**South Carolina General Assembly**

122nd Session, 2017-2018

**H. 4685**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Pitts

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Introduced in the House on January 24, 2018

Currently residing in the House Committee on **Ways and Means**

Summary: Public 4 year institutions

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/24/2018 House Introduced and read first time ([House Journal‑page 33](file:///h:\hj\20180124.docx))

1/24/2018 House Referred to Committee on **Ways and Means** ([House Journal‑page 33](file:///h:\hj\20180124.docx))

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**VERSIONS OF THIS BILL**

[1/24/2018](file:///p:\pprever\2017-18\4685_20180124.docx)

**A** **BILL**

TO PROVIDE THAT BEGINNING JULY 1, 2019, THE STATE FISCAL ACCOUNTABILITY AUTHORITY SHALL TRANSFER STATE PUBLIC FOUR‑YEAR INSTITUTIONS OF HIGHER LEARNING TO A NOT‑FOR‑PROFIT ORGANIZATION TO BE ESTABLISHED OR DESIGNATED AS PROVIDED IN THIS ACT FOR THE PURPOSE OF OPERATING IT AS A PRIVATE AND NOT A PUBLIC INSTITUTION; AND TO PROVIDE THE TERMS, CONDITIONS, AND PROCEDURES TO IMPLEMENT THE ABOVE REQUIREMENTS.

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

SECTION 1. (A) Beginning July 1, 2019, the State Fiscal Accountability Authority shall transfer the institutions designated in subsection (B) according to the timetable in the subsection to a not‑for‑profit organization authorized below for the purpose of operating it as a private and not a public institution. For this purpose, the governing board of each institution shall cause to be established a not‑for‑profit organization consisting of alumni, staff, and friends of the institution or alternatively, may designate an existing not‑for‑profit organization affiliated with the institution to be the entity to which the institution must be transferred. The governing body of the not‑for‑profit organization which shall manage and administer the institution must be provided for in the articles and bylaws of the organization. The contract for the transfer executed on behalf of the State by the State Fiscal Accountability Authority and the not‑for‑profit organization shall contain that criteria as the accountability authority specifies, but at a minimum must include, but is not limited to, the following:

(1) the contract must be for the full and complete transfer of the institution, including all assets and liabilities. Title to all real property together with any improvements on it also must be transferred to the not‑for‑profit institution;

(2) the contract must provide for the full payment or assumption without recourse by the not‑for‑profit organization, or a combination of these, of all liabilities of the institution, including general obligation and revenue bonds and other indebtedness issued by it to date. Debt service on all bonded and other indebtedness assumed by the institution must be paid from any and all funds available to the institution, including student tuition, fees, auxiliary fees, donations, and grants. However, the State of South Carolina shall remain contingently liable on general obligation bonds pertaining to the institution;

(3) the contract must include a full and complete release of the State of South Carolina, and its agents, employees, or entities including the institution from any and all liability present or contingent which may arise from the operation of the institution in the future;

(4) existing contracts of the institution must be honored by the not‑for‑profit organization, but are renegotiable at the option of the parties if both agree;

(5) the contract must be contingent on compliance by the State with all provisions of law pertaining to the transaction prior to the final consummation of the transaction, and the State must agree to use its best efforts in regard to compliance;

(6) unless otherwise provided in this act, all provisions of the consolidated procurement code apply to this transaction; and

(7) all duties imposed on the institution under contracts or agreements to which the institution is a party must be performed in full by the not‑for‑profit organization unless the contract is later amended or modified.

(B) The following dates apply to the institutions of higher learning named below for purposes of the transfer of the institution to the not‑for‑profit organization:

(1) July 1, 2019 ‑ the University of South Carolina and affiliated branches or campuses, including USC Upstate, USC Beaufort, and USC Sumter;

(2) July 1, 2020 ‑ Clemson University;

(3) July 1, 2021 ‑ Medical University of South Carolina;

(4) July 1, 2022 ‑ The Citadel;

(5) July 1, 2023 ‑ South Carolina State University;

(6) July 1, 2024 ‑ Winthrop University;

(7) July 1, 2025 ‑ Lander University;

(8) July 1, 2026 ‑ Francis Marion University;

(9) July 1, 2027 ‑ College of Charleston; and

(10) July 1, 2028 ‑ Coastal Carolina University.

(C) The institution and its officers and employees designated by the institution shall cooperate with the accountability authority with regard to the transfer. The institution for this purpose shall certify its assets and liabilities, its financial statements for the last five years, and its balance sheet to the accountability authority by January first of the applicable year in order for the transfer to be completed by July first of that year. The institution shall provide all information required; provided, that all proprietary or confidential information of the institution or of its customers in possession of the institution must be protected by appropriate confidentiality agreements. If the institution fails to perform the requirements imposed upon it by the provisions of this section in the opinion of the accountability authority, the accountability authority by majority vote may request a court of competent jurisdiction to issue a writ of mandamus requiring the institution or its designated officers and employees to perform the requirements imposed upon it or them by the provisions of this section.

(D) The State Fiscal Accountability Authority on or before July first of the applicable year shall transfer the institution to the not‑for‑profit organization. The accountability authority, however, from state general fund appropriations to the institution or other cash on hand of the institution may establish a reserve fund from which future liabilities and obligations of the institution not known or identified at the time of the transfer may be paid.

(E) Notwithstanding any other provision of law, the General Assembly, beginning with the 2019‑2020 general appropriations act in regard to student scholarships and other student financial aid provided under the provisions of the general law of this State, including funding for HOPE, LIFE, and Palmetto Fellows Scholarships, shall provide such aid equally to all full‑time students on a per capita basis, the only differential among institutions being the number of students enrolled at each institution.

(F) All employees of an institution transferred to a not‑for‑profit organization shall retain their employment status at the institution including tenure if granted. Existing employees who participated in state health insurance, retirement or other deferred compensation or insurance programs authorized by law, notwithstanding any other provision of law, are eligible for and may continue to participate in such programs unless and until changed or modified as provided by law.

(G) If a not‑for‑profit organization acquiring an institution under the terms and conditions of this section later desires to divest itself of the institution, it first must offer to transfer the institution to the State of South Carolina under the same terms and conditions it acquired the institution.

SECTION 2. This act takes effect upon approval by the Governor.

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