~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 8, 2021

**S. 635**

Introduced by Senator Setzler

S. Printed 4/8/21--S.

Read the first time March 2, 2021.

**THE COMMITTEE ON LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (S. 635) to amend Section 13‑17‑40, Code of Laws of South Carolina, 1976, relating to members of the South Carolina Research Authority Board of Trustees, so as, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, on page 2, by striking lines 4 through 12 and inserting:

/ “(1)(a) The President of Clemson University or his designee, the President of the Medical University of South Carolina or his designee, the President of the University of South Carolina at Columbia or his designee, the President of South Carolina State University or his designee, 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~~ chairman of the ~~Board~~ board of ~~Trustees~~ trustees shall serve on the executive committee of the ~~board of trustees~~ SCRA.

(b) A designee of one of the four university presidents /

Amend the bill further, as and if amended, on page 4, by striking line 36 and inserting:

/a maximum credit of ~~two~~ five hundred ~~fifty~~ thousand dollars for a /

Renumber sections to conform.

Amend title to conform.

THOMAS C. ALEXANDER for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill makes changes to the membership of the SCRA Board of Trustees, changes to the investments that SCRA is permitted to make, and changes the provisions regarding companies remaining in an innovation center. These changes are not expected to affect expenditures for any state agency. Further, the bill makes changes to the Industry Partnership Fund tax credit for tax years after 2020. We anticipate that DOR will implement the necessary changes to the tax credit forms in the annual updates to forms and instructions. Therefore, the bill is not expected to impact expenditures for the agency.

**State Revenue**

This bill makes changes to the Industry Partnership Fund tax credit for tax years after 2020. Currently, taxpayers who contribute to the Industry Partnership Fund at the SCRA or an SCRA designated affiliate, or both, are allowed a tax credit against individual or corporate income tax, corporate license fees, bank tax, or insurance tax. The tax credit is limited to $250,000 per taxpayer and an aggregate of $9,000,000 for all taxpayers in a tax year. The tax credit may be carried forward for ten tax years. The bill would increase the allowable credit amount for individual taxpayers to $550,000 but does not change the aggregate limit of $9,000,000 per tax year. Further, if the aggregate limit is not met within sixty days of the annual opening date for applications, the bill increases the maximum credit per taxpayer to $1,000,000, subject to the aggregate limit.

The table below provides the contributions to the fund in recent years as reported by the S.C. Research Authority. In recent years, contributions have not reached the limit due to changes in federal tax law regulations that have made contributions less favorable.

**Contributions to the Industry Partnership Fund**

**Year    Amount Contributors Average Per**

**Contributor**

2018 $6,000,000 111 $ 54,054

2019 $3,066,317 68 $ 45,093

2020 $3,755,740 93 $ 40,384

2021 (as of March)   $729,000 11 $ 66,273

Source: S.C. Research Authority

According to SCRA’s Annual Report for 2020, five companies contributed in excess of $200,000 to the Industry Partnership Fund for the year. Under the bill, these five companies could contribute an additional $300,000 up to the $550,000 maximum or potentially an additional $750,000 given that the aggregate limit has not been met for 2021. Based upon available data from DOR, we believe that these contributions have been taken as tax credits against individual and corporate income taxes in recent years, although the credits may also be taken against bank or insurance taxes. Assuming that these five businesses contribute an additional $300,000, the bill may increase the tax credits by up to $1,500,000. Therefore, the bill may reduce general fund revenue from individual or corporate income tax, corporate license fees, bank tax, or insurance tax, or some combination thereof, by up to $1,500,000 in FY 2021-22. The timing of the impact may shift if taxpayers do not have sufficient tax liability to utilize the credits and carry forward unused credits to future tax years.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 13‑17‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO MEMBERS OF THE SOUTH CAROLINA RESEARCH AUTHORITY BOARD OF TRUSTEES, SO AS TO PROVIDE THAT THE BOARD CONSISTS OF CERTAIN UNIVERSITY PRESIDENTS OR THEIR DESIGNEES, TO PROVIDE CERTAIN REQUIREMENTS FOR DESIGNEES, AND TO PROVIDE THAT THE EXECUTIVE COMMITTEE SHALL ELECT TWO ADDITIONAL MEMBERS WHO ARE NOT REQUIRED TO BE TRUSTEES AT THE TIME OF THEIR ELECTION; TO AMEND SECTION 13‑17‑70, RELATING TO THE POWERS OF THE BOARD OF TRUSTEES, SO AS TO PROVIDE THAT THE BOARD MAY INVEST IN CERTAIN OBLIGATIONS OF PRIVATE ENTITIES; TO AMEND SECTION 13‑17‑87, RELATING TO THE ESTABLISHMENT OF RESEARCH INNOVATION CENTERS, SO AS TO PROVIDE THAT THE SOUTH CAROLINA RESEARCH AUTHORITY MAY ALLOW A COMPANY TO REMAIN IN AN INNOVATION CENTER FOR UP TO FIVE YEARS OR UNTIL EXCEEDING FIVE MILLION DOLLARS BUT DOES NOT APPLY WITH RESPECT TO THIRTY‑FIVE PERCENT OF THE SQUARE FEET IN AN INNOVATION CENTER; AND TO AMEND SECTION 12‑6‑3585, AS AMENDED, RELATING TO THE INDUSTRY PARTNERSHIP FUND TAX CREDIT, SO AS TO PROVIDE THAT IF THE AGGREGATE CREDIT AMOUNT IS NOT MET IN A CERTAIN TIMEFRAME THEN THE SINGLE TAXPAYER MAXIMUM CREDIT IS INCREASED TO ONE MILLION DOLLARS.

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

SECTION 1.A. Section 13‑17‑40(B)(1) of the 1976 Code is amended to read:

“(1)(a) The President of Clemson University or his designee, President of the Medical University of South Carolina or his designee, President of the University of South Carolina at Columbia or his designee, 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~~ SCRA.

(b) A designee of one of the three university presidents must be an individual serving in no less than a vice president or comparable role and shall report directly to the president, with such determination to be made in the sole discretion of the designating president. Each university president may designate only one person for each calendar year, except in the case of the designee’s death, incapacity, or termination of employment, in which case the designating university president may replace the designee for the remainder of the calendar year. Any university president is authorized in any event to participate, in any meeting or otherwise, in person rather than through a previously named designee.

(c) The executive committee shall elect two additional members of the executive committee, who shall be trustees at the time of their election, and two members, who are not required to 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.~~

(d) 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~~ who must be a trustee at the time of his election 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.”

B. The terms of the two members of the executive committee of the SCRA board of trustees who are not required to be trustees at the time of their election, pursuant to Section 13‑17‑40(B)(1), begin on July 1, 2021. The executive committee shall elect the initial members: one for a two‑year term and one for a four‑year term. Thereafter, the terms are four years.

SECTION 2. Section 13‑17‑70(8) of the 1976 Code is amended to read:

“(8) from time to time to borrow money, make and issue negotiable notes, bonds, and other evidences of indebtedness, including refunding and advanced refunding notes, bonds, and other evidences of indebtedness of the authority; to secure the payment of the obligations or any part by mortgage, lien, pledge, or deed of trust, on all or any of its property, contracts, franchises, or revenues, including the proceeds of any refunding and advanced refunding notes, bonds, and other evidences of indebtedness and the investments in which proceeds are invested and the earning on and income therefrom; to invest its monies, including without limitation its revenues and proceeds of the notes, bonds, or other evidences of indebtedness, in obligations of, or obligations the principal of and interest on which are guaranteed by or are fully secured by contracts with the United States of America, in obligations of any agency, instrumentality, or corporation which has been or may hereafter be created by or pursuant to an act of Congress of the United States as an agency, instrumentality, or corporation thereof, in direct and general obligations of the State of South Carolina, and in certificates of deposit issued by any bank, trust company, or national banking association and, in addition, in obligations of any private entity existing under the laws of the United States of America or any state thereof, which at the time of purchase bear an investment grade rating of at least two nationally recognized credit rating services; provided, that the authority, when investing in certificates of deposit, shall invest in certificates of deposit issued by institutions authorized to do business in South Carolina if such institutions offer terms which, in the opinion of the authority, are equal to or better than those offered by other institutions; to make agreements with the purchasers or holders of such notes, bonds, or other evidences of indebtedness or with others in connection with any such notes, bonds, or other evidences of indebtedness, whether issued or to be issued, as the authority shall deem advisable; and in general to provide for the security for the notes, bonds, or other evidences of indebtedness and the rights of the holders thereof; provided, that in the exercise of the powers herein granted to issue advanced refunding notes, bonds, or other evidences of indebtedness the authority may, but shall not be required to, avail itself of or comply with any of the provisions of Sections 11‑21‑10 to 11‑21‑80 (Advanced Refunding Act);”

SECTION 3. Section 13‑17‑87(F)(3) of the 1976 Code is amended to read:

“(3) allow a company to remain in an innovation center for up to ~~four~~ five years or until exceeding ~~one~~ five million dollars in annual commercial revenue~~;~~, provided, however, that this requirement may not apply with respect to thirty‑five percent of the square feet in an innovation center, as determined by the SCRA;”

SECTION 4. Section 12‑6‑3585(A) of the 1976 Code, as last amended by Act 15 of 2019, is further amended to read:

“(A) For each tax year beginning after ~~2018~~ 2020, a taxpayer may claim as a credit against state income tax imposed by Chapter 6, Title 12, bank tax imposed by Chapter 11, Title 12, license fees imposed by Chapter 20, Title 12, or insurance premiums imposed by Chapter 7, Title 38, or any combination of them, one hundred percent of an amount contributed to the Industry Partnership Fund at the South Carolina Research Authority (SCRA), or an SCRA designated affiliate, or both, pursuant to Section 13‑17‑88(E), up to a maximum credit of ~~two~~ five hundred fifty thousand dollars for a single taxpayer, not to exceed an aggregate credit of nine million dollars for all taxpayers. If the aggregate credit of nine million dollars for all taxpayers is not met within sixty days of the annual opening date for the application for the credit, the single taxpayer maximum credit is automatically increased to one million dollars for the remainder of that year until the maximum aggregate credit of nine million dollars is met. For purposes of determining a taxpayer’s entitlement to the credit for qualified contributions for a given tax year in which more than the applicable aggregate annual limit on the credit is contributed by taxpayers for that year, taxpayers who have made contributions that are intended to be qualified contributions earlier in the applicable tax year than other taxpayers must be given priority entitlement to the credit. The SCRA shall certify to taxpayers who express a bona fide intention of making one or more qualified contributions as to whether the taxpayer is entitled to that priority.”

SECTION 5. This act takes effect on July 1, 2021.

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