**South Carolina General Assembly**

118th Session, 2009-2010

**A71, R51, H3616**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Simrill

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Companion/Similar bill(s): 468

Introduced in the House on February 25, 2009

Introduced in the Senate on March 4, 2009

Passed by the General Assembly on May 12, 2009

Governor's Action: May 19, 2009, Vetoed

Legislative veto action(s): Veto overridden

Summary: York Technical College Enterprise Campus

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/25/2009 House Introduced, read first time, placed on calendar without reference [HJ](file:///h:\HJ%20Archive\2009\02-25-09.docx)‑8

2/26/2009 Scrivener's error corrected

3/3/2009 House Read second time [HJ](file:///h:\HJ%20Archive\2009\03-03-09.docx)‑16

3/4/2009 House Read third time and sent to Senate [HJ](file:///h:\HJ%20Archive\2009\03-04-09.docx)‑82

3/4/2009 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2009\03-04-09.docx)‑15

3/4/2009 Senate Referred to Committee on **Education** [SJ](file:///h:\SJ%20Archive\2009\03-04-09.docx)‑15

4/23/2009 Senate Committee report: Favorable with amendment **Education** [SJ](file:///h:\SJ%20Archive\2009\04-23-09.docx)‑14

4/24/2009 Scrivener's error corrected

4/29/2009 Senate Committee Amendment Adopted [SJ](file:///h:\SJ%20Archive\2009\04-29-09.docx)‑27

4/29/2009 Senate Read second time [SJ](file:///h:\SJ%20Archive\2009\04-29-09.docx)‑27

4/30/2009 Scrivener's error corrected

4/30/2009 Senate Read third time and returned to House with amendments [SJ](file:///h:\SJ%20Archive\2009\04-30-09.docx)‑25

5/12/2009 House Concurred in Senate amendment and enrolled [HJ](file:///h:\HJ%20Archive\2009\05-12-09.docx)‑43

5/12/2009 House Roll call Yeas‑100 Nays‑0 [HJ](file:///h:\HJ%20Archive\2009\05-12-09.docx)‑44

5/13/2009 Ratified R 51

5/19/2009 Vetoed by Governor

5/20/2009 House Veto overridden by originating body Yeas‑104 Nays‑0 [HJ](file:///h:\HJ%20Archive\2009\05-20-09.docx)‑3

6/16/2009 Senate Veto overridden Yeas‑37 Nays‑3

6/22/2009 Effective date 06/16/09

6/24/2009 Act No. 71

**VERSIONS OF THIS BILL**

[2/25/2009](file:///p:\pprever\2009-10\3616_20090225.docx)

[2/25/2009-A](file:///p:\pprever\2009-10\3616_20090225A.docx)

[2/26/2009](file:///p:\pprever\2009-10\3616_20090226.docx)

[4/23/2009](file:///p:\pprever\2009-10\3616_20090423.docx)

[4/24/2009](file:///p:\pprever\2009-10\3616_20090424.docx)

[4/29/2009](file:///p:\pprever\2009-10\3616_20090429.docx)

[4/30/2009](file:///p:\pprever\2009-10\3616_20090430.docx)

(A71, R51, H3616)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 27 TO CHAPTER 53, TITLE 59 SO AS TO ENACT THE “STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION ACT”; TO CREATE THE AIKEN TECHNICAL COLLEGE ENTERPRISE CAMPUS AUTHORITY, THE GREENVILLE TECHNICAL COLLEGE ENTERPRISE CAMPUS AUTHORITY, THE ORANGEBURG‑CALHOUN TECHNICAL COLLEGE ENTERPRISE CAMPUS AUTHORITY, THE SPARTANBURG COMMUNITY COLLEGE ENTERPRISE CAMPUS AUTHORITY, AND THE YORK TECHNICAL COLLEGE ENTERPRISE CAMPUS AUTHORITY; TO PROVIDE THAT EACH AUTHORITY MUST BE GOVERNED BY A BOARD, AND TO PROVIDE FOR THE POWERS AND DUTIES OF THE BOARD; TO PROVIDE FOR LEASE AND LEASE PURCHASE AGREEMENT APPROVAL; TO PROVIDE THAT THE POWERS GRANTED TO AN AUTHORITY MUST COMPLY WITH THE PROCUREMENT CODE; TO PROVIDE FOR THE ISSUANCE OF BONDS, NOTES, AND OTHER OBLIGATIONS OR INDEBTEDNESS BY AN AUTHORITY; TO PROVIDE REPORTING REQUIREMENTS; TO PROVIDE THAT AN AUTHORITY IS NOT REQUIRED TO PAY TAXES AND ASSESSMENTS, AND THAT BONDS, NOTES, AND OTHER OBLIGATIONS OR INDEBTEDNESS ISSUED BY AN AUTHORITY MAY NOT BE TAXED; TO REQUIRE A COMMISSION TO DESIGNATE THE AREA THAT COMPRISES THE ENTERPRISE CAMPUS, AND TO FURTHER PROVIDE COMMISSION POWERS AND DUTIES WITH RESPECT TO ENTERPRISE CAMPUS PROPERTY.**

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

**Findings**

SECTION 1. The General Assembly finds that:

(1) the State Board for Technical and Comprehensive Education (state board) and its colleges are in a unique position to be active and full participants in the state’s effort to promote and enhance the economic development of this State through the location and development of high technology businesses and industries;

(2) the role of the state board and the colleges to provide educational and job training opportunities for citizens complements and enhances the ability of the state’s research universities to pursue and engage the high technology community;

(3) the state board and the colleges can better utilize their resources if necessary powers and flexibility are granted by the General Assembly for the state board and the colleges to fulfill their role in a high technology economy;

(4) it is in the best interest of the State to provide the powers and flexibility for the state board, and the best method for accomplishing this is through the creation and establishment of separate and distinct instrumentalities of the State;

(5) the state board shall carefully review and approve each individual project brought to it by these colleges and instrumentalities and shall approve projects based on the best interest of the State; and

(6) authorizations contained in this act are in the public interest, serve a public purpose, and promote the health, safety, welfare, and convenience of the people of the State.

**Citation name**

SECTION 2. This act may be cited as the “State Board for Technical and Comprehensive Education Enterprise Campus Authority Act”.

**Technical College Enterprise Campus Authority**

SECTION 3. Chapter 53, Title 59 of the 1976 Code is amended by adding:

“Article 27

Technical College Enterprise Campus Authority

Section 59‑53‑2400. As used in this article:

(1) ‘Authority’ means a technical college Enterprise Campus Authority.

(2) ‘Board’ means the governing body of an authority.

(3) ‘Commission’ means an area commission as defined by Section 59‑53‑52.

(4) ‘Enterprise campus’ means the real and personal property subject to the management and control of an authority. The enterprise campus may consist of one or more tracts or parcels of real property and none of the tracts or parcels must be contiguous with other properties constituting the enterprise campus.

Section 59‑53‑2410. (A) There are created bodies politic and corporate known as the Aiken Technical College Enterprise Campus Authority, the Greenville Technical College Enterprise Campus Authority, the Orangeburg‑Calhoun Technical College Enterprise Campus Authority, the Spartanburg Community College Enterprise Campus Authority, and the York Technical College Enterprise Campus Authority. The authorities are public instrumentalities of the State and the exercise by them of a power conferred in this article is the performance of an essential public function. The authorities are governed by a board, which consists of members of the respective commissions. All members serve ex officio. Persons serving as chairman, vice chairman, treasurer, and secretary of the respective commissions shall serve in the same capacity on their respective board. Members of a board shall receive per diem as provided for members of boards, commissions, and committees and actual expenses incurred in the performance of their duties.

(B) A board shall exercise the powers of an authority.

(C) The purpose of an authority is to provide for the management, development, and operation of an enterprise campus.

Section 59‑53‑2420. (A) In addition to the powers contained elsewhere in this article, a board has power necessary, useful, or appropriate to operate and administer an authority, to effectuate the purposes of an authority, and to perform its other functions including, but not limited to, the power to:

(1) have perpetual succession;

(2) sue and be sued in its own name;

(3) adopt, promulgate, amend, and repeal bylaws, not inconsistent with provisions in this article for the administration of an authority’s affairs and the implementation of its functions;

(4) have a seal and alter it at its pleasure, although the failure to affix the seal does not affect the validity of an instrument executed on behalf of an authority;

(5) make and execute contracts and all other instruments and agreements necessary or convenient for the performance of its duties and the exercise of its powers and functions;

(6) buy, purchase, or otherwise acquire real and personal property and other assets and sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or part of its real and personal property and other assets, upon terms and conditions determined by the board;

(7) employ agents, advisors, consultants, engineers, architects, attorneys, accountants, construction and financial experts, land planners, superintendents, managers, and other employees and agents as necessary in the board’s judgment in connection with any aspect of the enterprise campus and determine their duties and to fix their compensation;

(8) procure insurance against any loss in connection with its property, assets, or activities, including insurance against liability for its acts or the acts of its employees or agents;

(9) procure insurance, guarantees, letters of credit, and other forms of collateral or security or credit support from public or private entities, including a department, agency, or instrumentality of the United States or the State of South Carolina, for the payment of any bonds issued by it, including the power to pay premiums or fees on any insurance, guarantees, letters of credit, and other forms of collateral or security or credit support;

(10) receive, accept, and expend from any source including a federal, state, or other public agency or a private agency, person, or other entity appropriated funds, donations, loans, grants, aid, or contributions of money, property, labor, or other things of value;

(11) invest or reinvest its funds as provided in Section 11‑9‑660;

(12) make contracts and guarantees, incur liabilities, issue its notes, bonds, and other obligations, and secure its obligations by mortgage or pledge of its property, or income in a manner determined to be in the best interest of an authority. A guarantee or indebtedness of an authority does not create an obligation of the State or commission, nor must the guarantee or indebtedness be considered a debt against the general revenue of the State or commission;

(13) fix and revise when necessary and charge and collect rates, fees, rents, and charges for the use of, and for the services furnished by it, for all or any portion of the enterprise campus;

(14) determine the character of an enterprise campus, and acquire, develop, construct, and provide for an enterprise campus, and maintain, repair, and operate, and enter into contracts for the management, lease, use, or operation of all or any portion of an enterprise campus;

(15) establish and enforce, and agree through a resolution or trust agreement authorizing or securing bonds, notes, other obligations, or indebtedness of an authority to make and enforce rules and regulations for the use of and services rendered by an authority for the enterprise campus;

(16) appoint and provide for advisory committees;

(17) establish nonprofit corporations in accordance with applicable corporate law and with the powers provided by the applicable corporate law; and

(18) do all other things necessary or convenient to exercise the powers granted or reasonably implied by this article.

(B) The powers contained in this article include the power to enter into contracts and other agreements with public or private entities for the lease of authority property, the construction, occupancy, use, and ownership by the public or private entity of buildings or other facilities on authority property, and the conveyance of the public or private entity’s property to an authority at the end of an applicable contract or agreement.

Section 59‑53‑2430. (A) An authority must comply with the provisions of Chapter 47, Title 2, but only State Budget and Control Board approval is required for leases and lease purchase agreements, including ground lease agreements, the terms and conditions thereof, and the consideration involved, for the construction or use of facilities on an enterprise campus. Upon the expiration of the lease purchase agreements, including ground lease agreements, the private entity shall surrender to an authority the premises with the existing buildings, other structures, and improvements constructed and located on an enterprise campus, in the same condition as when the construction of the buildings, other structures, and improvements were completed, only natural and normal wear and tear excepted. Subject to the provisions of this article, the approval of the State Budget and Control Board required for leases and lease purchase agreements, including ground lease agreements, is in lieu of or a substitute for any other approval required by another provision of law or regulation. The full faith and credit of the State toward the lease obligations may not be pledged, and a statement to the contrary is void as a matter of public policy.

(B) Notwithstanding another provision of this chapter, all powers granted to an authority must be exercised in a manner consistent with the provisions of Title 11, Chapter 35 and Section 1‑11‑65. Approval by the State Budget and Control Board is not a substitute for the requirements of Title 11, Chapter 35. An authority shall adhere to fire, life, and safety codes as required by the Office of State Engineer.

Section 59‑53‑2440. (A) An authority may issue bonds in the same manner and for the same purposes, including the purposes of an authority, pursuant to the provisions of the Higher Education Revenue Bond Act, as provided in Chapter 147, Title 59.

(B) The issuance by an authority of bonds, notes, other obligations, or indebtedness is subject to approval by resolution of the State Budget and Control Board.

(C) Bonds, notes, other obligations, or indebtedness of an authority do not constitute a debt or a pledge of the faith and credit of the State of South Carolina, the commission, or any of the state’s political subdivisions other than an authority, but are payable only from the revenue, money, or property of an authority as provided in this article. The bonds, notes, other obligations, or indebtedness of an authority do not constitute an indebtedness of the State within the meaning of any state constitutional or statutory limitation. A member of the board or a person executing bonds, notes, other obligations, or indebtedness of an authority is not liable personally on the bonds, notes, other obligations, or indebtedness by reason of their issuance or execution. Each bond, note, other obligation, or indebtedness must contain on its face a statement to the effect that:

(1) the State, the commission, the State’s political subdivisions, or an authority is not obligated to pay the principal of or interest on the bond or other costs incident to the bond except from the revenue, money, or property of an authority pledged;

(2) the full faith and credit, and the taxing power of the State and its political subdivisions, is not pledged to the payment of the principal of or interest on the bond, note, other obligation, or indebtedness; and

(3) an authority does not have taxing power.

Section 59‑53‑2450. An authority shall submit an annual report on the development and use of the enterprise campus to the State Board for Technical and Comprehensive Education, the Governor, the State Budget and Control Board, the Chairman of the Ways and Means Committee of the House of Representatives, and the Chairman of the Finance Committee of the Senate. The report must be submitted not later than six months after the end of each fiscal year.

Section 59‑53‑2460. In performing an essential governmental function in the exercise of the powers conferred upon it, an authority is not required to pay taxes or assessments upon property or upon its activities or operations or the income from them, or taxes or assessments upon property acquired or used by an authority or upon the income from them. Bonds, notes, other obligations, or indebtedness issued by an authority and the income from them are free from taxation and assessment of every kind by the State and by the local governments and other political subdivisions of the State.

Section 59‑53‑2470. (A) A commission must designate with specificity the area or areas that comprise the enterprise campus and the purpose of the enterprise campus. This information must be submitted to the State Board for Technical and Comprehensive Education. The state board shall have final approval over the areas designated as part of a Technical College Enterprise Campus Authority and the projects to be undertaken.

(B) A commission may provide for the management, development, and operation of part or all of the enterprise campus property by an authority.

(C) An area commission is authorized to enter into contracts with the Enterprise Campus Authority for the provision of executive and administrative services to an authority.

(D) In the fulfillment of the power contained in this section, the commission is authorized to sell, convey, lease, exchange, transfer, or give all or part of its real and personal property and other assets constituting the enterprise campus to the Enterprise Campus Authority upon such terms and conditions as the commission determines. The commission may sell, convey, lease, exchange, transfer, or give all or part of its real and personal property and other assets constituting the enterprise campus, other than the property defined pursuant to paragraph (A), only upon approval by the State Board for Technical and Comprehensive Education. The commission may buy, purchase, or otherwise acquire and accept real and personal property and other assets from the Enterprise Campus Authority only in accordance with all regulations and general laws applicable to state‑supported technical institutions in the acquisition and acceptance of real and personal property and other assets.”

**Affect on existing technical colleges or authorities**

SECTION 4. Nothing in the article may be construed to alter, amend, or otherwise affect an existing technical or community college enterprise campus or Enterprise Campus Authority currently in existence.

**Severability Clause**

SECTION 5. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Time effective**

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

Ratified the 13th day of May, 2009.

Vetoed by the Governor -- 5/19/09.

Veto overridden by House -- 5/20/09.

Veto overridden by Senate -- 6/16/09.

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