**South Carolina General Assembly**

125th Session, 2023-2024

**S. 314**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Talley

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Introduced in the Senate on January 10, 2023

Introduced in the House on May 11, 2023

Last Amended on May 8, 2024

Currently residing in the Senate

Summary: Higher Education Permanent Improvement Projects

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/7/2022 Senate Prefiled

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

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

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

 2/9/2023 Scrivener's error corrected

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

 2/15/2023 Scrivener's error corrected

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

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

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

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

 5/11/2023 Scrivener's error corrected

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

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

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

 4/30/2024 Scrivener's error corrected

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

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

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

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

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

 5/8/2024 Senate House amendment amended

 5/8/2024 Senate Returned to House with amendments

 5/9/2024 House Non-concurrence in Senate amendment

 5/9/2024 House Roll call Yeas-xxx Nays-xxx

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**VERSIONS OF THIS BILL**

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

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

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

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

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

[05/11/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/314_20230511.docx)

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

[04/30/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/314_20240430.docx)

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

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

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

Indicates Matter Stricken

Indicates New Matter

House Amendments Amended Returned To House

May 08, 2024

S. 314

Introduced by Senator Talley

S. Printed 05/08/24--S.

Read the first time January 10, 2023

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A bill

to amend the South Carolina Code of Laws by adding Section 59‑157‑10 so as to provide chapter definitions; by adding Section 59‑157‑30 so as to require certain permanent improvement projects over threshold amounts for higher institutions to be submitted for review to the Commission on Higher Education and Joint Bond review committee and the state fiscal accountability authority for approval after full architecture and engineering design work is completed but prior to the execution of a construction contract, to allow the chairman of joint bond review committee to request a review and comment on any other permanent improvement project; by adding Section 59‑157‑40 so as to exempt certain Higher education permanent improvement projects from the requirements of Section 2‑47‑50 and to require the governing boards to report annually to the Commission on Higher Education, the Joint bond review committee, and the state fiscal accountability authority of all projects approved; by adding Section 59‑157‑50 so as to require the board of trustees to provide on an annual basis a report of property acquired and any capital projects that are exempt by operation of Section 59‑157‑40.

 Amend Title To Conform

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

SECTION 1. Section 2-47-30 of the S.C. Code is amended to read:

 Section 2-47-30. The committee is specifically charged with, but not limited to, the following responsibilities:

 (1) to review, prior to approval by the State Fiscal Accountability Authority, the establishment of any permanent improvement project and the source of funds for any such project not previously authorized specifically by the General Assembly;

 (2) to study the amount and nature of existing general obligation and institutional bond obligations and the capability of the State to fulfill such obligations based on current and projected revenues;

 (3) to recommend priorities of future bond issuance based on the social and economic needs of the State;

 (4) to recommend prudent limitations of bond obligations related to present and future revenue estimates;

 (5) to consult with independent bond counsel and other nonlegislative authorities on such matters and with fiscal officials of other states to gain in-depth knowledge of capital management and assist in the formulation of short- and long-term recommendations for the General Assembly;

 (6) to carry out all of the above assigned responsibilities in consultation and cooperation with the executive branch of government and the authority;

 (7) to report its findings and recommendations to the General Assembly annually or more frequently if deemed advisable by the committee.

 The committee is charged with responsibilities, without limitation, to:

 (1) review, prior to any implementation by any agency the establishment of and the source of funds for any permanent improvement project not specifically authorized by the General Assembly;

 (2) study the amount and nature of existing general obligation and institutional bond obligations, and the capability of the State to fulfill such obligations based on current and projected revenues;

 (3) recommend priorities of future bond issuance based on the social and economic needs of the State;

 (4) recommend prudent limitations of bond obligations related to present and future revenue estimates;

 (5) consult with independent counsel, advisors, and other authorities and fiscal officials to develop a body of knowledge that promotes prudent and efficient administration and management of capital assets and investments, and assist in the formulation of short- and long-term recommendations for consideration by the General Assembly;

 (6) carry out all of the above assigned responsibilities in consultation and cooperation with the executive branch of government; and

 (7) report its findings and recommendations to the General Assembly on such matters and at such times as are appropriate and advisable.

SECTION 2. Section 2-47-35 of the S.C. Code is amended to read:

 Section 2-47-35. No project authorized in whole or in part for capital improvement bond funding under the provisions of Act 1377 of 1968, as amended, may be implemented until funds have beencan be made available and until the Joint Bond Review Committee, in consultation with the authority, has establisheds priorities for the funding of the projects. The Joint Bond Review Committee shall must report its priorities to the members of the General Assembly within thirty days of the establishment of the funding priorities.

SECTION 3. Section 2-47-40 of the S.C. Code is amended to read:

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

 (1) a complete description of the proposed project;

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

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

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

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

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

 (7) a proposed plan of funding for 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 must shall submit to the Commission on Higher Education permanent improvement project proposal and justification statements for any permanent improvement project requiring review by the full committee pursuant to Section 2-47-52. The 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 must be made, among other things, shall include all of the permanent improvement projects requested by the several institutions listed in accordance with higher education mission and goals as prescribed the order of priority deemed appropriate by Section 59-103-15, the Commission on Higher Education without regard to the sources of funds proposed for the fundingfinancing of the projects requested.

 AThe authority shall forward a copy of each project proposal and justification statement, supporting documentation, and supporting documentation received together with the authority's recommendations on such projects to the committee for its review and action. The any recommendations of the Commission on Higher Education mustshall be provided included in the materials forwarded to the committee by the authority.

 (C) No provision in this section or elsewhere in this chapter, is to 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.

SECTION 4. Section 2-47-50 of the S.C. Code is amended to read:

 Section 2-47-50. (A) Each The authority shall establish formally each permanent improvement project must be formally established in accordance with the provisions of this chapter before actions of any kind may be undertaken in any way to sort which implement the project. No in any way may be undertaken and no expenditure of any funds for any services or for any other project purpose may be 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. Following review byAfter the committee, requests for 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 must be made in such form and at such times as the authorityDepartment of Administration may require.

 (B) Any proposal to fundfinance all or any part of any project using any funds not previously authorized by the General Assembly specifically for the project, or otherwise by the General Assembly or using any funds not previously approved for the project, must by the authority and reviewed by the committee shall be referred to the committee for review prior to any approval required by the provisions of this chapterauthority.

 (C) Any proposed revision of the scope or of the budget of an established permanent improvement project deemed by the authority to be substantial must shall be referred to the committee for its review prior to any final action implementing the revision. The 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, and together with any supporting documentation, considered at the time the project was originally authorized or established originally must be utilized in making determinations regarding changes in project scope. Any proposal to increase the budget of a previously approved project using any funds not previously approved for the project mustby the authority and reviewed by the committee shall in all cases be deemed to be a substantial revision of a project budget and mustwhich shall be referred to the committee for review pursuant to the provisions of Section 2-47-52. The committee mustshall be advised promptly of all actions taken to by the authority which approve revisions in the scope of or the budget of any previously established permanent improvement project not deemed to be substantial by the authority.

 (D) For purposes of this chapter, a with regard to all institutions of higher learning, permanent improvement or a permanent improvement project is any improvement meeting the definition of a capital improvement under generally accepted accounting principles, including without limitationdefined 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 anya facility acquisition or construction in which the total cost is one million dollars or more;

 (4) new construction;

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

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

 (7)(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

 (8)(7) any project 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 by the General Assembly including without limitation any project funded by 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.

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

(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.

SECTION 5. The repeal or amendment by this act of any law, whether temporary, permanent, civil, or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. Chapter 47, Title 2 of the S.C. Code is amended by adding:

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

 (B) For purposes of this chapter, permanent improvement projects proposed by public universities of higher learning as defined in Section 59-103-5, including their related public service activities, are subject to review by the committee where the costs of the permanent improvements exceed five million dollars for research universities as identified in Section 11-51-30(5) or two million five hundred thousand dollars for all other public institutions of higher learning; provided, however, that acquisitions of land, buildings or other structures, and capital lease purchases of facility acquisitions or construction as defined in items (1), (2), and (3) of Section 2-47-50(D) are subject to review by the committee regardless of cost.

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

 (D) Notwithstanding any other provision of this section, the committee may establish reporting and other requirements, and may authorize review of permanent improvement projects by committee staff, at such levels as the committee may determine are appropriate.

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

SECTION 6. Section 2-47-55 of the S.C. Code is amended to read:

 Section 2-47-55. (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.

All state agencies responsible for providing and maintaining physical facilities are required to submit a Comprehensive Permanent Improvement Plan to the committee. The plan must include all of the permanent improvement projects proposed and anticipated by the agency over the next five years beginning with the fiscal year starting July first after submission. The purpose of this planning process is to develop a comprehensive statewide plan reflecting permanent improvements proposed and anticipated by each agency for the next five years. Agencies must submit a plan to the committee through the Department of Administration on or before a date to be determined by the Department of Administration. The plan for each higher education agency, including the technical colleges, must also be submitted to the Commission on Higher Education which must review the plan and provide its recommendations to the committee. The committee must review the plan after submission and may develop policies and procedures to implement and accomplish the purposes of this section.

SECTION 7. Section 2-47-56 of the S.C. Code is amended to read:

 Section 2-47-56. 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.

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

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

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

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