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COMMITTEE REPORT

April 25, 2012

**S. 1331**

Introduced by Senator Leatherman

S. Printed 4/25/12--S.

Read the first time March 14, 2012.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 1331) to amend the Code of Laws of South Carolina, 1976, by adding Section 13‑17‑89 so as to provide that no provision in Chapter 17, Title 13 may be construed, etc., respectfully

**REPORT:**

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

HUGH K. LEATHERMAN, SR. for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 13‑17‑89 SO AS TO PROVIDE THAT NO PROVISION IN CHAPTER 17, TITLE 13 MAY BE CONSTRUED TO AUTHORIZE THE SOUTH CAROLINA RESEARCH AUTHORITY TO COMMIT THE CREDIT AND TAXING POWER OF THE STATE, TO PROVIDE A WRITTEN NOTICE REQUIREMENT WHEN THE AUTHORITY HAS CERTAIN RELATIONSHIPS WITH A NONPROFIT ENTITY THAT ESTABLISHES A FOR‑PROFIT ENTITY, AND TO PROVIDE THAT A FAILURE TO PROVIDE THIS NOTICE MAY NOT BE CONSTRUED TO INDICATE THE AUTHORITY MAY PLEDGE THE CREDIT AND TAXING POWER OF THE STATE; TO AMEND SECTION 13‑17‑40, AS AMENDED, RELATING TO THE MEMBERSHIP AND TERMS OF THE BOARD OF TRUSTEES AND EXECUTIVE COMMITTEE OF THE AUTHORITY, SO AS TO PROVIDE FOR THE ELECTION OF TWO ADDITIONAL TRUSTEES, TO PERMIT A UNIVERSITY PRESIDENT WHO IS AN EX OFFICIO MEMBER OF THE BOARD TO DESIGNATE THE CHIEF RESEARCH OFFICER OF HIS UNIVERSITY TO PARTICIPATE AND VOTE IN NO MORE THAN TWO MEETINGS OF THE EXECUTIVE COMMITTEE EACH YEAR, TO PROVIDE FOR MEMBERS’ TERMS, FILLING OF VACANCIES, AND REMOVAL OF EXECUTIVE COMMITTEE MEMBERS, AND TO ALLOW THE CHAIRMAN OF THE HOUSE WAYS AND MEANS COMMITTEE AND THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE, OR THEIR DESIGNEE, TO SERVE ON THE BOARD, AND TO DELETE ARCHAIC REFERENCES; TO AMEND SECTION 13‑17‑70, AS AMENDED, RELATING TO THE POWERS OF THE BOARD OF TRUSTEES OF THE AUTHORITY, SO AS TO PROVIDE THE BOARD MAY PROVIDE GUARANTEES AS SECURITY FOR CERTAIN OBLIGATIONS; TO AMEND SECTION 13‑17‑87, AS AMENDED, RELATING TO COSTS ASSOCIATED WITH INNOVATION CENTERS ESTABLISHED BY THE AUTHORITY, SO AS TO MAKE CERTAIN FINANCING OPTIONAL RATHER THAN MANDATORY, TO EXPAND THE SOURCES OF FUNDING AVAILABLE FOR FINANCING THESE COSTS, AND TO PROHIBIT THE USE OF A PLEDGE OF CREDIT AND TAXING POWER OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE TO FINANCE THESE COSTS; AND TO AMEND SECTION 8‑13‑770, AS AMENDED, RELATING TO MEMBERS OF THE GENERAL ASSEMBLY SERVING ON BOARDS, SO AS TO MAKE CONFORMING CHANGES.

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

SECTION 1. Chapter 17, Tile 13 of the 1976 Code is amended by adding:

“Section 13‑17‑89. A provision of this chapter may not be construed to authorize the SCRA to commit the credit and taxing power of the State. Where the SCRA establishes, controls, funds, supports, or is otherwise involved with a nonprofit entity or appoints some or all of the directors of a nonprofit entity, and this nonprofit entity has established or establishes a for‑profit entity, has acquired or acquires an ownership interest in a for‑profit entity, the SCRA shall provide written notice to both this nonprofit entity and this for‑profit entity that the SCRA may not pledge the credit and taxing power of the State. A failure to provide this written notice may not be construed to indicate the SCRA may pledge the credit and taxing power of the State.”

SECTION 2. Section 13‑17‑40 of the 1976 Code, as last amended by Act 83 of 2007, is further amended to read:

“Section 13‑17‑40. (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’s~~ Committee or his designee, Chairman of the Senate Finance ~~Committee’ s~~ 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. ~~The original elected trustees must be the same members serving as elected trustees on the board on January 1, 2005.~~ Each of the Congressional Districts of South Carolina ~~has~~ 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’s~~ Committee or his designee, the Chairman of the Senate Finance ~~Committee’s~~ Committee or his designee, and the chairman of the board of trustees shall serve ~~as~~ 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.”

SECTION 3. Section 13‑17‑70(12) of the 1976 Code, as last amended by Act 133 of 2005, is further amended to read:

“(12) to provide guarantees as security for notes, bonds, evidences of indebtedness, or other obligations of affiliates as defined in Section 35‑2‑201, or of other entities with respect to which the authority has the right to appoint one or more board members, and to mortgage, pledge, hypothecate, or otherwise encumber the property, real, personal, or mixed, or facilities, or revenues of the authority as security for or relating to these guarantees, or for notes, bonds, evidences of indebtedness, or other obligations of the authority; provided, the authority shall have no authority to pledge the credit and the taxing power of the State or any of its political subdivisions;”

SECTION 4. Section 13‑17‑87(E) of the 1976 Code, as added by Act 133 of 2005, is amended to read:

“(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~~ up fit the physical space, ~~must~~ may be financed through the issuance of general obligation debt to the maximum extent allowed by Chapter 51 ~~of~~, Title 11, the South Carolina Research University Infrastructure Act, ~~or~~ 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. ~~Other costs associated with the innovation centers must be funded from the budget of the authority, as specified elsewhere in this chapter.~~ 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.”

SECTION 5. Section 8‑13‑770 of the 1976 Code, as last amended by Act 103 of 2005, is further amended to read:

“Section 8‑13‑770. 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 Budget and Control Board, the Advisory Commission on Intergovernmental Relations, the Legislative Audit Council, the Legislative Council, the Legislative Information Systems, 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.”

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

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