

**Athletic Facilities Revenue Bonds**

Fiscal Year Ended June 30,	Athletic Revenues	Athletic Operating Expenses	Net Athletic Revenues	Admissions Fee	Total Revenue Available for Debt Service	Debt Service Requirements		Coverage Ratio
						Principal	Interest	
2012	\$ 73,151	\$ 66,988	\$ 6,163	\$ 2,015	\$ 8,178	\$ 975	\$ 1,054	4.03
2011	56,551	54,441	2,110	1,980	4,090	1,725	1,392	1.31
2010	53,175	51,474	1,701	1,883	3,584	1,640	1,460	1.16
2009	57,228	52,751	4,477	1,915	6,392	1,565	1,524	2.07
2008	55,140	48,455	6,685	2,062	8,747	1,490	1,585	2.84
2007	51,674	43,364	8,310	2,221	10,531	1,220	1,635	3.69
2006	42,877	39,059	3,818	2,057	5,875	1,155	1,404	2.30
2005	36,496	34,479	2,017	1,744	3,761	1,095	1,059	1.75
2004	36,608	33,907	2,701	1,796	4,497	1,040	1,105	2.10
2003	34,934	32,084	2,850	1,449	4,299	985	871	2.32

**Note:** The revenue bonds are secured by revenues from five sources: dining services, vending operations, the university bookstore, student housing and parking.  
**Source:** Clemson University Comprehensive Annual Financial Reports

ARTICLE 9.

ATHLETIC FACILITIES REVENUE BONDS

SECTION 59-119-910. Legislative findings and intention.

(A) The General Assembly finds that it is desirable to provide continuing and general statutory authority for Clemson University 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 Clemson University and by the proceeds of certain related admissions fees and special fees charged to students enrolled at Clemson University. Clemson University 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 Clemson University will be enhanced for the benefit of present and future students at Clemson University.

(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 Clemson University 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 and from related fees to the extent and under the conditions provided for in this article.

(C) Heretofore, pursuant to Acts 466 of 1957, 905 of 1960, 1277 of 1970, 1653 of 1972, 1303 of 1974, 760 of 1976, and 193 and 194 of 1983, the General Assembly has previously made provision for the issuance of revenue bonds of Clemson University for the purpose of financing and refinancing improvements to the football stadium on the campus of Clemson University known as Memorial Stadium. By this article, the General Assembly intends to amend and restate these acts for the purpose of broadening the scope of athletic facilities on the campus of Clemson University which may be financed or refinanced from the proceeds of bonds which are payable from revenues of the athletic department of Clemson University and related fees.

HISTORY: 1997 Act No. 144, Section 1.

SECTION 59-119-920. 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 trustees 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 Clemson.

(3) "Athletic facilities" means all facilities designated by the trustees as intercollegiate athletic facilities now owned or hereafter acquired by Clemson.

(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 trustees 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) "Clemson" means Clemson University.

(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) "Prior acts" means Acts 446 of 1957, 905 of 1960, 1277 of 1970, 1653 of 1972, 1303 of 1974, 760 of 1976, and 193 and 194 of 1983.

(10) "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 trustees or Clemson 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 trustees 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 trustees or Clemson;

(ii) the proceeds of any borrowings;

(iii) state appropriations of any sort; and

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

(11) "Special student fee" means the fee authorized by this article to be established by the trustees and which may be imposed upon persons in attendance at any academic session of Clemson in order to provide funds to assist in the repayment of bonds.

(12) "State board" means the State Budget and Control Board.

(13) "Trustees" means the board of trustees of Clemson or any successor body.

HISTORY: 1997 Act No. 144, Section 1.

SECTION 59-119-930. Authorization for additional, improvement of existing athletic facilities; bond proceeds; bond refunds; bond reserve funds; interest; issuance costs.

The trustees 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 trustees 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 59-119-1040(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 trustees.

HISTORY: 1997 Act No. 144, Section 1.

SECTION 59-119-940. Borrowings; limitations on bonds.

Upon receiving the approval of the state board and upon review by the Joint Bond Review Committee, the trustees 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 the 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 the 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 two hundred million dollars.

HISTORY: 1997 Act No. 144, Section 1; 2004 Act No. 198, Section 1, eff April 26, 2004; 2007 Act No. 17, Section 1, eff May 8, 2007.

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*\$200M*

**SECTION 59-119-950.** Bonds payable from revenues, fee proceeds; additional pledges; abandonment of use, disposal of facilities.

Bonds issued pursuant to this article are payable from the revenues or the net revenues as designated by the trustees, as well as from proceeds of the admission fee and the special student fee. Bonds issued pursuant to this article may be further secured by such additional pledges of other revenues or fees of Clemson as Clemson may be authorized to grant pursuant to other laws of this State. The trustees 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 Clemson to the effect that such action does not adversely affect the ability of Clemson 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 trustees providing for the issuance of bonds.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59-119-960.** Pledge of state faith and credit prohibited; statement; personal liability.

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 trustees nor any other person signing the bonds is personally liable therefor.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59-119-970.** Resolutions for issuance of bonds; maturation; interest rates; redemption; manner of call for redemption, notice.

In order to avail themselves of the authorizations set forth in this article, the trustees shall from time to time adopt resolutions providing for the issuance of bonds of Clemson, 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 trustees determine. The last maturing bonds of any issue must be expressed to mature not later than fifty years from their date, and the first maturing bonds of any issue, issued pursuant to this article, shall fall due within five years from their date. The bonds shall bear such rates of interest, payable on such occasion, as the trustees 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 trustees 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.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59-119-980.** Tax exempt status.

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

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59-119-990.** Investments.

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.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59-119-1000.** Execution of bonds and coupons; authentication; bonds registerable as to principal and interest; changes.

The bonds and the coupons, if any, attached to such bonds, must be executed manually or by facsimile in the name of Clemson in such manner and by such persons as the trustees shall from time to time determine, and the seal of Clemson 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 trustees, be registerable as to principal and interest on books kept therefor by or on behalf of Clemson, 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 trustees, be issued as fully registered, noncertificated, book-entry securities.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59-119-1010.** Disposal of bonds; public sale, advertisement; discount or premium.

The bonds may be disposed of in such manner as the trustees shall determine, except that no privately negotiated sale without public advertisement may be made without the prior approval of the state board. If the trustees shall elect to sell the bonds at public sale, at least one advertisement thereof shall appear in a newspaper of general circulation in the State not less than seven days prior to the occasion fixed for the opening of bids. The bonds may be sold at such discount or for such premium as may be determined by the trustees or their designee as being in the best interest of Clemson.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59-119-1020.** Bond proceeds; 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 university 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.

HISTORY: 1997 Act No. 144, Section 1.

**SECTION 59-119-1030.** Provisions for adequate payment of principal and interest; admissions, special student fees; debt service requirements; debt service fund.

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

(1)(a) The trustees 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 59-119-1040(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 Clemson to calculate the debt service requirements of the bonds not less frequently than annually and, if required at such time, appropriate revisions of any admission fees or special student fee must be made by the trustees 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, shall bear such nomenclature as the trustees shall prescribe. The special student fee may, in the discretion of the trustees, be included as a part of any other fee. The trustees 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.

(c) Notwithstanding any other provisions of this article, until the earlier to occur of (i) May 1, 2000 or (ii) the earlier retirement or defeasance of the \$6,935,000 original principal amount Clemson University Stadium Refunding Revenue Bonds, Series 1992, any requirement under the Prior Acts for the trustees to impose an admissions fee or a special student fee shall remain in full force and effect.

(2) The trustees 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.

HISTORY: 1997 Act No. 144, Section 1.

SECTION 59-119-1040. Provisions for adequate security of principal and interest payment.

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

- (1) To issue bonds in such amount, within the limitations herein provided for, as the trustees consider necessary, it is lawful for the trustees 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 admission fees and a special student fee upon such basis and in such amounts as the trustees shall determine.
- (3) To pledge the revenues or the net revenues as designated by the trustees, and the proceeds of any admissions fees and special student fee, 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 trustees.
- (4) To further secure the bonds with a pledge of any additional revenues or fees of Clemson 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 trustees are empowered to sell or dispose of athletic facilities as provided in Section 59-119-950, and to 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 Clemson.
- (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 trustees, 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 trustees 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 trustees, 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 trustees, Clemson 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 trustees authorizing the issuance of bonds.

HISTORY: 1997 Act No. 144, Section 1.

SECTION 59-119-1050. Effectiveness of authorizations.

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

HISTORY: 1997 Act No. 144, Section 1.