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CHAPTER 121.

 THE CITADEL, THE MILITARY UNIVERSITY OF SOUTH CAROLINA

ARTICLE 1.

 GENERAL PROVISIONS

**SECTION 59‑121‑10.** Composition of board of visitors of The Citadel.

The board of visitors of The Citadel, the Military College of South Carolina, shall be composed of the Governor, the Adjutant General and the State Superintendent of Education, who shall be members ex officio of the board, and eleven others who shall be graduates of the college, seven of whom are to be elected by joint vote of the General Assembly as hereinafter provided, three of whom are to be elected by such means and methods as may be determined by the Association of Citadel Men or any succeeding organization of Citadel men, the result of election to be certified by the president of the association to the Secretary of State, and one of whom shall be appointed by the Governor. The Governor shall make the appointment based on merit regardless of race or economic status and shall strive to assure that the membership of the board is representative of all citizens of the State of South Carolina.

**SECTION 59‑121‑15.** Authority to change title of The Citadel; conditions.

At its discretion, the Board of Trustees of The Citadel is authorized to change the title of its governed institution from “The Citadel, the Military College of South Carolina” to “The Citadel, the Military University of South Carolina”, provided that the institution meets the criteria of a comprehensive university as established by the Commission on Higher Education on December 5, 1991.

**SECTION 59‑121‑20.** Terms of board members.

The regular terms of office of the elected members in office on April 18, 1947, who are still in office shall end on the last day of June in the years stated in the table in Act 108 of the regular session of 1947 (Acts 1947, p. 144). The regular terms of office of the elected members who were not in office on that date and of all members hereafter elected shall be six years; provided, that the third member authorized to be elected by the Association of Citadel Men shall serve an initial term of four years. All elected terms shall begin on the first day of July and end on the last day of June; provided, however, that each incumbent shall be entitled to hold office until his successor is duly elected. In electing members of the board, the General Assembly shall elect members based on merit regardless of race or economic status and shall strive to assure that the membership of the board is representative of all citizens of the State of Carolina.

The term of office of the at‑large trustee appointed by the Governor shall be effective upon certification to the Secretary of State and shall be six years.

**SECTION 59‑121‑30.** Election of board members; age limit.

The General Assembly shall hold an election to fill vacancies occurring due to expiration of terms no earlier than the first day of April of the year the term expires and as necessary to fill unexpired terms which are caused by the death, resignation, or removal of a trustee, except that vacancies of unexpired terms of members elected by the Association of Citadel Men shall be filled in the same manner as is provided for by Section 59‑121‑10. No elective member shall be elected or re‑elected either by the General Assembly or by the Association of Citadel Men to fill any term of office the duration of which shall extend beyond the member’s seventy‑fifth birthday. However, beginning with the elections for members of the board occurring on or after July 1, 1997, the seventy‑fifth birthday limit no longer applies.

**SECTION 59‑121‑40.** Board created body corporate and politic; general powers.

The board of visitors of The Citadel, the Military College of South Carolina, is hereby created a body corporate and politic of this State, by the name and style of “The Board of Visitors of The Citadel, the Military College of South Carolina,” and by said name it and its successors in office shall have perpetual succession and be able and capable in law to have, receive and enjoy to it and its successors and convey lands, tenements and hereditaments of any kind or value in fee or for life or years and perpetual property of any kind whatever and all sums of money of any amount whatsoever which may be granted, devised or bequeathed to it for the purpose of building, erecting, endowing or supporting The Citadel, the Military College of South Carolina. But in receiving any such bequest no liabilities of any character shall be made binding or obligatory upon the State, except such as are accepted by the General Assembly. The board shall have a common seal for themselves and their successors with liberty to alter the same from time to time.

**SECTION 59‑121‑50.** Powers of board in educational matters.

Said board may establish such regulations as it may deem necessary for the organization and good government of said college and establish such bylaws for the management thereof as shall not be inconsistent with the laws of this State or of the United States. It may appoint professors qualified to give instruction in military science and other branches of knowledge which it may deem essential and may fix their salaries and the period for which they shall serve. And the board may confer degrees on graduates of the college and confer honorary degrees on such persons of distinction as it shall deem proper.

**SECTION 59‑121‑55.** Formation of nonprofit eleemosynary corporation; transfer of funds or property; application of Freedom of Information Act.

(A) The Board of Visitors, or individual members or employees of the board or college as designated by the board, are authorized to form or cause to be formed a nonprofit eleemosynary corporation pursuant to Chapter 31 of Title 33, the purpose of which is to provide scholarship and other financial assistance or support to the college.

(B) The Board of Visitors is further authorized to transfer not exceeding twenty million dollars of nonstate appropriated funds and property it holds in its name or in the college’s name for scholarship and other college support purposes to the nonprofit corporation formed pursuant to subsection (A). These funds and property must be used by the nonprofit corporation for its stated purposes, except that any restrictions or limitations applicable to a specified portion of these funds or property continue to be applicable after the transfer of those funds or property to the nonprofit corporation. Any encumbrances or liability on the funds and property so transferred must be assumed by the nonprofit corporation.

(C) The records and proceedings of the nonprofit corporation are subject to disclosure in the manner provided by the Freedom of Information Act.

**SECTION 59‑121‑60.** Quorum at special meeting of board.

At any special meeting of the board of visitors of The Citadel, the Military College of South Carolina, when at least five days’ notice in writing has been given by mail or otherwise to all of the members of the board of the time and place of the meeting any four or more of the members so notified who shall attend such special meeting shall constitute a quorum for the transaction of business.

**SECTION 59‑121‑70.** Annual report of board.

The board of visitors shall make a minute and full report of the condition and management of the college to the State Superintendent of Education and to the Governor, to be by the latter laid before the General Assembly in each and every year.

**SECTION 59‑121‑80.** Burial of past presidents and their wives.

The board of visitors of The Citadel, The Military College of South Carolina, is hereby authorized to set aside a suitable plot, the size and location thereof to be determined by the board and by the State Budget and Control Board, wherein may be interred the remains of past presidents of The Citadel who may be so minded to be buried therein with their wives, if so desired; provided, that the approval and selection of such past presidents and their wives to be buried therein shall be wholly in the discretion of the board of visitors of The Citadel, The Military College of South Carolina.

ARTICLE 3.

 CITADEL ATHLETIC FACILITIES BONDS

**SECTION 59‑121‑310.** Purpose.

(A) The General Assembly finds that it is desirable to provide continuing and general statutory authority for The Citadel to incur debt for the purpose of, among other things, acquiring, constructing, renovating, and equipping certain athletic facilities, which debt is secured by a pledge of the revenues derived from the operation of the athletic department of The Citadel or by the proceeds of certain related admissions fees and special fees charged to students enrolled at The Citadel, or by both. The Citadel has demonstrated need for additional funds to provide for acquisition, construction, renovation, and equipping of such facilities. These facilities are needed to replace or renovate aging facilities and to provide additional facilities all to the end that the educational environment at The Citadel will be enhanced for the benefit of present and future students at The Citadel.

(B) Consideration has been given to this need and to the methods of funding it. It has been determined to be in the best interests of the people of this State to authorize The Citadel to acquire, construct, renovate, and equip additional such facilities and to incur indebtedness for these purposes which is payable from the revenues derived from the operation of these facilities or from related fees to the extent and under the conditions provided for in this article, or from both. It is specifically provided that the visitors are authorized to pledge the proceeds of the admissions fee and the special student fee as security for the bonds without pledging the revenue derived from the operation of the athletic department.

**SECTION 59‑121‑320.** Definitions.

As used in this article:

(1) “Admissions fee” means the specially designated admissions fee or charge which may, in addition to other charges, be imposed by the visitors upon persons admitted to any event held at an athletic facility, for the purpose of providing funds to assist in the repayment of bonds.

(2) “Athletic department” means the athletic department of The Citadel.

(3) “Athletic facilities” means all facilities designated by the visitors as intercollegiate athletic facilities now owned or hereafter acquired by The Citadel.

(4) “Bond” or “bonds” means any note, bond, installment contract, or other evidence of indebtedness issued pursuant to this article.

(5) “Bond reserve fund” means the special fund which may be established by the visitors pursuant to this article, which must be in the custody of the State Treasurer or its corporate trust designee and which is primarily established for the purpose of providing a reserve with which to meet the payment of the principal of and interest on bonds in the event that payments otherwise required from the debt service fund are insufficient to meet the payment of the principal and interest as and when they become due and payable.

(6) “Citadel” means The Citadel, the Military College of South Carolina.

(7) “Debt service fund” means the fund established by this article for the payment of principal of and interest on bonds, which must be in the custody of the State Treasurer or its corporate trust designee.

(8) “Net revenues” means all revenues remaining after payment of the operating and maintenance expenses of the athletic department but before provision is made for depreciation, amortization, nonmandatory transfers, and interest expenses of the athletic department for a given fiscal year.

(9) “Revenues” means all revenues or other income, including investment income, received by the athletic department from the operation of the athletic department and the athletic facilities, and all gifts, bequests, contributions, and donations received by the visitors or The Citadel from any persons, including from any athletic booster organization, for use in connection with the operations of the athletic department, plus any other unrestricted revenues of the athletic department not otherwise pledged that may be made applicable by the visitors to the payment of the principal and interest of the bonds, including such revenues which may fall into the category of nonmandatory transfers as such term is used in generally accepted accounting principles, but excluding:

(i) gifts, bequests, contributions, and donations restricted to a particular purpose inconsistent with their use for the payment of the principal, premium, or interest on any obligations of the visitors or The Citadel;

(ii) the proceeds of any borrowings;

(iii) state appropriations of any sort; and

(iv) revenues, income, receipts, and money received by the visitors or The Citadel for purposes other than those related to the athletic department.

(10) “Special student fee” means the fee authorized by this article to be established by the visitors and which may be imposed upon persons in attendance at any academic session of The Citadel in order to provide funds to assist in the repayment of bonds.

(11) “State board” means the State Budget and Control Board.

(12) “Visitors” means the Board of Visitors of The Citadel or any successor body.

**SECTION 59‑121‑330.** Visitors authorized to acquire, construct, renovate and equip athletic facilities; bond management costs.

The visitors are authorized to acquire, construct, and equip additional athletic facilities and to improve, renovate, and equip existing athletic facilities to the extent they shall determine to be necessary, and the proceeds of bonds authorized by this article are made available for that purpose. The visitors also are authorized to refund bonds that may from time to time be outstanding pursuant to this article by exchange, or otherwise. A portion of the proceeds of bonds issued for any of the above purposes also may be used to fund, establish, or replenish any bond reserve fund, to pay interest on the bonds as provided in Section 59‑121‑440(1), or to pay costs of issuance of the bonds or of any credit enhancement for the bonds as may be deemed necessary by the visitors.

**SECTION 59‑121‑340.** Authorization to borrow funds and issue bonds; amount limitations.

Upon receiving the approval of the state board and upon review by the Joint Bond Review Committee, the visitors may from time to time borrow such sums as necessary to accomplish the purpose of this article and to evidence such borrowings by bonds issued pursuant to this article in such aggregate principal amount as they determine, except that other provisions of this article to the contrary notwithstanding, there must not be outstanding at any time bonds issued pursuant to this article in excess of thirty‑five million dollars.

**SECTION 59‑121‑350.** Sources of funds to secure bonds; disposition of athletic facilities

Bonds issued pursuant to this article are payable from the revenues or the net revenues as designated by the visitors, or from proceeds of the admissions fee and the special student fee, or from both. Bonds issued pursuant to this article may be further secured by such additional pledges of other revenues or fees of The Citadel as The Citadel may be authorized to grant pursuant to other laws of this State. The visitors may abandon the use of any portion of the athletic facilities or sell or dispose of any portion of the athletic facilities upon the receipt of a written recommendation by the chief financial officer of The Citadel to the effect that such action does not adversely affect the ability of The Citadel to discharge its obligations to the holders of bonds issued pursuant to this article and upon such further conditions as prescribed in the resolution of the visitors providing for the issuance of bonds.

**SECTION 59‑121‑360.** Liability of State and persons signing bonds for payment of principal and interest.

The faith and credit of the State must not be pledged for the payment of the principal and interest of such bonds, and there must be on the face of each bond a statement plainly worded to that effect. Neither the visitors nor any other person signing the bonds is personally liable therefor.

**SECTION 59‑121‑370.** Resolutions for issuance of bonds; contents and conditions.

In order to avail themselves of the authorizations set forth in this article, the visitors shall from time to time adopt resolutions providing for the issuance of bonds of The Citadel, within the limitations herein mentioned, which resolutions shall prescribe the tenor, terms, and conditions of such bonds. Such bonds must be issued as serial or term bonds, maturing in equal or unequal amounts, at such times and on such occasions as the visitors determine. The last maturing bonds of any issue must be expressed to mature not later than thirty years from their date, and the first maturing bonds of any issue, issued pursuant to this article, shall fall due within three years from their date. The bonds shall bear such rates of interest, payable on such occasion, as the visitors shall prescribe, and the bonds must be in such denominations, must be payable in such medium of payment, and at such place as such resolutions prescribe. All bonds may be issued with a provision permitting their redemption on any interest payment date prior to their respective maturities. Bonds made subject to redemption prior to their stated maturities may contain a provision requiring the payment of a premium for the privilege of exercising the right of redemption, in such amount or amounts as the visitors shall prescribe in the resolutions authorizing their issuance. All bonds that are subject to redemption shall contain a statement to that effect on the face of each bond. The resolutions authorizing their issuance shall contain provisions specifying the manner of call for redemption and the notice of such call that must be given.

**SECTION 59‑121‑380.** Tax exempt status.

The bonds authorized by this article and all interest to become due thereon have the tax exempt status prescribed by Section 12‑2‑50.

**SECTION 59‑121‑390.** Fiduciaries as authorized investors.

It is lawful for all executors, administrators, guardians, and fiduciaries, all sinking fund commissions, the state board, as trustee of the South Carolina Retirement System, and all other governmental entities within the State to invest any monies in their hands in such bonds.

**SECTION 59‑121‑400.** Execution of bonds and coupons; change of issuing officers or seal; issuance as fully registered, noncertificated, book‑entry securities.

The bonds and the coupons, if any, attached to such bonds, must be executed manually or by facsimile in the name of The Citadel in such manner and by such persons as the visitors shall from time to time determine, and the seal of The Citadel must be affixed to, or impressed, or reproduced on each bond. Any coupons attached to such bonds must be authenticated by the facsimile signature of one or more of the persons signing the bonds. Such bonds may, in the discretion of the visitors, be registerable as to principal and interest on books kept therefor by or on behalf of The Citadel, including by a corporate registrar. The delivery of the bonds so executed are valid notwithstanding changes in officers or in the seal occurring after such execution. Notwithstanding the foregoing, the bonds may, in the discretion of the visitors, be issued as fully registered, noncertificated, book‑entry securities.

**SECTION 59‑121‑410.** Disposition of bonds; private sale; discounts or premiums.

The bonds may be disposed of in such manner as the visitors shall determine, except that no privately negotiated sale without public advertisement may be made without the prior approval of the state board. The bonds may be sold at such discount or for such premium as may be determined by the visitors or their designee as being in the best interest of The Citadel.

**SECTION 59‑121‑420.** Delivery of bond proceeds to State Treasurer; maintenance in special funds; withdrawals; temporary investments.

The proceeds of all bonds must be delivered to the State Treasurer or its corporate trust designee and retained in a special fund or funds and applied solely to the purposes for which such bonds have been issued. Withdrawals from the fund must be made on the order or requisition of The Citadel and must be in such form as the State Treasurer shall prescribe. The State Treasurer may make temporary investments of funds derived from the proceeds of bonds in the manner prescribed by law.

**SECTION 59‑121‑430.** Provisions for adequate payment of principal and interest on bonds.

To the end that provisions be made for the adequate payment of the principal of and interest on the bonds:

(1)(a) The visitors shall maintain in full force and effect any necessary admission fees or special student fee on a basis and in such amounts as will be sufficient, after taking into account net revenues and any other funds pledged to the payment of the bonds as provided under Section 59‑121‑440(4), to provide for the payment of the principal of and interest on the bonds as the same mature and to provide the required reserve therefor in any bond reserve fund. It is the duty of The Citadel to calculate the debt service requirements of the bonds not less frequently than annually and, if required at such time, appropriate revisions of any admissions fees or special student fee must be made by the visitors if such revisions are required, after taking into account net revenues for the year, to make adequate provisions for the payment of the principal of and interest on the bonds and the maintenance of any required reserve in a bond reserve fund.

(b) The admissions fees and the special student fee, if any, must bear such nomenclature as the visitors shall prescribe. The special student fee may, in the discretion of the visitors, be included as a part of any other fee. The visitors shall account for the receipt from any admissions fees and special student fee to the State Treasurer, for deposit by the State Treasurer in the debt service fund.

(2) The visitors shall cause to be established with the State Treasurer or its corporate trust designee on or before the occasion of the delivery of any bonds pursuant to this article, a debt service fund into which must be deposited annually sufficient funds as provided in this article to meet the payment of principal of and interest on the bonds for such year.

**SECTION 59‑121‑440.** Powers vested in visitors to secure payment of principal and interest on bonds.

To the end that the payment of the principal of and interest on the bonds authorized hereby are adequately secured, the visitors are empowered in their discretion:

(1) to issue bonds in such amount, within the limitations herein provided for, as the visitors consider necessary, it is lawful for the visitors to use a portion of the principal proceeds derived from any sale of bonds, except bonds issued to effect refunding of outstanding bonds, to meet the payment of interest on such bonds for a period equal to the period of construction or renovation of the athletic facilities to be financed with the proceeds of such bonds, plus a period not exceeding six months, it being recognized by the General Assembly, that until the athletic facilities to be constructed or renovated with the proceeds of the bonds are completed, an undue burden may be imposed upon then existing revenues or other sources of payment of the bonds;

(2) to impose admissions fees and a special student fee upon such basis and in such amounts as the visitors shall determine;

(3) to pledge the revenues or the net revenues as designated by the visitors, or the proceeds of any admissions fees and special student fee, or both, as security for the payment of such bonds, whether then or thereafter to be existing. However, any surplus of such revenues or net revenues available after the payment of costs of operation and maintenance of the athletic department and of athletic facilities and of debt service on such bonds, and the establishment of any debt service reserve obligation in a bond reserve fund under the proceedings providing for the issuance of such bonds, may be placed in a contingency and improvement fund for athletic facilities in order to restore depreciated or obsolete athletic facilities, to make improvements to such athletic facilities, to defray the cost of unforeseen contingencies with regard to such athletic facilities, to prevent defaults under such bonds or to redeem any of such bonds, or may be reflected in the opening balance of the operating fund of the department for the next succeeding fiscal year and used for any purpose approved by the visitors.

(4) to further secure the bonds with a pledge of any additional revenues or fees of The Citadel as may be authorized under other laws of the State;

(5) to specify and limit the athletic facilities which may be made use of free of charge;

(6) to covenant to establish and maintain such system of rules as will ensure the continuous and effective use of the athletic facilities;

(7) to covenant that an adequate schedule of rates and charges for attendance at events held at any athletic facilities will be maintained, and that net athletic revenues plus any proceeds of the admissions fees and the special student fee will be sufficient to:

(a) pay the cost of operating and maintaining the athletic department and the athletic facilities, including the cost of fire, extended coverage and use, and occupancy insurance;

(b) pay the principal and interest of the bonds as they respectively become due;

(c) provide any necessary debt service coverage ratios;

(d) create and maintain any bond reserve fund established to meet the payment of principal and interest of any of the bonds; and

(e) create and at all times maintain an adequate reserve for contingencies and for major repairs and replacement of athletic facilities;

(8) to covenant against the mortgaging or disposing of the athletic facilities and against permitting or suffering any lien to be created thereon, equal or superior to any lien created thereon for the benefit of the holders of such bonds. However, the visitors reserve the right, under such terms as they shall prescribe, to issue additional bonds on a parity with, or subordinate to, the bonds authorized by this article;

(9) to covenant as to the use of the proceeds derived from the sale of any bonds issued pursuant to this article;

(10) to provide for the terms, form, registration, exchange, execution, and authentication of bonds, and for the replacement of lost, destroyed, or mutilated bonds;

(11) to make covenants with respect to the operation of the athletic department and the athletic facilities;

(12) to covenant that all revenues or net revenues pledged for the payment of the bonds must be duly segregated into special funds and that such funds will be used solely for the purposes for which they are intended and for no other purpose;

(13) to covenant for the mandatory redemption of bonds on such terms and conditions as the resolutions authorizing such bonds shall prescribe;

(14) to provide for early defeasance of bonds through the establishment of special escrow accounts maintained by a corporate trustee, which may be the State Treasurer, of cash, or United States government obligations, or obligations of agencies thereof, which escrows may be funded with proceeds of bonds issued hereunder or revenues or net revenues or other funds available to The Citadel;

(15) to prescribe the procedure, if any, by which the terms of the contract with the bondholders may be amended, the number of bonds whose holders must consent thereto, and the manner in which consent shall be given;

(16) to covenant as to the maintenance of the athletic facilities, the insurance to be carried thereon, and the use and disposition of proceeds from any insurance policy;

(17) to prescribe the events of default and the terms and conditions upon which all or any bonds become or may be declared due before maturity, and the terms and conditions upon which such declaration and its consequences may be waived;

(18) to impose a statutory lien upon any athletic facilities as security for the payment of the bonds. The lien shall extend to such athletic facilities, to their appurtenances and extensions, to their additions, improvements, and enlargements to the extent specified in the resolutions and shall inure to the benefit of the holders of the bonds secured thereby. These athletic facilities shall remain subject to such statutory lien until the payment in full of the principal and interest of the bonds. Any holder of any of the bonds, or any of the coupons representing interest thereon, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce the statutory lien, and may, by suit, action, mandamus, or other proceedings enforce and compel performance of all duties of the visitors, including the fixing of sufficient rates, the proper segregation of the revenues, and the proper application thereof. However, the statutory lien must not be construed to give any such bond or coupon holder authority to compel the sale of any of the athletic facilities or any part thereof;

(19) to covenant that, if there be any default in the payment of the principal of or interest upon any of the bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the athletic department, with power to fix rates and charges for athletic facilities and other activities of the athletic department, and to apply the income and revenues of the athletic department to the payment of such bonds and the interest thereon;

(20) to establish on or before the occasion of the delivery of any bonds issued pursuant to this article a bond reserve fund and to cause the same to be maintained by the State Treasurer or its corporate trustee designee, and to that end, the visitors are empowered to utilize any monies available for the funding of any such bond reserve fund, including revenues or net revenues previously accumulated prior to the issuance of bonds or available proceeds of the admissions fee or the special student fee. In the discretion of the visitors, in lieu of cash, such a bond reserve fund may be funded with a surety bond, insurance policy, letter of credit, line of credit, or similar guarantee. At the discretion of the visitors, The Citadel may purchase an insurance policy ensuring payment of both principal and interest on any issuance of bonds hereunder;

(21) with the consent of the State Treasurer, to appoint a corporate trustee and a paying agent for the bondholders, either of whom may be the State Treasurer, and to prescribe the manner in which revenues or net revenues, as well as proceeds of admissions fees and special student fees shall be utilized and disposed of. Any such corporate trustee shall serve in a fiduciary capacity as trustee for the bondholders under the resolutions of the visitors authorizing the issuance of bonds.

**SECTION 59‑121‑450.** Duration of authorizations granted by article; time limit for issuance of bonds.

The authorizations granted by this article must remain of full force and effect until they are rescinded by subsequent enactment, and no time limit is set for the issuance of bonds pursuant to this article.