domiciled with his family in South Carolina for a period of not less than three years immediately prior to his enrollment may enroll in a state-supported institution of higher learning at the in-state rate and may continue to be enrolled at such rate even if the parent, spouse or guardian upon whom he is dependent moves his domicile from this State.

HISTORY: 1978 Act No. 466, Section 3; 1979 Act No. 130, Section 1.

**SECTION 59-112-40.** Effect of marriage.

Except as provided in Section 59-112-20 above, marriage shall effect determinations of domicile for tuition and fee purposes only insofar as it operates to evince an intention by the parties to make a permanent home in South Carolina.

HISTORY: 1978 Act No. 466, Section 4.

**SECTION 59-112-50.** Tuition rates for military personnel and their dependents.

(A) Notwithstanding another provision of law, during the period of their assignment to duty in South Carolina, members of the Armed Services of the United States stationed in South Carolina and their dependents are eligible for in-state tuition rates. When these armed service personnel are ordered away from the State, their dependents are eligible for in-state tuition rates as long as they remain continuously enrolled at the state institution in which they are enrolled at the time the assignment ends or transfer to an eligible institution during the term or semester, excluding summer terms, immediately following their enrollment at the previous institution. In the event of a transfer, the receiving institution shall verify the decision made by the student's previous institution in order to certify the student's eligibility for in-state tuition rates. It is the responsibility of the transferring student to ensure that all documents required to verify both the previous and present residency decisions are provided to the institution. These persons and their dependents are eligible for in-state tuition rates after their discharge from the armed services even though they were not enrolled at a state institution at the time of their discharge, if they have evidenced an intent to establish domicile in South Carolina and if they have resided in South Carolina for a period of at least twelve months immediately preceding their discharge. Active duty military personnel may be charged less than the undergraduate tuition rate for South Carolina residents for courses that are presented on a distance basis, regardless of residency.

(B)(1) Active duty military personnel may be charged less than the undergraduate tuition rate for South Carolina residents for courses that are presented on a distance basis, regardless of residency.

(2) For purposes of this section, "active duty military personnel" includes, but is not limited to, active duty guardsmen and active duty reservists.

(C)(1) Notwithstanding any other provision of law, a covered individual enrolled in a public institution of higher education and receiving educational assistance under Chapter 30 and Chapter 33, Title 38 of the United States Code are entitled to pay in-state tuition and fees without regard to the length of time the covered individual has resided in this State.

(2) For purposes of this subsection, a covered individual is defined as:

(a) a veteran who served ninety days or longer on active duty in the Uniformed Service of the United States, their respective Reserve forces, and the National Guard and who enrolls within three years of discharge; or

(b) a person who is entitled to and receiving assistance under Section 3311(b)(9) or 3319, Title 38 of the United States Code by virtue of the person's relationship to the veteran described in subitem (a).

(3) A covered individual must live in this State while enrolled at the in-state institution.

(4) At the conclusion of the applicable three year period in subsection (C)(2)(a), a covered individual shall remain eligible for in-state rates as long as he remains continuously enrolled in an in-state institution or transfers to another in-state institution during the term or semester, excluding summer terms, immediately following his enrollment at the previous in-state institution. In the event of a transfer, the in-state institution receiving the covered individual shall verify the covered individual's eligibility for in-state rates with the covered individual's prior in-state institution. It is the responsibility of the transferring covered individual to ensure all documents required to verify both the previous and present residency decisions are provided to the in-state institution.

HISTORY: 1978 Act No. 466, Section 5; 2008 Act No. 299, Section 1, eff June 11, 2008; 2010 Act No. 246, Section 4, eff July 1, 2010; 2012 Act No. 133, Section 1, eff April 2, 2012; 2015 Act No. 11 (S.391), Section 1, eff July 1, 2015.

#### Editor's Note

2010 Act 246, Section 5, provides as follows: "This act takes effect July 1, 2010, contingent upon available funding and agreement by the Interstate Commission to SECTION 3 of this act."

#### Effect of Amendment

The 2008 amendment, in the second sentence, substituted "are eligible for in-state tuition rates so long as they remain continuously enrolled at" for "may continue for an additional twelve months to have this eligibility at", in the third sentence deleted "for a period of twelve months" following "in-state rates" and substituted "evidenced" for "evinced", and made nonsubstantive amendments throughout.

The 2010 amendment rewrote this section.

The 2012 amendment added the subsection (A) designator before the first paragraph; added language permitting active duty military personnel to be charged less than in-state tuition for distance learning classes at the end of subsection (A); and added subsection (B), regarding the definition of "active duty military personnel".

2015 Act No. 11, Section 1, in (B), added (1), and redesignated former (B) as (B)(2); and added (C).

**SECTION 59-112-60.** Faculty, administrative employees and dependents; eligibility to attend classes and receive tuition assistance.

(A) Except as provided in this section, full-time faculty and administrative employees of State Institutions and their spouses and children are excluded from the provisions of this chapter.

(B) Employees of public colleges, universities, and technical colleges may attend classes at an institution of higher learning and receive tuition assistance in accordance with State Fiscal Accountability Authority guidelines and regulations.

HISTORY: 1978 Act No. 466, Section 6; 2002 Act No. 356, Section 1, Part II.G.

**SECTION 59-112-70.** Abatement of rates for nonresidents on scholarship. waiver for students participating in international Sister-State agreement or student exchange programs.

(A) Notwithstanding other provisions of this chapter, the governing boards listed in Section 59-112-10A, are authorized to adopt policies for the abatement of any part or all of the out-of-state rates for students who are recipients of scholarship aid.

(B) State-supported colleges and universities, including the technical colleges, may waive the nonresident portion of tuition and fees for those students who are participating in an international Sister-State agreement program which the Governor and the General Assembly have entered to promote the economic development of South Carolina. The nonresident fee waiver for the students is applicable only for those Sister-State agreements where South Carolina students receive reciprocal consideration. The Commission on Higher Education, through coordination with the State Fiscal Accountability Authority, will annually notify institutions of the Sister-State agreements eligible for the nonresident fee waiver. The credit hours generated by these students must be included in the Mission Resource Requirement for funding.

(C) State-supported colleges and universities that have an established and ongoing relationship in one or more degree programs with an international institution, the terms of which have been formally approved by the institution's board of trustees, and a relationship that includes regular arrangements for the enrollment of qualified students and the exchange of faculty between the institutions, although not necessarily in equal exchange numbers, may waive the nonresident portion of tuition and fees for nonresident students enrolled in the program.

HISTORY: 1978 Act No. 466, Section 7; 2002 Act No. 356, Section 1, Part II.F; 2008 Act No. 353, Section 2, Pt 1.E.1, eff July 1, 2008.

#### Effect of Amendment

The 2008 amendment added subsection (C) relating to foreign student exchange programs.

**SECTION 59-112-80.** Administration of chapter; burden of proving eligibility on students.

Each State Institution shall designate an official to administer the provisions of this chapter. Students making application to pay tuition and fees at in-state rates shall have the burden of proving to the satisfaction of the aforesaid officials of State Institutions that they have fulfilled the requirements of this chapter before they shall be permitted to pay tuition and fees at such rate.

HISTORY: 1978 Act No. 466, Section 8.

**SECTION 59-112-90.** Penalties for willful misrepresentations.

Where it appears to the satisfaction of officials charged with administration of these provisions that a person has gained domiciliary status improperly by making or presenting willful misrepresentations of fact, such persons shall be charged tuition and fees past due and unpaid at the out-of-state rate, plus interest at a rate of eight percent per annum, plus a penalty amounting to twenty-five percent of the out-of-state rate for one semester; and until these charges have been paid no such student shall be allowed to receive transcripts or graduate from any State Institution.

**SECTION 59-112-115.** Vote on tuition change.

When the governing board of a public institution of higher learning, excluding technical colleges, adopts a change to the tuition or fees imposed on students, the change may be implemented by the institution only after a public vote with the number of trustees voting for and against the change being counted. A majority vote is required to implement any change to the tuition or fees. For technical colleges, when the local area commission of a technical college adopts a change to the tuition or fees imposed on students, the change may be implemented by the technical college only after a public vote with the number of local area commissioners voting for and against the change being counted. A majority vote is required to implement any change to the tuition or fees. A change to tuition or fees adopted by the local area commission must be reported to the State Board for Technical and Comprehensive Education within five business days.

HISTORY: 2011 Act No. 74, Pt VI, Section 11, eff August 1, 2011.

**SECTION 59-116-20.** Authority to establish campus safety department and employ security officers; officers to be commissioned constables; jurisdiction.

The board of trustees of each college or university may establish a safety and security department and appoint and employ campus police officers to carry out the functions of the department. While on duty, campus police officers shall wear distinctive uniforms prescribed by the board of trustees or its designees.

The officers must be commissioned as constables pursuant to Section 23-1-60 and take the oath of office prescribed by law and the state Constitution for those officers. The jurisdiction of such a constable is limited to the campus grounds and streets and roads through and contiguous to them.

HISTORY: 1989 Act No. 131, Section 1.

**SECTION 59-116-30.** Authority, powers, and duties of campus police officers.

(A) Campus police officers are peace officers. While in the performance of the duties of their employment, they have all the powers of municipal and county police officers to make arrests for both felonies and misdemeanors and possess all of the common law and statutory powers, privileges, and immunities of police officers. Campus police officers shall:

(1) preserve the peace, maintain order, and prevent unlawful use of force or violence or other unlawful conduct on the campuses of their respective institutions and protect all persons and property located there from injury, harm, and damage;

(2) enforce and assist the officials of their respective institutions in the enforcement of the laws of the State and county and municipal ordinances, and the lawful regulations of the institution, and assist and cooperate with other law enforcement agencies and officers. Campus police officers shall exercise powers granted in this chapter only upon the real property owned by their respective institutions as defined in item (1) of Section 59-116-10.

(B) Campus police officers may arrest persons outside the territory described in subsection (A) when the person arrested has committed a criminal offense within that territory, and the arrest is made during the person's immediate and continuous flight from that territory.

(C) Safety and security departments created and operated by the boards of trustees of institutions under this chapter for the purposes of this chapter are campus police departments and the sworn campus police officers of the department are campus police officers.

(D) Campus police officers may designate and operate emergency vehicles and patrol cars in the manner provided by law for municipal and county law enforcement officers. Such a vehicle must bear distinctive and conspicuous lettering which reads "campus police" on the sides and rear of the vehicle.

The provisions of this chapter may not be construed as a diminution or modification of the authority or responsibility of a municipal police department, sheriff, constable, or other peace officer either on the property of an institution or otherwise.

HISTORY: 1989 Act No. 131, Section 1.

**SECTION 59-116-40.** Qualifications for employment as campus police officer.

At the time of their employment campus police officers authorized to exercise the powers granted in Section 59-116-30 must:

(1) be not less than twenty-one years of age;

(2) have completed successfully the training requirements of the South Carolina Criminal Justice Academy or which may be prescribed for campus police by the South Carolina Law Enforcement Training Council;

(3) be commissioned as a constable as provided for in Section 59-116-20;

(4) possess additional qualifications prescribed by the governing board of the institution by whom they are employed.

HISTORY: 1989 Act No. 131, Section 1.

**Editor's Note**

By direction of the Code Commissioner, a reference to "SLED law enforcement training council" in Section 59-116-40(2) as it appears in 1989 Act No. 131, Section 1 (Advance Sheet No. 3, dated July 24, 1989, 1989 Regular Session, Acts and Joint Resolutions) has been changed to "South Carolina Law Enforcement Training Council".

**SECTION 59-116-50.** Ranks and grades of campus police; promotion policy.

The public safety director or other appropriate official, with the approval of the governing board of the institution concerned, shall establish within the security department a system of ranks and grades and a promotion policy to insure efficient operation of the department and the establishment of responsibility in it.

HISTORY: 1989 Act No. 131, Section 1.

**SECTION 59-116-60.** Campus police vehicles and radio systems.

(A) Vehicles used for police purposes by a safety and security department are considered emergency vehicles and must be equipped with red or blue lights or combination of them and sirens and operated in conformance with the requirements of Chapter 5 of Title 56.

(B) Safety and security departments may install, maintain, and operate radio systems on radio frequencies under licenses issued by the Federal Communications Commission, or its successor.

HISTORY: 1989 Act No. 131, Section 1.

**SECTION 59-116-70.** Bond and reporting requirements of campus police officers.

Campus police officers shall post, before the assumption of their duties, bond in the amount of two thousand dollars in the manner provided in Section 23-1-70 but are exempt from the reporting requirements of Section 23-1-80 so long as they are employed by the safety and security department.

HISTORY: 1989 Act No. 131, Section 1.

**SECTION 59-116-80.** Impersonation of campus police officer prohibited; penalties.

(A) It is unlawful for a person to falsely represent himself to be a campus police officer, agent, or employee of a safety and security department of a college or university, or arrest, detain, search, or question in any manner the person or property of a person, nor may a person without the authority of the governing board of the institution wear its official uniform, insignia, badge, or identification of the department.

(B) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars nor more than one thousand dollars or imprisoned for not less than ten days nor more than ninety days, or both.

HISTORY: 1989 Act No. 131, Section 1.

**SECTION 59-116-100.** Processing of persons arrested by campus police.

Persons arrested by a campus police officer must be processed in the manner persons arrested are processed by municipal and county law enforcement officers.

HISTORY: 1989 Act No. 131, Section 1.

**SECTION 59-116-110.** Training of campus police officers.

All persons to be employed as campus police officers may attend and be trained at the South Carolina Criminal Justice Academy in the manner provided for other law enforcement officers in the State or at another designated location and by training officers as prescribed by the South Carolina Law Enforcement Training Council. Expenses of the training must be paid by the institution by which that person is to be employed. A representative of the institution shall certify to the academy that the person concerned is to be employed and request the academy to admit him for training.

HISTORY: 1989 Act No. 131, Section 1.

**Code Commissioner's Note**

By direction of the Code Commissioner, a reference to "SLED law enforcement training council" in Section 59-116-110 as it appears in 1989 Act No. 131, Section 1 (Advance Sheet No. 3, dated July 24, 1989, 1989 Regular Session, Acts and Joint Resolutions) has been changed to "South Carolina Law Enforcement Training Council".

**SECTION 59-116-120.** Construction and application of chapter.

The provisions of this chapter may not be construed to prevent colleges and universities from employing or continuing to employ guards, gatekeepers, and other security personnel, and the chapter applies only to those security officers who are granted the additional law enforcement authority including the power to arrest provided for officers who fulfill the requirements and meet the standards prescribed in this chapter.

HISTORY: 1989 Act No. 131, Section 1.

The **South Carolina Academic Endowment Incentive Act of 1997** can be found in its entirety in Title 59-Education, Chapter 118.

**SECTION 59-118-40.** Matching state gifts on qualified disbursements.

Each qualifying college or university will provide donors with an incentive in the form of matching state gifts on disbursements from earnings on certain endowments, donations, or gifts if these monies are used for the purposes specified in Section 59-118-50.

HISTORY: 1997 Act No. 155, Part II, Section 21A.

**SECTION 59-118-50.** Use of disbursements.

Disbursements from the earnings must be used to provide funds for academic purposes, to include academic scholarships, and are then eligible to receive state matching funds.

HISTORY: 1997 Act No. 155, Part II, Section 21A.

**SECTION 59-118-60.** South Carolina Higher Education Matching Gift Fund.

There is created the South Carolina Higher Education Matching Gift Fund which shall be separate and distinct from the state general fund and shall be administered by the Commission on Higher Education with the funds appropriated by the General Assembly in the general appropriations act of 1997-98. The General Assembly in the annual general appropriations act shall appropriate monies into this matching gift, fund not to exceed five million dollars annually, to be used for the purpose of providing matching state funds to qualifying colleges and universities for purposes stipulated by this chapter. The combined annual total of the match funds appropriated to the University of South Carolina Columbia, Clemson University, and the Medical University of South Carolina cannot exceed sixty percent of the annual appropriation. The disbursement match cannot exceed the amount provided by the South Carolina Higher Education Matching Gift Fund. The State Treasurer shall manage and invest the monies in the Higher Education Matching Gift Fund in the same manner and under the same terms and conditions as other state funds under his control are managed and invested, and disbursements to particular colleges or universities shall be made on warrant and under the direction of the Commission on Higher Education pursuant to the provisions of this chapter.

HISTORY: 1997 Act No. 155, Part II, Section 21A.

**SECTION 59-118-70.** Provision of matching funds.

The State of South Carolina, acting through the Commission on Higher Education, shall provide funds to match funds from the qualifying college, university, or principal foundation, to the extent of available funds, from the South Carolina Higher Education Matching Gift Fund established in Section 59-118-60.

HISTORY: 1997 Act No. 155, Part II, Section 21A.

**SECTION 59-118-80.** Conditions on matching gifts.

The state matching gifts authorized in Section 59-118-70 are subject to the following conditions:

- (1) qualifying disbursements to which the state matching gift is applied must come from the earnings of the endowment and not from principal or corpus;
- (2) the state matching funds must go directly into the college's or university's operating account to be spent only for the purposes authorized;
- (3) the college or university must make application to receive state matching funds on forms and under procedures prescribed by the Commission on Higher Education.

HISTORY: 1997 Act No. 155, Part II, Section 21A.

**SECTION 59-118-90.** Procedures for submission and documentation of requests.

The Commission on Higher Education shall specify by regulation the procedures for submission and documentation of requests for matching state funds.

HISTORY: 1997 Act No. 155, Part II, Section 21A.

**SECTION 59-118-100.** Proportionate shares; undistributed funds.

The Commission on Higher Education shall ensure that each qualifying college or university receives its proportionate share of the State Higher Education Matching Gift Fund based on the ratio of disbursements. Any monies in the State Higher Education Matching Gift Fund not distributed in any year shall be carried forward for the same purposes in future years and all earnings on monies in the State Higher Education Matching Gift Fund must be retained in the fund and used for its stated purposes.

HISTORY: 1997 Act No. 155, Part II, Section 21A.

**Title 59-Education, Chapter-123-The Medical University of South Carolina**

**SECTION 59-123-10.** Change of name; programs limited to health area; new programs and organizational changes.

The name of the Medical College of South Carolina is hereby changed to "The Medical University of South Carolina," it being the intent that this institution will limit its programs to those in the health area. It is further intended that any new programs undertaken by the institution will first be approved by the Commission on Higher Education and that no organizational changes in the operation and management of the institution shall be made as a result of the change in name.

HISTORY: 1962 Code Section 22-350; 1969 (56) 444.

**SECTION 59-123-20.** Acceptance of transfer of property.

The State of South Carolina hereby expressly declares that it accepts the conveyance and transfer of the property, real and personal, of The Medical University of South Carolina and the State Treasurer may receive and securely hold such property, both real and personal, and execute the necessary papers and receipts therefor as soon as the trustees and faculty of The Medical University of South Carolina shall convey and transfer such property to the State.

HISTORY: 1962 Code Section 22-351; 1952 Code Section 22-351; 1942 Code Section 5794; 1932 Code Section 5794; Civ. C. '22 Section 2813; 1913 (28) 188; 1952 (47) 1875; 1969 (56) 444.

**SECTION 59-123-30.** Charter confirmed.

The charter of The Medical University of South Carolina is hereby confirmed and extended with all the rights and privileges granted heretofore by the original act of incorporation or by any subsequent extension of its charter.

HISTORY: 1962 Code Section 22-352; 1952 Code Section 22-352; 1942 Code Section 5795; 1932 Code Section 5795; Civ. C. '22 Section 2814; 1913 (28) 188; 1952 (47) 1875; 1969 (56) 444.

**SECTION 59-123-40.** Composition of board of trustees.

The management and control of the university shall be vested in a board of trustees, to be composed as follows: the Governor or his designee, ex officio, fourteen members to be elected by the General Assembly in joint assembly and one member to be appointed by the Governor. The Governor shall make the appointment based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the board is representative of all citizens of the State of South Carolina.

HISTORY: 1962 Code Section 22-353; 1952 Code Section 22-353; 1942 Code Section 5796; 1932 Code Section 5796; Civ. C. '22 Section 2815; 1913 (28) 188; 1937 (40) 486; 1965 (54) 639; 1969 (56) 444; 1983 Act No. 130, Section 10; 1991 Act No. 248, Section 6; 2012 Act No. 176, Section 7, eff May 25, 2012.

Editor's Note

2012 Act No. 176, Sections 18 and 19, provide as follows: "SECTION 18. Notwithstanding any other provision of law to the contrary, any person elected or appointed to serve, or serving, as a member of any board or commission to represent a Congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board or commission from the district which loses a resident member as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires.

"SECTION 19. In the event that elections for incumbent university board of trustees' seats whose terms are expiring this year are not held prior to June 30, 2012, current board members will retain their seats until the General Assembly reconvenes and holds elections."

Effect of Amendment

The 2012 amendment substituted "fourteen" for "twelve".

**SECTION 59-123-50.** Election of board members; terms.

The present members of the board of trustees shall continue to serve until July 1, 1966, at which time their terms shall terminate and the members of the board to succeed the present members, and to fill the additional membership provided in Section 59-123-40, must be elected at a joint session of the General Assembly on the following dates: On the first Wednesday in February 1966, members representing the medical profession (medical doctor, dentist, registered nurse, or licensed pharmacist) and on the second Wednesday in February 1966, lay members or nonmedical members. One member of the medical profession from each congressional district and one layman or member of a nonmedical profession from each congressional district must be elected. The terms of all members elected commence on July 1, 1966. Of those first elected, the member who represents the medical profession from the first, second, and third congressional districts and lay members or members of a nonmedical profession from the fourth, fifth, and sixth congressional districts must be elected for terms of four years or until their successors are elected and qualify. The member of the board of trustees who represents the medical profession from the fourth, fifth, and sixth congressional districts and the members who are laymen or members of nonmedical professions from the first, second, and third congressional districts must be elected for terms of two years or until their successors are elected and qualify. Effective July 1, 2012, the member who represents the medical profession from the seventh congressional district must be elected to a term of four years and the lay member or member of a nonmedical profession from the seventh congressional district must be elected for an initial term of two years. Their successors must be elected for terms of four years or until their successors are elected and qualify. After its 1984 session, the General Assembly shall elect successors to those members it elects not earlier than the first day of April for a term to begin the following July first. Elections to fill vacancies on the board which are caused by the death, resignation, or removal of an elective trustee may be held earlier than the first day of April of the year in which the unexpired term terminates, but the term of the person elected to succeed the member expires on the last day of June of the year in which the term of the former member would have expired. In electing members of the board, the General Assembly shall elect members based on merit regardless of race, color, creed, or gender and shall strive to assure

that the membership of the board is representative of all citizens of the State of South Carolina.

The term of the at-large trustee appointed by the Governor is effective upon certification to the Secretary of State and is four years. Any vacancy in the office of the member appointed by the Governor must be filled by appointment for the unexpired term in the same manner of original appointment. If the Governor chooses to designate a member to serve in his stead, as permitted by Section 59-123-40, the appointment is effective upon certification to the Secretary of State and shall continue, at the pleasure of the Governor making the appointment, so long as he continues to hold the specified office.

HISTORY: 1962 Code Section 22-354; 1952 Code Section 22-354; 1942 Code Section 5796; 1932 Code Section 5796; Civ. C. '22 Section 2815; 1913 (28) 188; 1937 (40) 486; 1965 (54) 639; 1983 Act No. 130, Section 11; 1983 Act No. 132, Section 8; 1984 Act No. 354, Section 6; 1991 Act No. 248, Section 6; 2012 Act No. 176, Section 8, eff May 25, 2012.

#### Editor's Note

2012 Act No. 176, Sections 18 and 19, provide as follows: "SECTION 18. Notwithstanding any other provision of law to the contrary, any person elected or appointed to serve, or serving, as a member of any board or commission to represent a Congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board or commission from the district which loses a resident member as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires."

"SECTION 19. In the event that elections for incumbent university board of trustees' seats whose terms are expiring this year are not held prior to June 30, 2012, current board members will retain their seats until the General Assembly reconvenes and holds elections."

#### Effect of Amendment

The 2012 amendment inserted the sixth sentence relating to the seventh congressional district.

#### **SECTION 59-123-60.** Organization and powers of board; designation as Medical University Hospital Authority.

(A) The board of trustees shall elect one of its members to be chairman and is authorized to elect a university president, one or more vice presidents, and a secretary, prescribe their duties and terms of office, and fix their compensation. It shall elect teachers of professorial rank in the various colleges which make up the Medical University of South Carolina and other officers and employees as may be necessary for the proper conduct of the university and fix their compensation, the fees and charges of students, and the rules for the government of the university. The board of trustees also has the following powers:

(1) to make bylaws and regulations considered expedient for the management of its affairs and its own operations not inconsistent with the constitution and laws of this State or of the United States;

(2) to confer the appropriate degrees in medicine, dental medicine, pharmacy, nursing, health-related professions, and graduate studies in related health fields upon students and other persons as in the opinion of the board of trustees may be qualified to receive them; and

(3) to make contracts and to have, to hold, to purchase, and to lease real estate and personal property for corporate purposes; and to sell and dispose of personal property and any buildings that are considered by it as surplus property or no longer needed and any buildings that it may need to do away with for the purpose of making room for other construction. These powers must be exercised in a manner consistent with the provisions of Chapter 35 of Title 11.

(B) All revenues of the Medical University of South Carolina, the Medical University Hospital, and any funds transferred to the Medical University from a practice plan must be expended for a public purpose as that purpose is defined in the applicable state law and regulations. For purposes of this subsection, and in addition to all other applicable laws and regulations, public purposes also do not include expenditures for purchasing gifts, making political or other contributions, and reimbursing officers' and employees' travel and subsistence expenses in excess of those authorized by law for state employees away from their job site on official business.

(C) The provisions of the Freedom of Information Act apply to the Medical University Hospital Authority, except that access is not allowed under this section to patient records or insurance information with respect to patients.

(D) Members of the Medical University Board, while serving as members of the hospital authority and the officers and employees of the hospital authority, shall be subject to applicable state ethics and accountability provisions of law.

(E) As shall be provided in an implementing resolution by the Board of Trustees of the Medical University of South Carolina, the Board of Trustees of the Medical University of South Carolina becomes the governing body of the Medical University hospitals, clinics, and other health care and related facilities (hereinafter 'hospital') as shall be determined from time to time by resolution of the board. Whenever the board functions in its capacity as the governing body of the hospital, the board of trustees is constituted and designated as the Medical University Hospital Authority, an agency of the State of South Carolina (hereinafter called authority). The board, as the governing body of the authority, has the powers granted the Board of Trustees of the Medical University of South Carolina under this chapter and the following powers:

(1) make and amend bylaws for its governance consistent with the purposes of this chapter;

(2) make bylaws for the management, regulation, and operation of the hospital;

(3)(a) make contracts and have, hold, purchase, and lease real estate and personal property for corporate purposes; and sell and dispose of personal property and any buildings that are considered by it as surplus property or no longer needed and any buildings that it may need to do away with for the purpose of making room for other construction. These contracts are exempt from the South Carolina Consolidated Procurement Code and Regulations, but the authority must adopt a procurement policy requiring competitive bidding for construction contracts, which must be filed with and approved by the State Fiscal Accountability Authority;

(b) sell, convey, mortgage, lease, exchange, and otherwise dispose of any real property subject to the authority and approval of the State Fiscal Accountability Authority or the Department of Administration, as appropriate. These activities under this subitem are exempt from all regulations and general laws governing disposal of surplus government property. The proceeds derived from the lease of any real property, net of transaction costs and payment of any debts secured by such property, shall be remitted to the MUSC Board of Trustees to be used exclusively for the support of the Medical University. The proceeds derived from the disposition of any real property, net of transaction costs and payment of any debts secured by such property, shall be remitted to the MUSC Board of Trustees to be used exclusively for the support of the Medical University;

(c) make contracts and guarantees, to incur liabilities, to issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property, or income in a manner to be in the best interest of the authority. Any guarantee or indebtedness of the authority shall not create an obligation of the State, nor shall such guarantee or indebtedness be considered a debt against the general revenue of the State;

(d) for the purpose of effectuating the provisions of subitem (c) above, utilize all provisions of the Hospital Revenue Bond Act. The issuance by the authority of any bonds, notes, or other obligations or indebtedness, except as provided in this subitem, shall be subject to the approval thereof by resolution of the State Fiscal Accountability Authority. Except for such approving resolution, the requirements of Section 44-7-1590 of the Hospital Revenue Bond Act shall be applicable to obligations issued by the authority. The authority may issue revenue anticipation notes and such notes shall have a maturity of not exceeding six months from date of issuance and shall not exceed, in the aggregate, ten percent of the net patient service revenue for the fiscal year of the authority preceding the fiscal year in which such obligations are issued;

(4) receive contributions, donations, and payments and invest and disburse its funds; provided, however, that these funds are funds which must be used for public purposes, and further, that the authority may not use or authorize the use of funds, property, or time to influence the outcome of an election;

(5) construct, operate, and maintain the hospital and related premises, buildings and facilities, and infrastructure;

(6) appoint such officers, employees, personnel, and agents of the authority and define such duties and fix their compensation in such manner as is necessary to carry out the authority's activities and affairs; the policies of the authority's personnel and employees are exempt from Department of Administration personnel policies and applicable laws; all personnel employed by the authority are exempt from the provisions of Article 5, Chapter 17 of Title 8, the State Employee Grievance Procedure, but the board shall adopt a grievance procedure substantially similar to the provisions of that article to govern personnel and employees of the authority, and this procedure must be filed with and approved by the State Department of Administration. All employees of the authority must be furnished a copy of this grievance procedure; all personnel employed by the authority are employees-at-will and are state employees for purposes of eligibility for participation in the South Carolina Retirement System, the State Health Insurance Group plans, and pursuant to the South Carolina Tort Claims Act;

(7) make pension payments to the South Carolina Retirement Systems on behalf of personnel or employees employed by the authority who qualify in the same manner as other state employees in the executive branch of government;

(8) pay contributions to the Office of Insurance Services for health and dental plans on behalf of personnel employed by the authority who qualify in the same manner as other state employees in the executive branch of government;

(9) receive, expend, and control under its own name and account any appropriated funds, federal funds, donations, and grants made available to the authority; provided, however, that these funds are funds which must be used for a public purpose, and further, that the authority may not use or authorize the use of funds, property, or time to influence the outcome of an election;

(10) conduct an annual fiscal audit by certified public accountants selected by the authority who shall review the accounts of the authority and report such findings of the audit to the Governor and the General Assembly in accordance with generally accepted auditing standards;

(11) prepare and submit an annual budget to the General Assembly and the Governor for review;

(12) establish management controls and staffing of personnel as the authority deems most appropriate for the prudent conduct of the activities and affairs of the hospital; provided, that they establish an internal audit function that would report directly to the authority;

(13) establish such not-for-profit corporations as the board considers necessary to assist the authority in carrying out its functions; provided, that any entity created pursuant to this subsection is considered to be an entity of the authority and subject to all laws and regulations applicable to the authority under this section. The formation of for-profit corporations by the authority is strictly prohibited.

(F) Upon review of the audit report required in Section 59-123-60(E)(10), the legislature, by joint resolution, or the Governor, by Executive Order, may request audits to be completed by the State Auditors Office or the Legislative Audit Council. Based on the findings reported in the audit required in Section 59-123-60(E)(10) by the State Auditors Office or by the Legislative Audit Council, the legislature, by joint resolution, may require intervention by the State Fiscal Accountability Authority for the purposes of rectifying any material findings reflected in the audits.

(G) A member of the Medical University Board, an officer in the administration of the university, including deans of the various colleges, the President of the Medical University, or any other officer of the authority or any of its affiliates who have been found guilty of malfeasance, misfeasance, incompetence, absenteeism, conflict of interest, misconduct, persistent neglect of duty in office, or incapacity shall be subject to removal by the Governor upon any of the foregoing causes being made to appear to the satisfaction of the Governor. But before removing any such person, the Governor shall inform him in writing of the specific charges against him and give him an opportunity on reasonable notice to be heard. The Governor shall appoint a successor to fill the vacancy created by his removal. The successor appointed by the Governor is to serve in that position until a successor is elected and qualified in accordance with Section 59-123-50.

(H) The authority shall offer and provide to the Medical University of South Carolina the services necessary for the training and education of health professionals.

(I) Beginning in fiscal year 2000-2001 state appropriations to the Medical University of South Carolina for support of the Medical University hospitals and clinics shall be redirected to the Department of Health and Human Services. These funds shall be used as match funds for the disproportionate share for the hospital's federal program. Any excess funding may be used for hospital base rate increases. Beginning in fiscal year 2000-2001 and in subsequent years, the Department of Health and Human Services shall pay to the Medical University of South Carolina Hospital Authority an amount equal to the amount appropriated for its disproportionate share to the Department of Health and Human Services. This payment shall be in addition to any other funds that are available to the authority from the Medicaid program inclusive of the disproportionate share for the hospital's federal program. The authority shall continue to operate the hospital as a health provider for the citizens of South Carolina and the clinical site for the education and training programs of the Medical University of South Carolina.

(J) The board, as the governing body of the authority, shall adopt a written policy for the hospital for the expenditure of public funds. Public funds may be expended for events which recognize academic and research excellence and noteworthy accomplishments of members of the faculty and staff, students, and distinguished guests of the authority. Sources of the funds for these expenditures include only nonappropriated state funds. The expenditure of funds from these sources pursuant to the written policy of the board for the purpose stated in this section are considered to meet the public purpose test for expenditure of public funds.

(K) The authority and its permanent improvements and the financing thereof shall be exempt from the provisions of Chapter 47 of Title 2, and the leasing of property and the granting of easements and rights of way by the authority shall be exempt from the provisions of Sections 1-11-55, 1-11-56, 1-11-57(1), and 10-1-130.

(L) The authority and the board of trustees as the governing body of the authority shall succeed to all of the rights, duties, and obligations of the Medical University of South Carolina and the board of trustees, respectively, as owner and operator of the hospital. All property, real, personal, tangible, or intangible (including, without limitation, deposits, investments, and accounts receivable) of the Medical University relating to the hospital shall be and become the property of the authority. The Medical University and its officers are authorized to execute and deliver such instruments of conveyance or agreements as may be determined by the board to be necessary or useful to effect or evidence such transfer."

HISTORY: 1962 Code Section 22-355; 1952 Code Section 22-355; 1942 Code Section 5796; 1932 Code Section 5796; Civ. C. '22 Section 2815; 1913 (28) 188; 1937 (40) 486; 1953 (48) 402; 1967 (55) 643; 1969 (56) 444; 1980 Act No. 302, Section 1; 1987 Act No. 13, Section 1; 1999 Act No. 100, Part II, Section 78; 1999 Act No. 116, Section 2; 2000 Act No. 264, Section 1.

**Code Commissioner's Note**

This section was amended by 1999 Act No. 100, Part II, Section 78 and by 1999 Act No. 116, Section 2. The amendments were being read together at the direction of the Code Commissioner.

**SECTION 59-123-70. Annual report of board.**

The board of trustees shall meet annually at the call of the chairman of the board and at such meeting shall prepare and present to the General Assembly a report on the condition of the university and of their receipts and expenditures for the preceding year and shall also prepare for presentation to the General Assembly an estimate of the sum required for the maintenance of the university for the next succeeding year.

HISTORY: 1962 Code Section 22-357; 1952 Code Section 22-357; 1942 Code Section 5799; 1932 Code Section 5799; Civ. C. '22 Section 2818; 1913 (28) 188; 1953 (48) 402; 1969 (56) 444.

**SECTION 59-123-80. Board authorized to grant rights-of-way for widening and extending streets; president authorized to sign necessary documents.**

The board of trustees of The Medical University of South Carolina may grant rights-of-way, easements, or otherwise convey to the city council of Charleston such property as they deem necessary and required for the purpose of widening and extending streets through The

Medical University land when it shall be to the advantage of The Medical University. The president of The Medical University may sign all documents necessary to complete the transactions herein provided for, after they have been approved in writing by the board of trustees in each such instance.

HISTORY: 1962 Code Section 22-358; 1954 (48) 1714; 1969 (56) 444.

**SECTION 59-123-90.** Board vested with power of eminent domain.

The board of trustees of The Medical University of South Carolina is vested with the power of eminent domain. The authority granted in this section applies only to private lands. The lands condemned must be used by The Medical University in the performance of its functions in the acquisition, construction, and operation of facilities for the University. Any new construction undertaken by The Medical University within the corporate limits of the City of Charleston must be done in compliance with the parking regulations and ordinances of that city to the degree that the number of parking spaces required by the regulations and ordinances must be provided on Medical University property.

HISTORY: 1962 Code Section 22-369; 1975 (59) 49; 1987 Act No. 173, Section 54.

**SECTION 59-123-95.** Board may borrow to purchase diagnostic and therapeutical equipment.

In order to raise moneys which are required to pay the cost of diagnostic and therapeutical equipment for use in the hospital operated by The Medical University of South Carolina (The Medical University), the Board of Trustees of the University with the approval of the State Fiscal Accountability Authority of South Carolina (the state board) may borrow such amounts as shall be required for such purposes. Not more than two million dollars of debt created pursuant to this section shall be outstanding at any time.

The borrowing authorized by this section shall be in the form of notes of The Medical University payable solely from charges for the service or use rendered by the equipment. Upon its acquisition, an appropriate schedule of charges shall be placed in effect and maintained. All moneys received from the charges shall be remitted to the State Treasurer and deposited in a special fund to be applied to the payment of the principal and interest on the notes. With the approval of the state board any surplus in such fund may be used as a revolving fund to purchase additional diagnostic and therapeutic equipment.

No note may be issued hereunder unless the use of its proceeds, its terms, its maturities and the service charge to be imposed for the use of the purchased equipment is approved by the state board.

The charges imposed by authority of this section shall be in addition to the "special charge" established and maintained pursuant to Section 14 of act 1654 of 1972 imposed to secure in part all Plant Improvement Bonds of The Medical University now or hereafter issued.

HISTORY: 1977 Act No. 219, Part II, Section 17; 1978 Act No. 644, Part II, Section 42.

**SECTION 59-123-100.** Rules governing admissions not changed.

Nothing contained in Sections 59-111-510 to 59-111-580 shall be construed to alter in any manner the law, rules or regulations governing admissions of students to The Medical University of South Carolina and all admissions of beneficiaries of scholarships under said sections shall be likewise subject to approval by the admitting authorities in the same manner as otherwise provided by law.

HISTORY: 1962 Code Section 22-364; 1952 Code Section 22-364; 1948 (45) 1966; 1952 (47) 1875; 1969 (56) 444.

**SECTION 59-123-110.** School of Dentistry established at Medical University.

In addition to the present facilities, activities and colleges of The Medical University of South Carolina, there is hereby created and established a four-year college of dental medicine, to be located in Charleston, South Carolina, as a part of The Medical University, and to be known as the College of Dental Medicine of The Medical University of South Carolina; and the board of trustees of the University may commence operations of the college as soon as practicable.

HISTORY: 1962 Code Section 22-365; 1953 (48) 320; 1969 (56) 444; 1980 Act No. 302, Section 2.

**SECTION 59-123-115.** Area Health Education Consortium; funding formula; expenditure of funds.

(A) The South Carolina Area Health Education Consortium shall be awarded funding for the Statewide Family Practice Residency System, the Graduate Doctor Education Program, and the Area Health Education Center Program based on the appropriate formula, as approved by the Area Health Education Consortium and the Commission on Higher Education, and the funding methodology shall be applied in a manner consistent with that of other state institutions of higher learning.

(B) Statewide Family Practice Residency System funds appropriated for faculty salaries, teaching services, and consultant fees may only be expended when these activities are accomplished for educational purposes in the family practice centers; however, the Medical University of South Carolina may expend these funds in hospital-based clinical settings apart from the consortium hospital, when these settings are determined by the president of the Medical University of South Carolina, with approval of the Medical University board, to provide appropriate educational experience and opportunities to the family practice residents. These funds must not be transferred to any other program.

HISTORY: 1998 Act No. 419, Part II, Section 6A; 2008 Act No. 353, Section 2, Pt 3.A, eff July 1, 2009.

#### Effect of Amendment

The 2008 amendment designated subsection (A) and added subsection (B) relating to expenditure of funds appropriated for faculty salaries, teaching services, and consultant fees.

#### **SECTION 59-123-125.** Rural Physician Program; administration of funds; membership of managing board.

The funds appropriated to the Medical University of South Carolina for the "Rural Physician Program" shall be administered by the South Carolina Area Health Education Consortium physician recruitment office. The Medical University of South Carolina shall be responsible for the fiscal management of funds to ensure that state policies and guidelines are adhered to. A board is hereby created to manage and allocate these funds in the best interests of the citizens of South Carolina. The board shall be composed of the following: the Executive Director, or his designee, of the South Carolina Primary Care Association; the Dean, or his designee, of the University of South Carolina School of Medicine; the Executive Director, or his designee, of the South Carolina Medical Association; two representatives from rural health care settings, one to be appointed by the Chairman of the Senate Medical Affairs Committee and one to be appointed by the Chairman of the House Medical, Military, Public and Municipal Affairs Committee; the Commissioner, or his designee, of the Department of Health and Environmental Control; the Commissioner, or his designee, of the South Carolina Hospital Association; the Commissioner, or his designee, of the Commission on Higher Education; and the Director, or his designee, of the Department of Health and Human Services. The Chairman, with the concurrence of the board, shall appoint three at-large members with two representing nursing and one representing allied health services in South Carolina.

HISTORY: 1998 Act No. 419, Part II, Section 5A.

#### **SECTION 59-123-210.** Additional student and faculty housing authorized from bond proceeds; refunding authorized.

The trustees are authorized to acquire additional student and faculty housing facilities and to improve and renovate existing student and faculty housing facilities to the extent they shall approve; and the proceeds of bonds authorized by Sections 59-123-210 through 59-123-320 are made available for that purpose. The trustees are also authorized to refund bonds that may from time to time be outstanding pursuant to Sections 59-123-210 through 59-123-320 by exchange or otherwise.

HISTORY: 1982 Act No. 392, Section 2.

#### **SECTION 59-123-220.** Trustees authorized to issue revenue bonds; limitation; refunding; use of proceeds and facilities.

Upon receiving the approval of the State Fiscal Accountability Authority or Department of Administration, as appropriate, and upon review of the Bond Review Committee created by Section 2-47-20, the trustees shall be permitted to issue, from time to time, revenue bonds or notes, provided that not more than ten million dollars of such obligations may be outstanding at any one time. The trustees are also hereby authorized to refund all or any part of any outstanding revenue bonds of the Medical University payable in whole or in part from the revenues also pledged to the payment of bonds issued pursuant to Sections 59-123-210 through 59-123-320 and which are outstanding on the occasion of any such refunding. So much of the proceeds of the loans herein authorized as shall not be required to retire outstanding bonds shall be used in the construction, reconstruction, and equipping of dormitories and buildings designed for student and faculty housing, and auxiliary and related facilities, to be located on lands owned by the Medical University. Such buildings, when constructed, shall be used for the purpose of providing housing, and auxiliary and related facilities, for students and faculty of the Medical University.

HISTORY: 1982 Act No. 392, Section 3.

#### **SECTION 59-123-230.** Bonds payable from net housing revenues.

All bonds issued pursuant to Sections 59-123-210 through 59-123-320 shall be payable from the net revenues derived by the Medical University from the rental of all dormitories, student dwelling quarters and facilities, houses, residences, apartment buildings, from time to time used or designed for use as student and faculty housing, and all furniture, furnishings and equipment therein, which are now owned by the Medical University, or which may hereafter be acquired by the Medical University for any of such purposes; provided, that the trustees may abandon the use of any portion of the facilities or sell or dispose of any portion of the facilities upon the receipt of a written recommendation by the chief financial officer of the Medical University and approval of the State Fiscal Accountability Authority or the Department of Administration, as appropriate, and the Joint Bond Review Committee to the effect that such action will not adversely affect the ability of the Medical University to discharge its obligations to the holders of bonds issued pursuant to Sections 59-123-210 through 59-123-320 and upon such further conditions as shall be prescribed in the resolution of the trustees providing for the issuance of bonds. For purposes of Sections 59-123-210 through 59-123-320 the term "net revenues" shall mean that sum which remains from the gross revenues derived from the rental of housing facilities after deducting the amounts required in any given year for the operation and maintenance of such facilities.

HISTORY: 1982 Act No. 392, Section 4.

#### **SECTION 59-123-240.** Credit of state not to be pledged; trustees not liable on bonds.

The faith and credit of the State of South Carolina shall not be pledged for the payment of the principal and interest of such bonds, and there shall be on the face of each bond a statement plainly worded, to that effect. Neither the trustees nor any other person signing the bonds shall be personally liable therefor.

HISTORY: 1982 Act No. 392, Section 5.

#### **SECTION 59-123-250.** Resolutions for issuance of bonds; maturity; interest; denominations; redemption.

In order to avail themselves of the authorizations set forth in Sections 59-123-210 through 59-123-320, the trustees shall adopt resolutions

providing for the issuance of bonds of the Medical University, within the limitations herein mentioned, which resolutions shall prescribe the tenor, terms, and conditions of such bonds. Such bonds shall be issued as serial bonds, maturing in equal or unequal amounts, at such times and on such occasions as the trustees shall determine. Provided, always, that the last maturing bonds of any issue shall be expressed to mature not later than forty years from their date, and the first maturing bonds of any issue, issued pursuant to this act, shall fall due within five years from their date. They shall bear such rates of interest, payable on such occasion, as the trustees shall prescribe, and the bonds shall be in such denominations, shall be payable in such medium of payment, and at such place as such resolutions shall prescribe. All bonds may be issued with a provision permitting their redemption on any interest payment date prior to their respective maturities as the trustees shall prescribe. Bonds made subject to redemption prior to their stated maturities may contain a provision requiring the payment of a premium for the privilege of exercising the right of redemption, in such amount or amounts as the trustees shall prescribe in the resolutions authorizing their issuance. All bonds subject to redemption shall contain a statement to that effect on the face of each bond. The resolutions authorizing their issuance shall contain provisions specifying the manner of call and the notice of call that must be given.

HISTORY: 1982 Act No. 392, Section 6.

**SECTION 59-123-260.** Form of bonds.

Such bonds may be in the form of negotiable coupon bonds, payable to bearer, with the privilege to the holder of having them registered on the books of a registrar to be named, and the principal thus made payable to the registered holder, unless the last registered transfer shall have been to bearer, upon such conditions as the trustees may prescribe, or such bonds may be issued as fully registered bonds. If issued as fully registered bonds, it may be provided that they may thereafter be converted into negotiable coupon bonds of the tenor described above.

HISTORY: 1982 Act No. 392, Section 7.

**SECTION 59-123-270.** Bonds and interest tax exempt.

The bonds authorized by Sections 59-123-210 through 59-123-320 and all interest to become due thereon shall be exempt from taxation in the State of South Carolina as provided in Section 12-1-60.

HISTORY: 1982 Act No. 392, Section 8.

**SECTION 59-123-280.** Bonds as legal investments for certain purchasers.

It shall be lawful for all executors, administrators, guardians, and fiduciaries, all sinking fund commissions, and the Public Employee Benefit Authority or the State Fiscal Accountability Authority as cotrustees of the South Carolina Retirement System, to invest any monies in their hands in such bonds.

HISTORY: 1982 Act No. 392, Section 9.

**SECTION 59-123-290.** Execution of bonds.

Such bonds and the coupons, if any, attached to such bonds, shall be executed in the name of the Medical University in such manner and by such persons as the trustees shall from time to time determine, and the seal of the Medical University shall be affixed to or impressed on each bond. Any coupons attached to such bonds shall be authenticated by the facsimile signature of one or more of the persons signing the bonds. The delivery of the bonds so executed shall be valid notwithstanding changes in officers or seal occurring after such execution.

HISTORY: 1982 Act No. 392, Section 10.

**SECTION 59-123-300.** Sale of bonds.

The bonds shall be disposed of in such manner as the trustees shall determine, except that no sale, privately negotiated without public advertisement, shall be made unless the approval of the State Fiscal Accountability Authority shall be obtained. If the trustees shall elect to sell the bonds at public sale, at least one advertisement thereof shall appear in some newspaper of general circulation in South Carolina not less than ten days prior to the occasion fixed for the opening of bids.

HISTORY: 1982 Act No. 392, Section 11.

**SECTION 59-123-310.** Powers and duties of trustees with respect to bonds.

To the end that the payment of the principal and interest of the bonds authorized hereby shall be adequately secured, the trustees shall be empowered in their discretion:

1. To issue bonds in such amount, within the limitations herein provided, as the trustees shall deem necessary, provided, that it shall be lawful for the trustees to use a portion of the principal proceeds derived from any sale of bonds, except bonds issued to effect refunding of outstanding bonds, to meet the payment of interest on such bonds for a period of one year, it being recognized by the General Assembly that until the facilities to be constructed with the proceeds of the loan shall be completed, an undue burden may be imposed upon then existing revenues.

2. To pledge the entire revenues specified in Section 59-123-230 for the payment of the principal of and interest on the bonds as they respectively mature.

3. To covenant that no housing facilities owned by the Medical University will be used free of charge, or to specify and limit the facilities which may be made use of free of charge.
4. To covenant to establish and maintain such system of rules as will insure the continuous use and occupancy of the facilities, whose revenues are pledged to secure any bonds.
5. To covenant that an adequate schedule of charges will be established and maintained for all the facilities, whose revenues shall be pledged to secure any bonds, to the extent necessary to produce sufficient revenues to:
  - (a) Pay the cost of operating and maintaining the facilities including the cost of fire, extended coverage and occupancy insurance;
  - (b) Pay the principal and interest of the bonds as they respectively become due;
  - (c) Create and at all times maintain an adequate Debt Service Reserve Fund to meet the payment of such principal and interest; and
  - (d) Create and at all times maintain an adequate reserve for contingencies, and for major repairs and replacement.
6. To covenant against the mortgaging or disposing of the facilities, whose revenues shall be pledged for the payment of such bonds, and against permitting or suffering any lien to be created thereon, equal or superior to the lien created for the benefit of such bonds; provided, always, that the trustees shall be empowered to discontinue the use of, or demolish, obsolete facilities and to reserve the right, under such terms as they shall prescribe, to issue additional bonds on a parity with the bonds authorized by Sections 59-123-210 through 59-123-320.
7. To covenant as to the use of the proceeds derived from the sale of any bonds issued pursuant to Sections 59-123-210 through 59-123-320.
8. To provide for the terms, form, registration, exchange, execution, and authentication of bonds, and for the replacement of lost, destroyed, or mutilated bonds.
9. To make covenants with respect to the use of facilities to be constructed with the proceeds of the bonds authorized hereby, and of the other facilities, whose revenues shall be pledged for the payment of the bonds.
10. To covenant that all revenues pledged for the payment of the bonds shall be duly segregated into special funds, and that such funds will be used solely for the purposes for which they are intended and for no other purpose.
11. To covenant for the mandatory redemption of bonds on such terms and conditions as the resolutions authorizing such bonds shall prescribe.
12. To prescribe the procedure, if any, by which the terms of the contract with the bondholders may be amended, the number of bonds whose holders must consent thereto, and the manner in which such consent shall be given.
13. To covenant as to the maintenance of the facilities, whose revenues shall be pledged for the payment of the bonds, the insurance to be carried thereon, and the use and disposition of proceeds from any insurance policy.
14. To prescribe the events of default and the terms and conditions upon which all or any bonds shall become or may be declared due before maturity, and the terms and conditions upon which such declaration and its consequences may be waived.
15. To impose a statutory lien upon the facilities, whose revenues shall be pledged to secure the bonds. Such lien shall extend to such facilities, to their appurtenances and extensions, to their additions, improvements, and enlargements to the extent specified in the resolutions and shall insure to the benefit of the holders of the bonds secured thereby. Such facilities shall remain subject to such statutory lien until the payment in full of the principal and interest of the bonds. Any holder of any of the bonds, or any of the coupons representing interest thereon, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce the statutory lien, and may, by suit, action, mandamus, or other proceedings enforce and compel performance of all duties of the trustees, including the fixing of sufficient rates, the proper segregation of the revenues, and the proper application thereof. Provided, however, that the statutory lien shall not be construed to give any such bond or coupon holder authority to compel the sale of any of the facilities, or any part thereof.
16. To covenant that if there be any default in the payment of the principal or interest upon any of the bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the facilities, whose revenues shall be pledged for the payment of such bonds, with power to fix rates and charges for the facilities, sufficient to provide for the payment of the expense of operating and maintaining such facilities, and to apply the income and revenues of such facilities to the payment of such bonds, and the interest thereon.
17. To establish on or before the occasion of the delivery of any bonds issued pursuant to Sections 59-123-210 through 59-123-320 a debt service reserve fund and to cause the same to be deposited with a corporate trustee and, to that end, the trustees shall be empowered to utilize any monies available for such purpose, including revenues previously accumulated from the facilities prior to the issuance of bonds.

HISTORY: 1982 Act No. 392, Section 12.

**SECTION 59-123-320.** No time limit on issuance of bonds.

The authorizations granted by Sections 59-123-210 through 59-123-320 shall remain in full force and effect until they shall be rescinded by subsequent enactment, and no time limit is set for the issuance of bonds pursuant to Sections 59-123-210 through 59-123-320.

HISTORY: 1982 Act No. 392, Section 13.

**SECTION 59-147-10.** Short title.

This chapter may be cited as the "Higher Education Revenue Bond Act".

HISTORY: 1996 Act No. 302, Section 1.

**SECTION 59-147-20.** Definitions.

As used in this chapter:

- (1) "board" means the board of trustees of the university;
- (2) "equipment" means items with a useful life of at least fifteen years;
- (3) "facilities" means the real and personal property and equipment specified in Section 59-147-20(2) of this chapter whether or not the acquisition or construction thereof is financed from the proceeds of bonds issued pursuant to this chapter;
- (4) "revenues" means the revenues derived or to be derived from the operation, sale, lease, or other disposition of the facilities; and
- (5) "university" means all research and four-year public institutions of higher education.

HISTORY: 1996 Act No. 302, Section 1.

**SECTION 59-147-30.** Issuance of revenue bonds; purpose.

Subject to the approval of the State Fiscal Accountability Authority or Department of Administration, as appropriate, by resolution duly adopted, the university may issue revenue bonds of the university for the purpose of financing or refinancing in whole or in part the cost of acquisition, construction, reconstruction, renovation and improvement of land, buildings, and other improvements to real property and equipment for the purpose of providing facilities serving the needs of the university including, but not limited to:

- (1) dormitories, apartment buildings, dwelling houses, bookstores and other university operated stores, laundries, dining halls, cafeterias, parking facilities, student recreational, entertainment and fitness related facilities, inns, conference and other nondegree educational facilities and similar auxiliary facilities of the university and any other facilities which are auxiliary to any of the foregoing excluding, however, athletic department projects which primarily serve varsity athletic teams of the university; and
- (2) those academic facilities as may be authorized by joint resolution of the General Assembly.

HISTORY: 1996 Act No. 302, Section 1; 2009 Act No. 2, Section 1, eff upon approval (became law without the Governor's signature on April 9, 2009).

**Effect of Amendment**

The 2009 amendment designated item (1) from existing text and added item (2) relating to academic facilities as may be authorized by the General Assembly.

**SECTION 59-147-40.** Requirement of university board resolution; content of authorizing resolution.

Revenue bonds issued under this chapter must be authorized by a resolution or resolutions of the board of the university. The resolution of the university may, in the discretion of the board, contain provisions which shall constitute a part of the contract between the university and the several holders of the bonds, as to any of the following:

- (1) the custody, security, use, expenditure, or application of the proceeds of the bonds including, without limitation, the use of bond proceeds to pay the cost of acquisition, construction, reconstruction or renovation of facilities, expenses of issuance of the bonds, interest on the bonds for such period of time as the board may determine and the cost of bond insurance or other credit enhancement and to fund reserves established with respect to the bonds;
- (2) the acquisition, renovation, construction, reconstruction, or completion of the facilities for which the bonds are issued;
- (3) the use, regulation, operation, maintenance, insurance, or disposition of the facilities the revenues from which are pledged to secure payments with respect to the bonds or restrictions on the exercise of the powers of the board to dispose of or to limit or regulate the use of such facilities;
- (4) the payment of the principal of, redemption premium, if any, or interest on the bonds and the sources and the methods of the payment, the rank or priority of the bonds as to any lien or security or the acceleration of the maturity of the bonds;
- (5) the use and disposition of the revenues including, without limitation, the pledging, setting aside, or depositing with a trustee all or part of the revenues to secure the payment of the principal of, redemption premium, if any, and interest on the bonds and the payment of expenses of operation and maintenance of the facilities;
- (6) the setting aside out of bond proceeds, the revenues or other available funds of reserves or sinking funds and the source, custody, security, regulation, and disposition of them;

(7) the determination of the revenues, subject to the provisions of Section 59-147-110 or other available funds to be pledged as security for payments with respect to the bonds and for the expenses of operation and maintenance of the facilities;

(8) the fixing, establishment, collection, and enforcement of the rentals, fees, or other charges from students, faculty members, and others using or being served by, or having the right to use or be served by, the facilities the revenues from which are pledged to secure payments with respect to the bonds and the disposition and application of the revenues so charged and collected;

(9) limitations on the issuance of additional bonds or any other obligations or the incurrence of indebtedness payable from the same revenues from which the bonds are payable;

(10) rules to ensure the use of the facilities by students or members of the faculty of the university to the maximum extent to which the building or equipment is capable of serving the students or faculty members;

(11) the procedure, if any, by which the terms of any covenant or contract with, or duty to, the holders of the bonds may be amended or abrogated, the amount of bonds to which the holders of which must consent, and the manner in which the consent may be given or evidenced; and

(12) any other matter or course of conduct which, by recital in the resolution or resolutions authorizing or providing for the bonds, is declared to further secure the payment of the principal of or the interest on the bonds or to further the purposes for which the facilities are being acquired, constructed, reconstructed, renovated, or equipped and the bonds being issued.

HISTORY: 1996 Act No. 302, Section 1.

**SECTION 59-147-50.** Authorized revenue bonds; terms; negotiability

Revenue bonds may be issued in one or more series at such prices, may bear such date or dates, may mature at such time or times, not exceeding forty years from their respective date, may bear interest at such fixed or variable rate or rates, may be payable in such medium of payment and at such place or places, may be in such denomination or denominations, may be in such form, either coupon or registered and either certified or uncertified, may carry such registration privileges, may be subject to such terms of redemption before maturity, with or without premium, and may contain such terms, covenants, and conditions as the resolution authorizing the issuance of the bonds may provide. Except as otherwise specified in the authorizing resolution, the bonds shall be fully negotiable within the meaning of and for all the purposes of the Uniform Commercial Code.

HISTORY: 1996 Act No. 302, Section 1.

**SECTION 59-147-60.** Bond exemptions.

The bonds shall be exempt from all state, county, municipal, and school taxes and franchise and license fees.

HISTORY: 1996 Act No. 302, Section 1.

**SECTION 59-147-70.** Signature of bonds.

The bonds must be signed in the corporate name of the university by the manual or facsimile signature of the acting chairman of the board of the university, under the corporate seal of the university attested by the manual or facsimile signature of the acting secretary of the board. Any interest coupons attached to the bonds must be signed by the facsimile signatures of these officers. The bonds may be issued notwithstanding that any of the officials signing them or whose facsimile signatures appear on the coupons have ceased to hold office at the time of the issue or at the time of the delivery of the bonds to the purchaser.

HISTORY: 1996 Act No. 302, Section 1.

**SECTION 59-147-80.** Sale of bonds.

The bonds must be sold at public or private sale upon such terms and conditions as the board of the university considers advisable.

HISTORY: 1996 Act No. 302, Section 1.

**SECTION 59-147-90.** Required filing of obligation with State Treasurer.

The board or its proper administrative officers shall file with the State Treasurer within thirty days from the date of their issuance a complete description of all obligations entered into by the board, with the rates of interest, maturity dates, annual payments, and all pertinent data.

HISTORY: 1996 Act No. 302, Section 1.

**SECTION 59-147-100.** Effect of authorizing resolution to issue bonds; enforceability of contract.

All provisions of a resolution authorizing or providing for the issuance of the bonds in accordance with Section 59-147-40 and of the covenants and agreements constitute valid and legally binding contracts between the university and the several holders of the bonds, regardless of the time of issuance of the bonds, and are enforceable by the holder or holders by mandamus or other appropriate action, suit, or proceeding at law or in equity in any court of competent jurisdiction.

HISTORY: 1996 Act No. 302, Section 1.

**SECTION 59-147-110.** Sources of revenue or funds for payment of bonds; liability of signers.

The bonds must be made payable solely from all or such portion of the revenues as the university in its discretion may designate pursuant to the authorizing resolution and also from any other available funds of the university designated by the university pursuant to the authorizing resolution except funds of the university derived from appropriations received from the General Assembly and any tuition funds pledged to the repayment of state institution bonds. The use of academic fees must be approved by the university's board. The bonds are not general obligations of the State. Neither the members of the board nor any person signing the bonds shall be personally liable for the bonds. No bonds may be issued pursuant to this chapter unless an identified source or sources of revenue are designated for the repayment of the bonds.

HISTORY: 1996 Act No. 302, Section 1.

**SECTION 59-147-120.** Repealed by 2009 Act No. 2, Section 2, eff April 9, 2009.

Editor's Note

Former Section 59-147-120 was entitled "Limitations on issuance of revenue bonds" and was derived from 1996 Act No. 302, Section 1.

**SECTION 59-150-355.** Education lottery appropriations and uses.

### **Title 59-Education, Chapter 151-South Carolina Light Rail Consortium**

**SECTION 59-151-120.** Charter member institutions.

Clemson University, the Medical University of South Carolina, and the University of South Carolina in Columbia are designated as the three charter member institutions of the South Carolina LightRail Consortium and through the consortium are directed to plan, procure, administer, oversee, and manage all functions associated with the South Carolina LightRail.

HISTORY: 2008 Act No. 330, Section 1, eff upon approval (became law without the Governor's signature on June 17, 2008).

Editor's Note

2012 Act No. 284, Section 11, provides as follows: "The provisions of this act do not expand, diminish, or otherwise affect the provisions of Chapter 151, Title 59 regarding the South Carolina LightRail Consortium"

**SECTION 59-151-130.** Board of directors; membership; executive committee.

(A) The South Carolina LightRail Consortium must be a joint venture exclusively among the three member universities, with administrative support to be provided by an appropriate department within one or more of the universities to include procurement, accounts payable, accounts receivable, web design and hosting, and similar administrative or technical support functions.

(B) The South Carolina LightRail Consortium must be governed by a board of directors consisting of six members. The board of directors consists of two representatives each from Clemson University, the Medical University of South Carolina, and the University of South Carolina, to be appointed by the respective university presidents and to serve at their pleasure. The consortium must be chaired by a member of the board of directors from each member institution on a rotating basis among all institutions for a term of two years.

(C) Membership on the board is not an office of honor or profit within the meaning of Section 3, Article VI of the Constitution of this State.

(D) The board shall establish rules of procedure governing its operations and also may establish an executive committee of the board to act in the board's stead in the manner authorized by the full board.

HISTORY: 2008 Act No. 330, Section 1, eff upon approval (became law without the Governor's signature on June 17, 2008).

Editor's Note

2012 Act No. 284, Section 11, provides as follows: "The provisions of this act do not expand, diminish, or otherwise affect the provisions of Chapter 151, Title 59 regarding the South Carolina LightRail Consortium"

**SECTION 59-151-150.** Funding.

(A) The LightRail Consortium shall receive such funding as may be provided by the General Assembly in the annual general appropriations act, supplemental appropriations act, or in other provisions of law. This funding must be provided to its participating universities for purposes of the LightRail. Funds appropriated to Clemson University, the Medical University of South Carolina, and the University of South Carolina in the 2007-2008 general appropriations act for the South Carolina LightRail Consortium shall continue to be used for those purposes consistent with the requirements of this chapter and other applicable provisions of law.

(B) The LightRail Consortium shall manage its own funding provided to it by the member institutions, based on a budget prepared and administered by the chairman of the board, and recommended by the board. The consortium funding appropriated to a particular member institution must be administered individually by that institution, except in those instances when consortium actions, services, or activities require joint budget action. Sufficient annual funding to meet the strategic and operational needs of South Carolina LightRail Consortium is the joint and co-equal responsibility of the member institutions, and the responsibility of each member institution to provide such funding must be determined annually by the board upon agreement of the institutions concerned.

HISTORY: 2008 Act No. 330, Section 1, eff upon approval (became law without the Governor's signature on June 17, 2008).

Editor's Note

2012 Act No. 284, Section 11, provides as follows: "The provisions of this act do not expand, diminish, or otherwise affect the provisions of Chapter 151, Title 59 regarding the South Carolina LightRail Consortium"

**SECTION 59-153-10.** Definitions.

As used in this chapter, unless a different meaning is plainly required by the context:

- (1) "Agent" means the State Treasurer.
- (2) "Assets" means all funds, investments, and similar property owned by the respective state institutions of higher learning and in the custody of the Agent.
- (3) "Beneficiary" means an institution of higher learning which may receive a benefit under the program.
- (4) "Board" means the Board of Trustees of the respective institution of higher learning acting as trustee of the endowment system.
- (5) "Fiduciary" means a person who:
  - (a) exercises any authority to invest or manage assets of a system;
  - (b) provides investment advice for a fee or other direct or indirect compensation with respect to assets of a system or has any authority or responsibility to do so; or
  - (c) is a member of the board of trustees of the respective institution when it acts as trustee for the endowment system.
- (6) "Panel" means the State Retirement Systems Investment Panel established pursuant to Section 9-16-310.
- (7) "Endowment funds" means those funds donated to the respective individual state-supported institutions of higher learning of the State of South Carolina, which are held and invested by the State Treasurer on behalf of the institutions. The endowment of each institution is separate and cannot be commingled, except under those circumstances where it can be invested in liquid assets as approved by the appropriate trustees.
- (8) "Trustee" means the board of trustees of the respective institutions of higher learning.

HISTORY: 1999 Act No. 122, Section 2.

Editor's Note

Section 9-16-310, referenced in item (6), was repealed by 2012 Act No. 278.

**SECTION 59-153-20.** Funds and assets held in trust; trustee; investments.

(A) All endowment funds and assets purchased with them are held in trust. The board of trustees of each institution of higher learning is the trustee of all endowment funds held in the name of that institution by the State Treasurer. The trustee has the exclusive authority to invest and manage those funds and assets and may invest and reinvest the funds, subject to all the terms, conditions, limitations, and restrictions imposed by Article 7, Chapter 9, Title 11, upon the investment of sinking funds of the State, and, subject to like terms, conditions, limitations, and restrictions, may hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which the endowment funds have been invested, plus the proceeds of these investments and any monies belonging to these funds. Additionally, the trustee may invest and reinvest its endowment funds in equity securities of a corporation within the United States that is registered on a national securities exchange as provided in the Securities Exchange Act, 1934, or a successor act, or quoted through the National Association of Securities Dealers Automatic Quotations System, or a similar service.

(B) If endowment funds are invested in a security issued by an investment company registered under the Investment Company Act of 1940 (15 U.S.C. Section 80 a-1, et seq.), the assets of the system include the security, but not assets of the investment company.

HISTORY: 1999 Act No. 122, Section 2.

**SECTION 59-153-30.** Delegation of functions by trustee.

(A) The trustee may delegate functions including, but not limited to, day-to-day investment decisions that a prudent trustee acting in a like capacity and familiar with those matters could delegate properly under the circumstances.

(B) The trustee shall exercise reasonable care, skill, and caution in periodically reviewing the agent's performance and compliance with the terms of the delegation.

(C) In performing a delegated function, an agent owes a duty to the endowment and to its beneficiaries to comply with the terms of the delegation and, if a fiduciary, to comply with the duties imposed by Section 59-153-40.

(D) A trustee who complies with subsections (A) and (B) is not liable to the endowment or to its beneficiary for the decisions or actions of the agent to whom the function was delegated.

(E) By accepting the delegation of a function from the trustee, an agent submits to the jurisdiction of the courts of this State.

(F) A trustee may limit the authority of an agent to delegate functions under this section.

HISTORY: 1999 Act No. 122, Section 2.

**SECTION 59-153-40.** Standards for discharge of duties by trustee or other fiduciary.

A trustee or other fiduciary shall discharge duties with respect to an endowment fund:

- (1) solely in the interest of the endowment fund and beneficiaries;
- (2) for the exclusive purpose of providing benefits to his beneficiary and paying reasonable expenses of administering the system;
- (3) with the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
- (4) impartially, taking into account any differing interests of beneficiaries;
- (5) incurring only those costs that are appropriate and reasonable; and
- (6) in accordance with a good faith interpretation of this chapter.

HISTORY: 1999 Act No. 122, Section 2.

**SECTION 59-153-50.** Investing and managing assets; objectives and policies.

(A) In investing and managing assets of an endowment fund pursuant to Section 59-153-40, the trustee:

(1) shall consider among other circumstances:

- (a) general economic conditions;
- (b) the possible effect of inflation or deflation;
- (c) the role that each investment or course of action plays within the overall portfolio of the endowment funds;
- (d) needs for liquidity, regularity of income, and preservation or appreciation of capital; and
- (e) the adequacy of funding for the plan based on the university's spending policy;

(2) shall diversify the investments of the endowment funds unless the trustee reasonably determines that, because of special circumstances, it is clearly prudent not to do so;

(3) shall make a reasonable effort to verify facts relevant to the investment and management of assets of an endowment fund;

(4) may invest in any kind of property or type of investment consistent with this chapter and Article 7, Chapter 9, Title 11;

(5) may consider benefits created by an investment in addition to investment return only if the trustee determines that the investment providing these collateral benefits would be prudent even without the collateral benefits.

(B) Each trustee shall adopt a statement of investment objectives and policies for its portion of the endowment fund. The statement must include the desired rate of return on assets overall, the desired rates of return and acceptable levels of risk for each asset class, asset-allocation goals, guidelines for the delegation of authority, and information on the types of reports to be used to evaluate investment performance. At least annually, the trustee shall review the statement and change or reaffirm it. The relevant portion of this statement may constitute parts of the annual investment plan required pursuant to Section 59-153-330.

HISTORY: 1999 Act No. 122, Section 2.

**SECTION 59-153-60.** Compliance by trustee or fiduciary.

(A) Compliance by the trustee or other fiduciary with Sections 59-153-30, 59-153-40, and 59-153-50 must be determined in light of the facts and circumstances existing at the time of the trustee's or fiduciary's decision or action and not by hindsight.

(B) The trustee's investment and management decisions must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the endowment system.

HISTORY: 1999 Act No. 122, Section 2.

**SECTION 59-153-70.** Breach of duty; liability; insurance.

(A) The trustee or other fiduciary who breaches a duty imposed by this chapter is liable personally to the endowment fund for any losses resulting from the breach and any profits resulting from the breach or made by the trustee or other fiduciary through use of assets of the fund by the trustee or other fiduciary. The trustee or other fiduciary is subject to other equitable remedies as the court considers appropriate, including removal.

(B) An agreement that purports to limit the liability of a trustee or other fiduciary for a breach of duty under this chapter is void.

(C) The endowment fund may insure a trustee, fiduciary, or itself against liability or losses occurring because of a breach of duty under this chapter.

(D) A trustee or other fiduciary may insure against personal liability or losses occurring because of a breach of duty under this chapter if the insurance is purchased or provided by the individual trustee or fiduciary, but a fiduciary who obtains insurance pursuant to this chapter must disclose all terms, conditions, and other information relating to the insurance policy to the endowment fund.

HISTORY: 1999 Act No. 122, Section 2.

**SECTION 59-153-80.** Meetings in executive session, records exempt from disclosure where necessary.

(A) Meetings by the board while acting as trustee of the endowment fund or by its fiduciary agents to deliberate about, or make tentative or final decisions on, investments or other financial matters may be in executive session if disclosure of the deliberations or decisions would jeopardize the ability to implement a decision or to achieve investment objectives.

(B) A record of the board or of its fiduciary agents that discloses deliberations about, or a tentative or final decision on, investments or other financial matters is exempt from the disclosure requirements of Chapter 4 of Title 30, the Freedom of Information Act, to the extent and so long as its disclosure would jeopardize the ability to implement an investment decision or program or to achieve investment objectives.

HISTORY: 1999 Act No. 122, Section 2.

**SECTION 59-153-90.** Investment reports.

(A) The trustee shall place investment reports at least semi-annually during the fiscal year in the institution's minutes and shall provide copies of the investment reports upon request.

(B) In addition to the semi-annual reports provided in subsection (A), the trustees shall place in its minutes an annual report of the investment status of the endowment fund. The report must contain:

(1) a description of a material interest held by a trustee, fiduciary, or an employee who is a fiduciary with respect to the investment and management of assets of the fund, or by a related person, in a material transaction with the fund within the last three years or proposed to be effected;

(2) a schedule of the rates of return, net of total investment expense, on assets of the fund overall and on assets aggregated by category over the most recent one-year, three-year, five-year, and ten-year periods, to the extent available, and the rates of return on appropriate benchmarks for assets of the fund overall and for each category over each period;

(3) a schedule of the sum of total investment expense and total general administrative expense for the fiscal year expressed as a percentage of the fair value of assets of the fund on the last day of the fiscal year, and an equivalent percentage for the preceding five fiscal years; and

(4) a schedule of all assets held for investment purposes on the last day of the fiscal year aggregated and identified by issuer, borrower, lessor, or similar party to the transaction stating, if relevant, the asset's maturity date, rate of interest, par or maturity value, number of shares, costs, and fair value and identifying an asset that is in default or classified as uncollectible.

(C) These disclosure requirements are cumulative to and do not replace other reporting requirements provided by law.

HISTORY: 1999 Act No. 122, Section 2.

**SECTION 59-154-10.** Cooperation between campus police and State Law Enforcement Division in campus death and criminal sexual assault cases.

(A) As used in this section:

(1) "Institution of higher learning" or "institution" means a public two-year or four-year college, community or junior college, technical school, or university located in this State, and also any private two-year or four-year college, community or junior college, technical school, or university located in this State.

(2) "Property of the institution" means a building or property:

(a) owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes;

(b) owned or controlled by a student organization recognized by the institution including, but not limited to, fraternity, sorority, and cooperative houses; or

(c) controlled by the institution but owned by a third party.

(B) The chief of the campus police of an institution of higher learning, or his designee, immediately shall notify the State Law Enforcement Division if there is a death resulting from an incident occurring on the property of the institution or if the officer or another official of the

institution is in receipt of a report alleging that an act of criminal sexual conduct has occurred on the property of the institution.

(C) Upon notification, the State Law Enforcement Division shall participate in a joint investigation of the death or alleged act of criminal sexual conduct. In the case of a death, the State Law Enforcement Division shall lead the investigation. In the case of an alleged act of criminal sexual conduct, the campus police shall lead the investigation.

(D) The campus police and other employees of the institution of higher learning shall cooperate with an investigation conducted by the State Law Enforcement Division.

HISTORY: 2007 Act No. 53, Section 2, eff June 6, 2007.