CHAPTER 77

South Carolina Higher Education Excellence Enhancement Program

**SECTION 2‑77‑10.** Legislative findings.

The General Assembly finds that:

(1) a significant part of the state mission in education has been to enhance excellence in higher education for low‑income and educationally disadvantaged students;

(2) certain institutions have played an integral role in offering higher educational access to low‑income and educationally disadvantaged students who otherwise might not have been able to obtain a college education, which has resulted in a substantial public benefit;

(3) these institutions provide a unique educational opportunity for these targeted groups of students by offering flexible admission policies, low tuition rates, and small enrollments to ensure smaller class size tailored to the needs of these targeted students;

(4) these institutions are often limited in their abilities to raise funds from their respective student populations from tuition and fees because of the demographic profiles of their students and, as a result, charge tuition rates which on average are substantially lower than those charged by other higher educational institutions in this State;

(5) the federal government has recognized the unique ability of certain institutions to accomplish the important public benefit of enhancing opportunities in higher education for low‑income and educationally disadvantaged students;

(6) public educational assistance made available to the institutions that serve these targeted students provides a direct educational benefit to the students by improving the overall quality of their educational experiences by offering enhanced facilities and improved academic instruction; and

(7) it is necessary that the State of South Carolina enable these institutions to effectively partner with the federal government to ensure the continued existence in this State of these institutions, which provide a substantial public benefit to the State by enabling these targeted students to be well‑educated, to move into the workforce, and to improve the quality of life in South Carolina.

HISTORY: 2003 Act No. 24, Section 1.

**SECTION 2‑77‑15.** Definitions.

For purposes of this chapter:

(1) "Eligible institution" means a four‑year institution of higher learning or an institution of higher learning that is accredited to offer, and is actively offering, at least one nonsectarian program at the baccalaureate level:

(a)(i) at which sixty percent or more of the enrolled undergraduate students were low‑income and educationally disadvantaged students, for the four consecutive years immediately preceding the then current year and which is defined in Part B, Subchapter III, Chapter 28, Title 20 of the United States Code; or

(ii) which is an historically single gender women's institution of traditional students, as evidenced by ninety percent or more of full‑time female undergraduates under twenty‑five years of age for the four consecutive years immediately preceding the current year;

(b)(i) that is accredited by the Southern Association of Colleges and Schools; or

(ii) which receives Title III funding and is accredited by an accrediting organization recognized by the United States Department of Education;

(c) that is organized as a nonprofit corporation or is a public institution; and

(d) that has its main campus located in South Carolina.

(2) "Federal funding program" means:

(a) Section 507(c) of the Omnibus Parks and Land Management Act of 1996 (16 U.S.C. 470a note), as amended; or

(b) Part B, Subchapter III, Chapter 28, Title 20 of the United States Code.

(3) "Low‑income and educationally disadvantaged student" means a student who receives a Pell Grant.

HISTORY: 2003 Act No. 24, Section 1; 2005 Act No. 162, Section 2, eff June 14, 2005; 2016 Act No. 143 (H.3534), Section 1, eff July 1, 2016.

Effect of Amendment

The 2005 amendment rewrote item (1).

2016 Act No. 143, Section 1, in (1), expanded the definition of "eligible institution".

**SECTION 2‑77‑20.** Establishment of program; purpose; funding.

(A) There is hereby established the South Carolina Higher Education Excellence Enhancement Program for the general purpose of enhancing the educational opportunities of low‑income and educationally disadvantaged students. The program must be administered by the Commission on Higher Education. The commission must enter into annual contracts with eligible institutions to accomplish the purposes of this program.

(B) The program must be funded by appropriations from the Education Lottery Account in an amount provided by the General Assembly.

(C)(1) An institution seeking to qualify as an eligible institution must submit an annual application to the commission. The commission must certify the eligibility of institutions seeking contracts pursuant to this section. Subject to the provisions of item (2), and less any allocations made pursuant to item (2), the funds appropriated for this program must be allocated equally among the eligible institutions.

(2) The Commission on Higher Education, or its successor, annually shall review and determine if funds allocated to a school pursuant to item (1) have been properly used by the school pursuant to Section 2‑77‑30. If the Commission on Higher Education, or its successor, determines these funds were used inappropriately by a school, the funds must be returned, and the following year that school's allocation must be reduced by fifty percent of the amount appropriated to each eligible institution pursuant to item (1). The balance remaining from a school's reduced allocation must be distributed equally among the remaining eligible institutions.

(D) From the amounts allocated on an equal basis, an institution receiving an allocation of funds must first use the funds as the nonfederal match required by a federal funding program that provides funding for historic preservation or for capital improvements. In awarding funds based on merit, the commission shall give priority to those proposals that can be matched with funds from a federal funding program.

HISTORY: 2003 Act No. 24, Section 1; 2011 Act No. 74, Pt VI, Section 16, eff August 1, 2011; 2016 Act No. 143 (H.3534), Section 2, eff July 1, 2016.

Effect of Amendment

The 2011 amendment in subsection (C), in the third sentence substituted "The" for "Of the" and deleted ", one‑half" before "must be allocated"; and deleted the fourth sentence relating to the remainder of appropriated funds.

2016 Act No. 143, Section 2, in (C)(1), inserted the text before "the funds appropriated" in the last sentence, and added (C)(2).

**SECTION 2‑77‑30.** Contracting with eligible institutions.

(A) From amounts appropriated by the General Assembly, the commission must enter into contracts with eligible institutions that are certified by the commission for any of the following uses:

(1) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(2) construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

(3) support of faculty exchanges, faculty development, and faculty fellowships to assist in attaining advanced degrees in their fields of instruction;

(4) purchase of library books, periodicals, microfilm, and other educational materials, including telecommunications program materials;

(5) tutoring, counseling, and student service programs designed to improve academic success;

(6) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

(7) joint use of facilities, such as laboratories and libraries;

(8) establishing or improving a development office to strengthen or improve contributions from alumni and the private sector;

(9) establishing or enhancing a program of teacher education designed to qualify students to teach in a public elementary or secondary school in the State that must include, as part of the program, preparation for teacher certification; and

(10) other activities proposed that contribute to carrying out the purposes of this act, and which are approved by the commission as part of the review and acceptance of the application.

(B) Each eligible institution must keep such records as the commission prescribes, including records which fully disclose:

(1) the amount and disposition by each recipient of the proceeds of the assistance;

(2) the cost of the project or undertaking in connection with which the assistance is given or used;

(3) the amount of that portion of the cost of the project or undertaking supplied by other sources; and

(4) such other records as will facilitate an effective audit by the Commission on Higher Education.

HISTORY: 2003 Act No. 24, Section 1.

**SECTION 2‑77‑40.** Repayment of unexpended funds.

Any funds paid to an eligible institution pursuant to this chapter but not expended or used for the purposes for which the funds were paid within three years following the date of the contract awarded to an eligible institution must be repaid to the Education Lottery Account immediately upon the expiration of the three‑year period.

HISTORY: 2003 Act No. 24, Section 1.

**SECTION 2‑77‑50.** Regulations.

The commission must promulgate regulations and establish procedures to administer the provisions of this chapter including, but not limited to, audits of contracting institutions.

HISTORY: 2003 Act No. 24, Section 1.