CHAPTER 65

South Carolina Federal and Other Funds Oversight Act

**SECTION 2‑65‑10.** Short title.

 This chapter may be cited as “The South Carolina Federal and Other Funds Oversight Act”.

HISTORY: 1978 Act No. 651, Section 3; 1981 Act No. 178, Part II, Section 18; 1978 Act No. 651, Section 3; 1981 Act No. 178, Part II, Section 18A; 1996 Act No. 458, Part II, Section 35A; 1998 Act No. 419, Part II, Section 12A.

**SECTION 2‑65‑15.** Definitions.

 As used in this chapter:

 (1) “Appropriations act” means the annual general appropriations act.

 (2) “Agency” means any state office, department, institution, board, commission, council, committee, or other entity of the executive, judicial, or legislative branch.

 (3) “Block grant” means federal funds distributed to the State in accordance with a statutory formula for use in a variety of activities within a broad functional area.

 (4) “Board” means the Executive Budget Office.

 (5) “Federal funds” means financial assistance made to a state agency by the United States Government in any form including, but not limited to, a grant, loan, subsidy, reimbursement, contract, donation, or shared federal revenues, or noncash federal assistance in the form of equipment, buildings, and land. Financial assistance which originates with the United States Government, but which is received by a state agency from another state or local agency in any form, is considered “federal funds”.

 (6) “Indirect costs” means those costs of supportive services within an agency or provided by another agency which benefit more than one program and which may be charged to federal programs in accordance with Office Management and Budget Circular A‑87 or A‑21.

 (7) “Matching funds” means a specific amount of general fund or other funds monies identified by a state agency, and required by the federal government, as a cash contribution for a federal program.

 (8) “Other funds” means any revenues received by an agency which are not federal funds and are not general funds appropriated by the General Assembly in the appropriations act.

 (9) “Research grant” means an award of funds from the United States Government or other entity for the principal purpose of systematic study and investigation undertaken to discover or establish facts or principles. The principal purpose of a “research grant” is not to provide services to the public or to the employees or clients thereof.

 (10) “Major federal program” means a program which:

 (a) represents a transfer of program responsibility from the federal to the state level;

 (b) is available to the State on a noncompetitive basis;

 (c) is financially significant in relation to its proportion of the administering agency’s budget.

 Any new block grant or any form of federal turnback program is considered a “major federal program”.

HISTORY: 1978 Act No. 651, Section 2; 1983 Act No. 151, Part II, Section 10B; 1986 Act No. 455, Section 2(C); 1996 Act No. 458, Part II, Section 35A; 1998 Act No. 419, Part II, Section 12A; 2011 Act No. 28, Section 1, eff May 23, 2011; 2014 Act No. 121 (S.22), Pt VIII, Section 23.A, eff July 1, 2015.

Editor’s Note

2011 Act No. 28, Section 5, provides as follows:

“SECTION 5. This act takes effect upon approval by the Governor and first applies for agency proposed budget submissions for Fiscal Year 2012‑2013 and for all agency requests to the State Budget and Control Board to spend unanticipated federal funds submitted after the effective date of this act.”

Effect of Amendment

The 2011 amendment in subsection (7), inserted “or other funds”.

2014 Act No. 121, Section 23.A, in subsection (4), substituted “Executive Budget Office” for “State Budget and Control Board”.

**SECTION 2‑65‑20.** Appropriation of anticipated federal and other funds.

 The General Assembly shall appropriate all anticipated federal and other funds for the operations of state agencies in the appropriations act and must include any conditions on the expenditure of these funds as part of the appropriations act, consistent with federal laws and regulations. Increases in project amounts as appropriated in the act must be authorized in accordance with procedures set forth in Section 2‑65‑40, consistent with policies as provided in the appropriations act and other applicable laws and regulations.

 (1) All agencies shall provide to the Governor, as part of their budget submissions, detailed statements of the sources of all federal and other funds contained in their budgets.

 (2) All state agencies shall submit programmatic and financial information for all federal funds the agencies seek to expend in the fiscal year to the Governor in a manner prescribed by the Governor. The submission must provide a separate listing of all conditions imposed on this State if the funds are accepted and expended, including, but not limited to, matching requirements; maintenance of effort requirements for the activity for which the funds are to be expended; limits on program changes, including eligibility requirements, either by agency action or legislative enactment; and any other requirements that limit the authority of this State, by legislative enactment or administrative process to revise, extend, or eliminate the activity in aid of which the federal funds are to be expended. The submission also must include information on all federal funds available to the agency or for which the agency is eligible to request or draw upon that have not been requested or drawn upon due to insufficient matching funds being available or any other reason and also must include the potential costs, conditions, and restrictions of the federal program providing or offering the funds. The information must be submitted in a timely manner so as to permit review of the projects as part of the budget process.

 (3) The Governor shall provide to the Ways and Means Committee and the Senate Finance Committee at appropriate times during the budget review process his recommendations with respect to federal funds proposed for inclusion in the agency’s budget request. A favorable recommendation must include the Governor’s specific request for the inclusion of the federal funds and the details of the conditions imposed by the inclusion and appropriation of the federal funds.

 (4) The appropriation of federal funds must be decreased to the extent that receipts from these sources do not meet the estimates reflected in each section of the appropriations act.

 (5) With the exception of funds defined as “exempt” in Section 2‑65‑100, no agency may receive or spend federal or other funds that are not authorized in the appropriations act, but unanticipated federal or other funds may be received and spent upon authorization pursuant to Section 2‑65‑30 or 2‑65‑40, as applicable.

HISTORY: 1978 Act No. 651, Section 4; 1979 Act No. 199 Part II, Section 6; 1981 Act No. 178, Part II, Section 18; 1978 Act No. 651, Section 4; 1979 Act No. 199, Part II, Section 6A; 1981 Act No. 178, Part II, Section 18B; 1983 Act No. 151, Part II, Section 10C; 1986 Act No. 455, Section 2(C); 1996 Act No. 458, Part II, Section 35A; 1998 Act No. 419, Part II, Section 12A; 2011 Act No. 28, Section 2, eff May 23, 2011.

Editor’s Note

2011 Act No. 28, Section 5, provides as follows:

“SECTION 5. This act takes effect upon approval by the Governor and first applies for agency proposed budget submissions for Fiscal Year 2012‑2013 and for all agency requests to the State Budget and Control Board to spend unanticipated federal funds submitted after the effective date of this act.”

Effect of Amendment

The 2011 amendment rewrote subsections (1) to (3).

**SECTION 2‑65‑30.** Receipt and expenditure of unanticipated funds; submission of proposals; Committee reports.

 (A) A state agency may receive and spend unanticipated federal funds, and funds from private foundations or industries, which are not included in the appropriations act, but state agencies must submit expenditure proposals to the board and receive authorization from the board before expenditure of funds. No authorization may be made without first securing and considering the board’s recommendation on each expenditure proposal. The request must include the conditions imposed on the state’s receipt and expenditure of the federal funds as those conditions are described pursuant to Section 2‑65‑20(2), and the board’s authorization to receive and expend the federal funds must specifically accept those conditions. Any such authorization is subject to all of the following standards:

 (1) The unanticipated nature of the receipt of the federal funds precluded the consideration and approval of the federal funds as part of the state appropriations process as described in Section 2‑65‑20.

 (2) The federal funds will assist the applicant state agency to achieve objectives or goals in keeping with the recognized powers and functions of the state agency.

 (3) The applicant state agency is the appropriate entity to conduct project activities and no duplication of services is created by the authorization.

 (4) State matching funds, if required, are available within the existing resources of the applicant state agency.

 (5) The project benefits the health or welfare of the people of the State.

 (B) Notwithstanding any other provisions of this chapter, no authorization of unanticipated federal or private foundation or industry funds may involve a commitment of future legislative enactment to provide additional state funds to support the project.

 (C) The board shall provide the House Ways and Means Committee and the Senate Finance Committee with periodic reports which describe actions taken under the provisions of this section.

 (D) Notwithstanding any other provisions of this chapter, a state agency may not implement an unanticipated major federal program without prior approval of the General Assembly, except:

 (1) that to the extent that the unanticipated program replaces existing services currently provided by a state agency, other governmental entity, private nonprofit organization, or other service provider, the services may be authorized by the board to continue at an equivalent level, within the constraints of federal law and funding, until the General Assembly acts;

 (2) if the unanticipated program creates services not currently provided, and the board agrees that delayed implementation would result in a significant loss of federal funds to the State, the program may be authorized by the board to proceed at a minimal level, until such time as the General Assembly may act.

HISTORY: 1978 Act No. 651, Section 5; 1979 Act No. 199, Part II, Section 6; 1981 Act No. 178, Part II, Section 18; 1978 Act No. 651, Section 5; 1979 Act No. 199, Part II, Section 6B; 1981 Act No. 178, Part II, Section 18C; 1983 Act No. 151, Part II, Section 10D; 1986 Act No. 455 Section 2(C); 1996 Act No. 458, Part II, Section 35A; 1998 Act No. 419, Part II, Section 12A; 2011 Act No. 28, Section 3, eff May 23, 2011.

Editor’s Note

2011 Act No. 28, Section 5, provides as follows:

“SECTION 5. This act takes effect upon approval by the Governor and first applies for agency proposed budget submissions for Fiscal Year 2012‑2013 and for all agency requests to the State Budget and Control Board to spend unanticipated federal funds submitted after the effective date of this act.”

Effect of Amendment

The 2011 amendment, in subsection (A), in the introductory paragraph, inserted the third sentence; in subsection (A)(1), substituted “receipt of federal funds” for “project”, and “the consideration” for “it from consideration”, and inserted “of the federal funds”; and in subsection (A)(2), substituted “federal funds will assist” for “project assists”.

**SECTION 2‑65‑40.** Expenditure of “other” funds; authorization; Committee reports.

 (A) A state agency may spend “other” funds above the amount in the appropriations act and increases in anticipated federal programs if the expenditure of the funds receives the authorization of the board.

 (B) Authorizations under this section are subject to the following standards, as applicable:

 (1) the proposed use of the funds do not result in a fund of surplus money which may be used by the agency to expand programs without legislative approval;

 (2) if the funds are earmarked for specific use in the appropriations act, or by federal law or regulation, any additional funds must be used for the same purpose;

 (3) if the increase results from a fee or charge for service, the agency has the legal authority to impose the fee, and has secured any approvals required by applicable law or regulations;

 (4) the proposed use of funds assists the state agency to achieve objectives or goals in keeping with the recognized powers and functions of the state agency;

 (5) if the funds are generated from a new revenue source:

 (a) the proposed use of funds covers only a minimum amount of administrative costs necessary to support the revenue collection, and any excess must be remitted to the general fund of the State;

 (b) it is determined that the requesting state agency is the appropriate entity to carry out the proposed activities and no duplication of services is created by the authorization;

 (6) if the increase in federal funds requires a corresponding increase in state matching funds, the state match is available from existing resources.

 (C) The board shall provide the House Ways and Means Committee and the Senate Finance Committee with periodic reports which describe actions taken under the provisions of this section.

HISTORY: 1978 Act No. 651, Section 6; 1981 Act No. 178, Part II, Section 18; 1978 Act No. 651, Section 6; 1981 Act No. 178, Part II, Section 18D; 1983 Act No. 151, Part II, Section 10E; 1986 Act No. 455, Section 2(C); 1996 Act No. 458, Part II, Section 35A; 1998 Act No. 419, Part II, Section 12A.

**SECTION 2‑65‑50.** Estimates of research and student aid funds; reports by board.

 Agencies shall include estimates of research and student aid funds in the detailed budget statements required in Section 2‑65‑20 of this chapter. Agencies may not be required to submit the detailed programmatic and financial information required in Section 2‑65‑20(2) of this chapter, except that the agencies must furnish to the board notices of actual awards and allocations of research and student aid funds within fourteen days of receipt of the notices from funding agencies. The board shall maintain quarterly reports of the funds received by the agency, and must, upon request, provide copies to the House Ways and Means Committee or the Senate Finance Committee, or both.

HISTORY: 1978 Act No. 651, Section 7; 1981 Act No. 178, Part II, Section 18; 1978 Act No. 651, Section 7; 1981 Act No. 178, Part II, Section 18E; 1983 Act No. 151, Part II, Section 10F; 1986 Act No. 455, Section 2(C); 1996 Act No. 458, Part II, Section 35A; 1998 Act No. 419, Part II, Section 12A.

**SECTION 2‑65‑60.** Duties of Comptroller General.

 The Comptroller General shall account for and control expenditures of individual federally funded projects for all agencies using the Statewide Accounting and Reporting System. For continuing federal projects, the board shall certify to the Comptroller General the actual funds approved for each project pursuant to Section 2‑65‑20 of this chapter, and any further adjustments to this amount, based on grant award documentation and pursuant to Section 2‑65‑40 of this chapter. For new federally funded projects, the board shall inform the Comptroller General of funding levels authorized pursuant to Section 2‑65‑30 of this chapter.

 The Comptroller General shall authorize expenditures on each project not to exceed the amount certified by the board. Upon request of the board, the House Ways and Means Committee, or the Senate Finance Committee, the Comptroller General shall provide periodic reports of authorization levels, expenditures, revenues, and other data related to the federal projects. Upon request of the board, the House Ways and Means Committee, or the Senate Finance Committee, state agencies shall provide grant award and related actual funding information.

HISTORY: 1978 Act No. 651, Section 8; 1981 Act No. 178, Part II, Section 18; 1978 Act No. 651, Section 8; 1981 Act No. 178, Part II, Section 18F; 1983 Act No. 151, Part II, Section 10G; 1986 Act No. 455, Section 2(C); 1996 Act No. 458, Part II, Section 35A; 1998 Act No. 419, Part II, Section 12A.

**SECTION 2‑65‑70.** Recovery of indirect costs.

 (A) All agencies receiving federal grants or contracts shall recover the maximum allowable indirect costs on those projects, subject to applicable federal laws and regulations. All indirect cost recoveries must be credited to the general fund of the State, with the exception of recoveries from research and student aid grants and contracts. Further, after January 1, 1999, federal grants and contracts whose annual award is two hundred thousand dollars or less are exempted also from this cost recovery requirement.

 (1) Each agency receiving grants or contracts to which indirect costs may be charged must have an approved indirect cost rate or cost allocation plan. Agencies shall prepare the indirect cost proposals and submit them to the board for review. The board shall submit the proposals to the appropriate federal agencies, negotiate the agreements, and transmit approved agreements to the state agencies. The board, upon request, also shall provide a report on the proposals to the House Ways and Means Committee or the Senate Finance Committee, or both.

 (2) The board annually shall prepare the Statewide Cost Allocation Plan for allocation of central service costs to federal and other programs. The board shall ensure that state agencies recover costs approved in the plan through federal grants and contracts, subject to federal laws and regulations.

 (3) The State Comptroller General shall assist the board in ensuring compliance with this section.

 (B) If it is determined to be in the best interest of the State and the agency receiving the federal funds, the requirements of this section may be waived; except that indirect cost waivers may not be granted for unanticipated federal projects authorized pursuant to Section 2‑65‑30 of this chapter. Requests for indirect cost waivers for continuing federal projects must be made by the applicant agency as a part of its budget request and must be reviewed in accordance with the provisions of Section 2‑65‑20 of this chapter.

HISTORY: 1980 Act No. 517, Part II, Section 9; 1981 Act No. 178, Part II, Section 18; 1978 Act No. 651, Section 9; 1981 Act No. 178, Part II, Section 18H; 1983 Act No. 151, Part II, Section 10H; 1986 Act No. 455, Section 2(C); 1996 Act No. 458, Part II, Section 35A; 1998 Act No. 419, Part II, Section 12A.

**SECTION 2‑65‑80.** Block grants.

 (A) The General Assembly shall designate through the appropriations act an agency to operate each block grant. If a new block grant is approved by Congress after the appropriations act has been approved, it must be approved in accordance with the provisions of Section 2‑65‑30 (D) of this chapter.

 (B) The agency operating each block grant shall conduct public hearings for those block grants for which federal laws and regulations require legislative public hearings, and any other block grants for which legislative public hearings are considered necessary. Public comments must be taken into consideration by the board in review and authorization of federal funds according to the procedures set forth in Section 2‑65‑20 of this chapter.

 (C) The board, in accordance with Chapter 23 of Title 1, shall issue administrative regulations and cost principles for block grants.

 (D) The board shall ensure that audits of block grants are conducted in accordance with federal laws and regulations.

HISTORY: 1978 Act No. 651, Section 9; 1981 Act No. 178, Part II, Section 18; 1980 Act No. 517, Part II, Section 9; 1981 Act No. 178, Part II, Section 18G; 1983 Act No. 151, Part II, Section 10I; 1986 Act No. 455, Section 2(C); 1996 Act No. 458, Part II, Section 35A; 1998 Act No. 419, Part II, Section 12A.

**SECTION 2‑65‑90.** Review and coordination of proposed federal financial assistance and direct federal development.

 The board shall design and operate a state process for review and coordination of proposed federal financial assistance and direct federal development by state and local officials as required by Section 401(a) of the federal Intergovernmental Cooperation Act of 1968 and federal regulations and executive orders. The board shall seek the advice of the South Carolina Advisory Commission on Intergovernmental Relations and the Regional Councils of Government in the development and implementation of the state process.

HISTORY: 1978 Act No. 651, Section 10; 1981 Act No. 178, Part II, Section 18; 1978 Act No. 651, Section 10; 1981 Act No. 178, Part II, Section 18I; 1983 Act No. 151, Part II, Section 10J; 1986 Act No. 455, Section 2(C); 1996 Act No. 458, Part II, Section 35A; 1998 Act No. 419, Part II, Section 12A.

Editor’s Note

1983 Act No. 151 Part II 10 J renumbered “Section 10” of Act No. 651 of 1978 to read “Section 11”.

**SECTION 2‑65‑100.** Exemption of funds.

 Funds from the following sources are exempt from the requirements of this chapter:

 (1) general fund appropriations;

 (2) funds appropriated by a South Carolina local government;

 (3) nonstate funded research grants and contracts and federal financial aid, including work study, except as otherwise provided in this chapter;

 (4) donated materials, supplies, in‑kind services, buildings, land and equipment, if the donations do not create a future obligation of state general fund monies. If a donation does create a future obligation of state general fund monies, the donation is subject to review and approval, in accordance with Section 2‑65‑30 of this chapter;

 (5) federal funds used in connection with capital improvement bond funds subject to authorization pursuant to Act 1377 of 1968.

HISTORY: 1978 Act No. 651, Section 11; 1981 Act No. 178, Part II, Section 18; 1978 Act No. 651, Section 11; 1981 Act No. 178, Part II, Section 18J; 1983 Act No. 151, Part II, Section 10K; 1986 Act No. 455, Section 2(C); 1996 Act No. 458, Part II, Section 35A; 1998 Act No. 419, Part II, Section 12A; 2011 Act No. 28, Section 4, eff May 23, 2011.

Editor’s Note

1983 Act No. 151 Part II Section 10 K, renumbered Section 11 of Act No. 651 of 1978, to read “Section 12”.

2011 Act No. 28, Section 5, provides as follows:

“SECTION 5. This act takes effect upon approval by the Governor and first applies for agency proposed budget submissions for Fiscal Year 2012‑2013 and for all agency requests to the State Budget and Control Board to spend unanticipated federal funds submitted after the effective date of this act.”

Effect of Amendment

The 2011 amendment, in subsection (3), substituted “non‑state funded research grants and contracts and federal financial aid, including work study,” for “research and student aid grants”.

**SECTION 2‑65‑120.** Cooperation of state agencies and institutions in implementing chapter.

 Notwithstanding any other provisions of law, all agencies and institutions of the State shall cooperate fully with the board in the implementation of this chapter.

HISTORY: 1983 Act No. 151, Section 10L; 1986 Act No. 455, Section 2(C); 1996 Act No. 458, Part II, Section 35A; 1998 Act No. 419, Part II, Section 12A.

**SECTION 2‑65‑130.** Consideration of expenditure proposal by Fiscal Accountability Authority.

 If the board does not authorize an expenditure proposal then the proposal must be forwarded to the State Fiscal Accountability Authority for consideration. The authority may overturn the decision by the board and authorize the expenditures requested in the proposal if the authority finds that the expenditure proposal meets the standards for approval provided in this chapter.

HISTORY: 2014 Act No. 121 (S.22), Pt VIII, Section 23.B, eff July 1, 2015.